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Guidelines for Bail and Pretrial Release in
Three Urban Courts

VOLUME I

# THE DEVELOPMENT OF BAIL/PRETRIAL RELEASE GUIDELINES IN MARICOPA COUNTY SUPERIOR COURT, DADE COUNTY CIRCUIT COURT AND BOSTON MUNICIPAL COURT

124016

by

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The Bail\Pretrial Release Guidelines Project
June, 1988

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The research undertaking we describe in this series of reports involved a massive data collection effort that was made possible only because of the hard work and cooperation of many people in Maricopa County, Arizona, Dade County, Florida, Boston, Massachusetts, and in our home base at Temple University in Philadelphia. Although the numbers of individuals to whom we are indebted for their assistance is daunting, we would like to mention some of their names so that we can express our deepest gratitude to them.

First, certainly, we are appreciative of the support and patience of our funding agency, the National Institute of Justice, and its director during this period, James K. Stewart, as well as our grant monitor (caseworker), Dr. Richard Rau. Often research projects at their conclusion do not resemble what was first described in the original proposal; sometimes, we would like to think, the changes are for the better. We would like to think that, although we may have been naive in agreeing to attempt such a sizeable challenge, the National Institute of Justice considers this research among those well worth waiting for.

Maricopa County, Arizona

During our three years of work with the Superior Court in Maricopa County, we had the privilege of working with two presiding judges, the Honorable B. Michael Dann and the Honorable Robert C. Broomfield, and three criminal presiding judges, the Honorable John H. Seidel, the Honorable Cecil Patterson, and the Honorable Thomas O'Toole. We were invited to select Maricopa County as a site by Judge Broomfield because of his concern for jail overcrowding in Maricopa County and questions about the role of pretrial release decisionmaking in that problem. When Judge Broomfield moved to the Federal bench, we next had the pleasure of working with Judge Dann who was equally concerned about the processing of criminal cases at the pretrial stages, the determination of pretrial release and detention at the initial appearance court, its equity and implications for public safety. Under Judge Dann's firm leadership, the research process reached its culmination; pretrial release guidelines were finalized, implemented and evaluated. The research team left Maricopa County Superior Court feeling greatly

encouraged about the potential for social science research to address policy issues faced by criminal courts, thanks to the active participation of Judge Dann and his criminal presiding judges.

Throughout our working relationship with Superior Court, our data collection efforts and planning for the implementation of the guidelines were greatly assisted by the staff of the Court Administrator for Superior Court, Gordon W. Allison, particularly Pete Anderson, Lance Wilson and, most recently, Mark Weinberg. Of course, central to the entire guidelines development process were Terri Jackson and Tom Morrison--and their entire pretrial services staff--who spent many hours reviewing our findings, debating their interpretation, planning for the implementation of the guidelines and, most of all, implementing them. And, certainly, little meaningful progress could have been made without the full participation of the Superior Court commissioners, who, ultimately became the chief consumers of the guidelines. These individuals were always open, candid and constructive with us in their review of research findings and consideration of pretrial release policy. We owe thanks to Commissioners Nastro (now Judge Nastro), Lobue, Strohson, Keifer, and Jackson. Finally, our analysis of the jail could not have been accomplished without the assistance of the staff of Sheriff Dick Godbehere.

Dade County, Florida

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It was principally because of Timothy Murray's dogged persistence that we decided to select Dade County as one of our sites. Although he was a newly appointed pretrial services head at that time, he was determined to bring resources to bear on improving pretrial release and detention practices in Dade County. Tim took the lead in arguing for the project in Dade County and in opening the doors to the research process--including offering the

hospitality of his own agency, office and--on more than one occasion--home. By the time he realized what pests we of the research staff could be, he had already made all the arrangements for a productive project and paved the way for its success. We are more than grateful for his endless effort on our behalf; we are impressed by his example of dedication to public service; we admire his wit, intelligence and perseverance in bringing about needed change and were the beneficiaries of his profound good sense. We must add our special thanks to Marty Murray, Amanda and Emily who over the long months of research showed us such thoughtful hospitality and friendship that we discovered a home away from home in Miami.

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Yet, still more officials supported our research effort. Fred Crawford, Director of Metropolitan Dade County Corrections and Rehabilitation Department, in particular, went out of his way to make sure the research team was able to gather the data related to the correctional facilities throughout the three years of the research. His staff, including Deputy Director Kevin Hickey and Assistant Division Director for Administration, Frank Brophy, deserve our special thanks for making our data collection easier by clearing the path of obstacles. In short, we were greatly impressed by the cooperation and professionalism of the Metro-Dade Corrections staff, both at the jail and in the central office.

A division of that Department was Tim Murray's Pretrial Services staff which deserves a word of thanks all its own. It is impossible to express fully our gratitude and appreciation for the hard work and professional spirit Dade County's Pretrial Services staff at all levels. Most of the work, most of the innovation, most of the re-training, most of the change involved in the development and deployment of bond hearing guidelines fell to them. Among those to whom we owe thanks most directly are Wilhemina Tribble, Julio Morales, Maxine Harris, Julie Oglesby, Will Davis, Larry Turini and Mary (Mericie) Lantes, to confine ourselves to just a few of the many.

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Boston, Massachusetts

We decided to select the Boston Courts not because our work there looked to be easy (far from it), but because of the interest expressed by the Honorable Arthur Mason, the Chief Administrative Justice of the Trial Court of the Commonwealth of Massachusetts, Henry L. Barr, Administrator of the Trial Court, and Chief Administrative Justice, the Honorable Thomas R. Morse, Chief Administrative Justice of the Superior Court of the

Commonwealth of Massachusetts. These individuals argued that the need for improvement in bail practices and the use of pretrial detention in the Boston area was great and, because of the crowding crisis at the Charles St. Jail, urgent.

Once the decision was made to work in two Boston Courts, the Boston Municipal Court and Suffolk County Superior Court, many other officials offered their cooperation and support. In Suffolk County Superior Court, in addition to Judge Morse, Judges Donahue and Mulligan served on a working committee which reviewed the findings and offered direction for the initial investigations. Our work there was staffed by Michael McEneaney, Chief Bail Commissioner, who assisted us in many ways and showed us hospitality on our many visits to his court. We are grateful as well to Daniel F. Pokaski, Clerk of Superior Court, for his cooperation in allowing us to squeeze in among the office staff to pour through the court files and to record our data. Donald Moran and Ken Lehane of the Superior Court Probation staff were also of valuable assistance.

In the Boston Municipal Court, we had the pleasure of working under the guidance of two Chief Administrative Justices, the Honorable Theodore Glynn and the Honorable Joseph F. Feeney. Although the BMC did not request initially to participate in the research--and some of the judges saw no need for an examination of the BMC's bail and pretrial release practices--we met often with its judges in meetings to discuss findings and individually to learn of their particular concerns. We were treated courteously and experienced some of the most candid debates about our findings and bail practices we have yet encountered. We are thus appreciative of the time and thought given by each of the judges participating and trust that, although they did not ultimately decide to implement the guidelines produced through the long process, that a contribution to the examination of problems areas in court functioning in the bail area was still made. Eugene Levine, Executive Secretary for the BMC, who served as our day-to-day liaison with the court, has our thanks for his efforts on behalf of the project. He has, undoubtedly, one of the best offices in Boston. In addition, we thank the BMC Probation Department, without a doubt one of our most accomodating hosts in Boston. Particularly because of the cooperation of John Tobin, Chief Probation Officer, but also due to the assistance of other members of his staff, especially Francis Burke and Thomas Lally, we were able to find space for data collection, to draw our sample and to ask questions about Boston court practices freely. On a daily basis, we probably inconvenienced no agency more than the BMC Clerk's Office. For

the assistance he provided and the patience with our research he exhibited, we would like to give our special thanks to Robert E. Block, Assistant Clerk.

A rather unique feature in our Boston work was the interest and cooperation of the office of District Attorney Newman Flanagan. His staff, particularly Paul Leary and Tom McDonough, not only spent considerable time answering our questions but also arranged for us to collect important data available only in the District Attorney's files. Another very positive part of our research experience in that city was the interest and cooperation of two successive Suffolk County Sheriffs, Dennis J. Kearney and Robert Ruffo. It seemed above all, these two individuals seemed eager for positive results from our research, seeing in it a possible resource, as we had hoped it would be, for addressing jail overcrowding. Nancy Waggner of the jail staff was particularly helpful in facilitating our data collection at the jail and in serving as a resource for us as we tried to understand Boston's processes and problems in the bail area.

But the list of cooperating officials in Boston is much longer. The Commissioner of Probation for the Commonwealth of Massachusetts, Donald Cochran, went very graciously out of his way to help us collect some of the criminal history data our research required. We are grateful for the cooperation of Joyce Murphy, Superintendent of the Massachusetts Correctional Institution at Framingham, who permitted us to collect data regarding female detainees, and to Frank Carney, Director of Research for the Massachusetts Department of Corrections, who helped us make the appropriate arrangements.

The Research Staff

Coordination and supervision of data collection in three geographically remote research sites placed a major responsibility on the shoulders of the research team's supervisory staff. During the first phase of the project, Dr. Kimberly Kempf, the project's first coordinator, had responsibility in all areas, from instrument design, hiring and supervision of coders and data collection, cleaning of data and production of descriptive analyses. She played a fundamental role in laying the research foundation for what turned out to be a very long project and her work was instrumental in the progress of the project. And, as the work progressed, Lisa Martin became indispensable in a wide range of project activities from supervision of data collection and data cleaning to production of reports and

graphics and, ultimately, to assisting in the administration of the grant. Lisa's ability to accomplish almost any task came in handy throughout the project. Project coordinator and research analyst Doris Weiland assumed overall analystic duties during the second half of our work; her critical review of the data, computer and analytic skills and careful attention to detail were responsible in large part for the quality of our final product. We are appreciative of her special contribution. Donna Richardson served as research assistant during the first part of the grant and contributed a great deal of hard work. LaSaundra Scott ("Radar") was our secretary par excellence; where would we be without her?

In the sites, many hands deserve our gratitude for their labors in data collection. Our thanks to Linda Williams, Maureen Madden and the many students and coders who worked on our data collection in Maricopa County. We are grateful for the efforts of Jaime Mervis, Andrea Goldblum and our many coders in Miami. Finally in regarding our work in Boston, we thank Russ Immarigeon and Janet Weiner and the staffs they supervised during data collection in the Boston Courts.

In closing, we would also like to thank D. Alan Henry, Director, and Andy Hall, and J.J. Perlstein, members of the staff of the Pretrial Services Resource Center in Washington, D.C., who served as observers-advisors during the earliest stages of our processes in the sites and Walt Smith, of course, who was a critical consumer of some of our earliest reports. Their partnership aided us in our efforts to have a practical impact on the systems involved in our study.

By now, we have easily proved our case that this research depended on the efforts and cooperation of many persons. Due to limitations of space, we have not mentioned them all. For those whose names we have not listed, please accept our warmest thanks for a job well done.

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## Chapter One

## DECISION GUIDELINES FOR BAIL

### CONTEMPORARY ISSUES ABOUT BAIL

Criticism of and controversy surrounding bail practices in the United States have been prevalent during most of this century.[1] At the heart of the long-standing debates about bail are fundamental questions concerning the appropriate goals of the decision, the means available to achieve those goals, the criteria that should govern the release or detention of defendants before trial, and the consequences of bail decisions to defendants, to society, and to the court process. A vast literature has now documented the problems experienced by bail systems in the United States and the attempts to institute reform (e.g., Goldfarb, 1967; Wice, 1973; Thomas, 1976; Goldkamp, 1979). This literature has focused on several recurring issues: the purposes of bail; alternatives to financial bail; information needs of bail decisionmakers; and the consequences of bail decisions.

#### The Purpose(s) of Bail and Pretrial Detention

There are significant questions about the legitimate goals of the bail decision and the legitimate uses for pretrial detention. Early research and commentary documented illegal, punitive uses of bail and detention by criminal court judges (Pound and Frankfurter, 1922; Beeley, 1927; Foote, 1954). Recently, the Constitutional debate has focused most often on whether, in addition to assuring the appearance of defendants at court, judges could decide bail in response to the threat of additional crime during pretrial release (Foote, 1954; Freed and Wald, 1964; American Bar Association 1968; Ervin, 1971; Goldkamp, 1979). The outcome of this debate has shifted noticeably:up to the late 1960's the practice of using pretrial detention to protect the public from dangerous defendants was highly controversial, but it has now emerged from its sub rosa status to near universal acceptance.[2]

[1] See, for example, Frankfurter and Pound (1922), Beeley (1927), Moley (1933), Foote (1954), Ares, Rankin and Sturz (1963), Freed and Wald (1964), American Bar Association (1968), Angel et al. (1971), Thomas (1976), National Association of Pretrial Services Agencies (1978), Goldkamp (1979).

[2] When Congress debated and then passed the "Preventive Detention" law for the District of Columbia in 1970, no other laws recognized any other goal than assuring a defendant's appearance in court at the pretrial stage. See D.C. Code Ann. secs. 23-1321 to 23-1332 (1981 & Supp. 1985); *Hearings Before the Subcomm. on Constitutional Rights of Comm. on the Judiciary*, 91st Cong., 2nd Sess. (1970). Since that time approximately 35 states, the District of Columbia and the federal law have provisions that can be interpreted as allowing a public safety orientation (see Goldkamp, 1985).

The passage of the Federal Bail Reform Act of 1984[3] (commonly referred to as the Federal preventive detention law) and its subsequent favorable review by the United States Supreme Court in U.S. v. Salerno[4] are but the most recent indications that the constitutionally acceptable goals of bail may include public safety.

Decision Alternatives: Beyond Financial Bail

Providing alternatives to money bail has been a persistent aim of bail reform. For example, the original platform of bail reform included an attempt to persuade judges that many defendants who lacked financial resources could be released on personal recognizance directly (as opposed to financial bond) and be trusted to return to court faithfully when required (Freed and Wald, 1964).

There were additional alternatives as well, such as "conditional release", the nonfinancial release before trial on various conditions. These often resemble conditions of probation, conditions usually reserved for adjudicated offenders.[5] Another innovation was deposit or "ten percent" bail, which allowed the defendant to deposit a small percent of the full bail amount (roughly equivalent to the bondsman's usual fee) with the court. This deposit was to be returned upon successful attendance at the required proceedings.[6] Attempts to implement wide scale use of nonfinancial conditions, conditional release and deposit bail have not always met with success. Failures have been due to preference for financial bail among judges and the interests of bondsmen which are seriously threatened by shifts in court practices away from strict reliance on cash bail.[7]

The Relevancy of Information to Bail Choices

An important contribution of the movement to reform bail practices in the United States was an emphasis on the information that ought to be considered by judges in their bail determinations. The Vera Institute's New

[3] Federal Bail Reform Act of 1984, Pub. L. 98-473, tit. II, ch. 1, 98 Stat. 1976 (1984).
[4] __U.S.__, 107 S.Ct. 2095, 95 L. Ed. 2d 697 (1987).
[5] For an analysis of the kinds of conditions provided for in the laws of the United States, see Goldkamp (1985). The Federal Bail Reform Act of 1984 (*supra*, note 4) as well as its predecessor, the Federal Bail Reform Act of 1966 (Pub. L. No. 89-465, sec. 3(a), 80 Stat. 214; codified as 18 U.S.C. sec. 3146 (1966), offer good examples of nonfinancial release conditions.
[6] Deposit bail was intended to make release more affordable to defendants, while still holding them responsible for the entire amount should they fail to appear in court. Unlike the use of bondsmen, who would keep the fees whether defendants appeared or not, the deposit with the court was seen as providing some incentive for the defendant to return (to reclaim his/her bail--minus a small service charge).
[7] The role of the bondsman in pretrial criminal justice has long been criticized. See, for example, the discussions of bondsmen in Pound and Frankfurter (1922) and Beeley (1927). The bondsmen today remain a powerful political force in many places and continue to resist reform of bail practices that they view as encroaching on their ability to make profit.

York program sought to encourage greater use of OR (release on personal recognizance) at the initial appearance stage by providing judges with information regarding defendants' community and family ties.[8] This campaign was really an attempt to re-examine the criteria that should guide bail judges (who generally relied solely on the seriousness of defendants' charges). Efforts to broaden the kinds of information judges had available to guide the selection among the newly emerging bail options were reflected, for example, in the Federal Bail Reform Act of 1966. This law suggested a large number of criteria for judicial consideration.[9] Certainly discussions about the value of certain information for bail decisions did not end there. Now, there is a debate about the value of information relating to drug abuse for the bail decision. Some jurisdictions have even experimented with urine testing of defendants at the stage immediately prior to the bail/pretrial release decision (Wish, 1986; Carver, 1986; Toborg and Bellassai, 1987).

The Consequences of Bail Decisions: Equity and Effectiveness

Issues about bail come into sharpest focus when it is recalled that this decision has as one consequence the release or detention of persons accused of crime prior to their trial. A perennial criticism of bail practices holds that a system allocating release and detention among the criminally accused on the basis of their ability to afford financial bail is inequitable because it discriminates on the basis of economic status. But a focus on detention also raises the question of effectiveness. Although the concept of "effectiveness" at the bail stage is difficult and merits full discussion (see Chapter Nine of this report), it should be noted here that charges by some that too many dangerous defendants are released to prey upon the public and by others that the jails are hopelessly overcrowded because of judicial decisions about bail are complaints about the effectiveness of bail decisions. Current re-examination of bail and pretrial release laws are motivated principally by these jail crowding and public safety/crime control concerns.

Bail Guidelines: A Decisionmaking Approach

The research reported here builds upon the findings of an experiment conducted in the Philadelphia Municipal Court. That research was designed to learn whether voluntary decision guidelines (Gottfredson, Wilkins

[8] Recommendations for broader use of information at the bail stage, particularly information describing defendants' "social" background were made as early as 1927 (Beeley) and 1954 (Foote).

[9] For a discussion of the criteria suggested by state and federal law for judicial bail determinations, see Goldkamp (1985).

and Hoffman, 1978) could productively address the kinds of problems described above. The Philadelphia experiment (Goldkamp and Gottfredson, 1985) tested such guidelines in relation to the equitable treatment of defendants, the phenomena of flight and pretrial crime, and jail overcrowding. Each of these problems was conceptualized as a problem in the way that judges make decisions and the aim was to minimize these problems by focusing on the decisionmaking process.

The Philadelphia study tested the proposition that the issues stubbornly characterizing the practice of bail were, like problems related to parole and sentencing, productively attacked as "normal" problems of decisionmaking. Inequitable treatment of defendants, flight and crime during pretrial release and jail overcrowding were "normal" problems in the sense that they were artifacts of highly subjective decisionmaking by large numbers of judges who made use of few options, who relied on very little reliable information, and who made their decisions under conditions of low visibility, securely within the realm of judicial discretion. The voluntary, self-help guidelines were designed to aid the judge as a front-line decisionmaker in making better bail decisions. As a consequence, the court as a whole would make better decisions. Thus, concerns about defendant flight or defendant crime could best be addressed, it was argued, through structuring the decision, managing the use of information and providing systematic feedback on performance. Similarly, jail crowding could be mitigated by reviewing bail policy and devising a tool to make the court's decisions overall more systematic rather than inventing (potentially self-defeating) emergency release measures as crises presented themselves.

Although the idea of bail guidelines derives from work at the paroling and sentencing stages of the process, the bail decision is in some ways less complex and in other ways more of a dilemma than the sentencing and parole decisions. It is arguably less complex because the aims of bail are strictly utilitarian and thus unclouded (in theory at least) by retributive concerns. But, the bail decision may be more frustrating than the other decisions; if punishment cannot be one of its goals, it should be easy to measure its effects and to improve its practice, but this is rarely done. Because bail centers on prediction by the judge of a defendant's likely future conduct, it should be easier to comment on the effectiveness of bail practices than on the effectiveness of sentencing practices. Judges' decisions and their outcomes, the use of release and detention and defendants' behavior during pretrial release can be observed, measured and evaluated in a relatively straightforward fashion, unobscured by the ponderous philosophical questions that surround sentencing reform.

The decision guidelines for bail developed in the Philadelphia study (like those to be described later in this report which were developed in Boston, Maricopa County and Dade County) were designed to be a voluntarily employed decisionmaking tool to assist judges in their bail tasks. In appearance, they followed the familiar grid format (Gottfredson and Gottfredson, 1985) positing "presumptive" bail decisions for designated categories of defendants. The intent behind the use of the guidelines is that, if they have been designed properly, they ought to be invoked by the judges in a majority of the cases. In a minority of instances, special features of cases would lead to decisions outside of the guidelines--in a more or less restrictive direction. Decisions outside of the ranges suggested by the guidelines would be accompanied by a notation by the judges of the reasons why a "departure" was necessary. Later examination of departures, judges' reasons for departures, as well as other data relating to bail decisions, the use of pretrial detention and the performance of defendants within guidelines categories would be used to modify the guidelines if necessary, or at least to feed back to the court their effects.

The research describing the development and the experimental implementation of bail guidelines in Philadelphia has been described at length elsewhere (Goldkamp, Gottfredson and Mitchell-Hertzfeld, 1981; Goldkamp and Gottfredson, 1984; Goldkamp and Gottfredson, 1985; Goldkamp, 1987). Here, it may be helpful to highlight some of the questions pursued in this earlier research and some of the subsequent findings so that the stage for the present study may be set.

## AN EXPERIMENTAL STUDY OF BAIL GUIDELINES

The experiment undertaken to evaluate the Philadelphia bail guidelines assessed a number of hypotheses about voluntary decision guidelines. Some of the simpler questions were also among the most fundamental: Could judges work in a collaborative relationship with researchers to review and debate bail policy and to examine its practice through empirical means? Could decision guidelines be developed to assist judges in their day-to-day decisionmaking duties and the court as a whole in effectuating its overall bail policy? If developed, would judges make use of the guidelines in the manner intended? Would they note reasons when they disagreed with the guidelines so that the guidelines could later be re-examined and modified, if necessary? If used, would the voluntary guidelines system bring about change in important areas of concern?

Other hypotheses were more complex: Could the equity of bail decisions be enhanced so that similarly situated defendants could be treated more similarly? Could the highly discretionary bail decision be made more visible and therefore more accountable to acknowledged policy aims and governing criteria? Could bail decisions be made more effective?

To examine these and other questions, an experiment was designed and implemented with the cooperation and supervision of the Municipal Court. Of the 20 judges sitting at the time, 8 were randomly selected to employ the guidelines as "experimental" judges and 8 were selected to be studied as control judges. Once a sufficient number of cases had been collected, statistical analyses were performed to review the use of the guidelines and to contrast decisions made under the experimental and control approaches. (The experiment, which is simple to summarize, was difficult to conduct. See Goldkamp and Gottfredson, 1985, for a fuller narrative.)

Findings from the Philadelphia experiment were encouraging in a number of respects. First, it was demonstrated that the process of empirical analysis and policy debate could be meaningfully carried out within the judiciary and that a guidelines tool could be produced as a result. The visibility of the decision was increased in the acknowledgment of policy goals and explicit criteria relating to those goals. (The Philadelphia judges focused on concerns for both flight and crime among defendants and also placed a great emphasis on implementation of a framework for making decisions more equitable.) The dimensions shaping the decision grid--charge severity and risk of flight and/or crime--were defined by particular definitions or criteria.

The study showed that judges employed the guidelines about as frequently as expected (the guidelines were followed in about 75 percent of the cases) and that their decisions differed notably from the decisions of the control judges. When their decisions deviated from those suggested by the guidelines, reasons were noted in a majority of instances.

Given research findings that bail decisions were disparate and that the disparity was in large part attributable to the judge deciding bail at a given moment, a prime concern of the Philadelphia judges was to enhance the equity of decisions. Although the concept of equity at the bail stage requires agreement on a number of definitions--which were debated by the judges--one view was that "similarly situated" could henceforth be measured by using the policy framework implicit in the guidelines themselves. That is, defendants falling in each of the guidelines categories should generally be treated like others falling in the same categories. Using the guidelines

as the yardstick, it was determined that defendants were treated substantially more comparably under the guidelines than under traditional practices. It was concluded that one of the clearest contributions of the guidelines was to reduce disparity in bail and pretrial detention and to increase the equitable treatment of defendants overall.

Of course, the Philadelphia judges were equally interested in increasing the effectiveness of their bail practices in adopting the bail guidelines. Like the judges in the current study, the Philadelphia judges asked the research staff to determine whether particular defendant or case attributes were predictive of defendant flight or crime during release and, if so, how did they compare to the criteria relied on by judges in making their decisions in practice.

There were several problems in pursuing this goal and in measuring its success. First, it was necessary to agree upon a definition of effectiveness at the bail stage and this was a bit more involved than might have been expected. Logically in discussing effectiveness the judges first pointed to rates of failure to appear (FTA) and rearrest among defendants they released, and assumed that if guidelines were to increase the court's effectiveness, they would be reduced.

Further discussion made it clear, however, that such measures of "effectiveness" do not serve the purpose sufficiently well. FTA and rearrest rates are closely tied to rates of pretrial release and detention and cannot be usefully interpreted standing alone. (Which is more effective, a court that releases 20 percent of its defendants and records a 10 percent flight rate or a court that releases 80 percent of its defendants and also records a 10 percent rate?)

The effectiveness of bail practices under guidelines would further be confounded by the design of the guidelines themselves. In their debate about the policy themes that ought to govern guidelines, the Philadelphia judges chose to adopt a predictive classification as one of the two guidelines dimensions in the hope that it would improve the predictive accuracy of their decisions. They also incorporated a second dimension based on the severity of the defendants' criminal charges. The empirical analysis had demonstrated that the seriousness ranking was not a good predictor of flight or crime; in fact, it was nearly related in an opposite fashion (it appeared that the more serious the charge, the lower the likelihood of future misconduct during release). Of course, in choosing to include the severity dimension, the judges knew this. They argued, however, that they needed a simple means of dif-

ferentiating the kinds of costs associated with different risks. Releasing a high risk "numbers runner" who then recidivates, the reasoning went, is a different problem than releasing a low risk rapist who then rapes again.

The point is that the juxtaposition of these two dimensions in the guidelines resulted in a presumptive decision framework in which the thrust of the risk dimension was substantially diluted (counterbalanced) by the inclusion of the severity dimension--a policy choice made by the court. From the outset, therefore, an evaluator of the effectiveness of the guidelines could not reasonably expect the risk classification of defendants to have the impact on flight or crime that, say, guidelines based solely on risk alone might have had.

There was an additional reason why the impact of the predictive dimension on the effectiveness of decisions would be less dramatic than might be supposed: the guidelines were meant to be voluntarily applied. Because their rationale posits that empirically designed decision aids are most productive when used in the context of subjective decisionmaker expertise (they were intended to structure discretion, not eliminate it), they were not meant to be followed one hundred percent of the time. Thus, even if the influence of the risk dimension had been somehow undiluted by the influence of the severity dimension, the fact that judges followed the guidelines in only 75 percent of the cases meant a priori that the effectiveness of the risk measure would be tempered.

Nevertheless, the experimental findings suggested that use of the guidelines resulted in a slightly more effective bail approach than the traditional Philadelphia practice. Or, stated differently, given the notable changes in decisionmaking that were documented and the substantial increase in the equity of bail decisions that resulted, it was rather a positive finding to learn that flight and crime rates were at least made no worse.

Again the reader is requested to examine the findings of the guidelines experiment in closer detail in the other sources. Their summary here has been purposefully brief. As a result of the research findings, however, the Philadelphia Municipal Court became the first court in the United States to adopt bail guidelines in 1983. Since that time, the guidelines have been reviewed periodically and modified as the occasion warranted. In an interesting, if unforeseen development, because of the policy structure that the bail guidelines offered, the Municipal Court moved to replace the judges at the initial bail stage with bail commissioners who have been since that time deciding bail at initial appearance based on the bail guidelines.

Although the results of the Philadelphia study were encouraging about the utility of voluntary decision guidelines for bail, the generalizability of that work is questionable. The Municipal Court in Philadelphia is, in some

ways, like most lower courts in urban America in it structure and functions. But in other ways it is unique and responds to a unique socio-political climate. The leadership of that court during the time of the study was strong and progressive, interested in improving the practices of the court even despite significant obstacles to change. The court as a whole was relatively sophisticated concerning the developments in criminal justice. The research team had engaged in previous work in the court and had developed positive working relationships with all key personnel. The court records were in significant respects automated and the collection of excellent follow-up information was possible. And, the court system had developed a comprehensive pretrial services agency, the leadership of which was attracted to the guidelines concept. These and other considerations made it reasonable to raise the question of the generalizability of the Philadelphia guidelines research to other major jurisdictions. It was to assess this issue that the current study was undertaken.

## ASSESSING THE UTILITY OF BAIL GUIDELINES

The National Institute of Justice funded the current research in 1984, six full years after the preliminary research began in Philadelphia. Concern about bail practices had grown, not lessened during this time. In 1978, approximately 23 states and the District of Columbia had laws reflecting a public safety or "danger" orientation;[10] by 1984 11 more states and the federal jurisdiction had altered their laws to permit a "danger" focus at the bail/pretrial release stage. See Figure 1.1. Although by 1984 the U.S. Supreme Court had still not yet definitively addressed questions about the constitutionality of "preventive detention" or bail practices oriented toward public safety concerns, case law had contributed important decisions adding to the signs that the "danger" orientation was acceptable.[11]

At the same time that legislatures and the United States Congress were revising their bail laws to incorporate public safety aims, jail overcrowding--one of the principal motivations for the original Vera reforms in the early 1960's and for the bail research in Philadelphia--had worsened considerably. Jail populations had

[10] Of course, this is less remarkable than the increase from 1970 to 1978: only the District of Columbia had a "danger" oriented law in 1970.

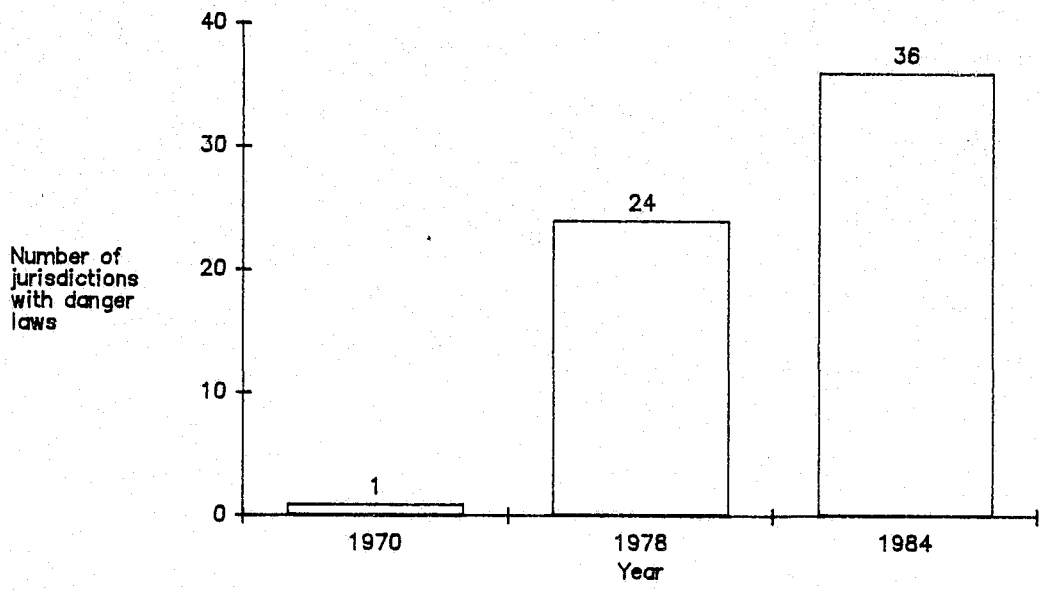
[11] See, for example, *Murphy v. Hunt*, 455 U.S. 478 (1982); *Hunt v. Roth*, 648 F.2d 1148 (8th Cir. 1981); *Parker v. Roth*, 202 Neb. 850, 278 N.W. 2d 106, cert. denied, 444 U.S. 920 (1979); *U.S. v. Edwards*, 430 A.2d 1321 (D.C. App. 1981) (en banc), cert. denied, 455 U.S. 1022 (1982); and *Schall v. Martin*, 104 S.Ct. 2403.

increased approximately 48 percent during that period; the unconvicted population increased about 50 percent. See Figure 1.2.

The problems of overcrowding and public safety made more critical the need to resolve the question about the generalizability of voluntary decision guidelines for bail. Such guidelines are meant to help decisionmakers adapt their behavior to the consequences of their decisionmaking policy. These consequences can easily include both constraints deriving from jail capacity and concerns about community safety. Because the guidelines make provision for systematic feedback concerning the results of decisions, they lines can, in theory, adapt to changing policy orientations. The purpose of the current research, then, is not only to determine whether bail guidelines can live up to the promise shown in the Philadelphia experiment when implemented in jurisdictions differing in important respects from Philadelphia, but to address their relevance for contemporary emphases on public safety or jail overcrowding. It is important to stress that it is not a question of attempting to persuade other jurisdictions to employ the Philadelphia guidelines; rather the question is how the guidelines process--the creation and use of voluntary guidelines with a focus on equity--can be adapted to different bail setting goals with what results. An additional advantage of studying applications of bail guidelines in additional jurisdictions is that evidence concerning the assumptions underlying guidelines in the pretrial arena can be accumulated, knowledge of the relative strengths and weaknesses of guidelines under a variety of circumstances not touched upon in their initial implementation.

The guidelines approach involves analysis and revision of both policy and practice in targeted problem areas, undertaken on behalf of the decisionmakers themselves. It thus stands as a major contrast to legislative strategies involving bail which often sidestep the practicalities of day-to-day realities in the hopes that the announcement of a favored policy will mandate stubborn problems out of existence. It is possible to raise substantial questions about the impact preventive detention laws are likely to have on pretrial crime. Prior guidelines research signals alarm about possible inadvertent side-effects of such policies on jail populations. Yet laws in many states have been broadened with the intent of increasing the probability that the courts will detain larger numbers of defendants outright. Most of these new laws have not greatly concerned themselves with empirical examination of what the bail courts actually do, or with the complexity of the task they face.

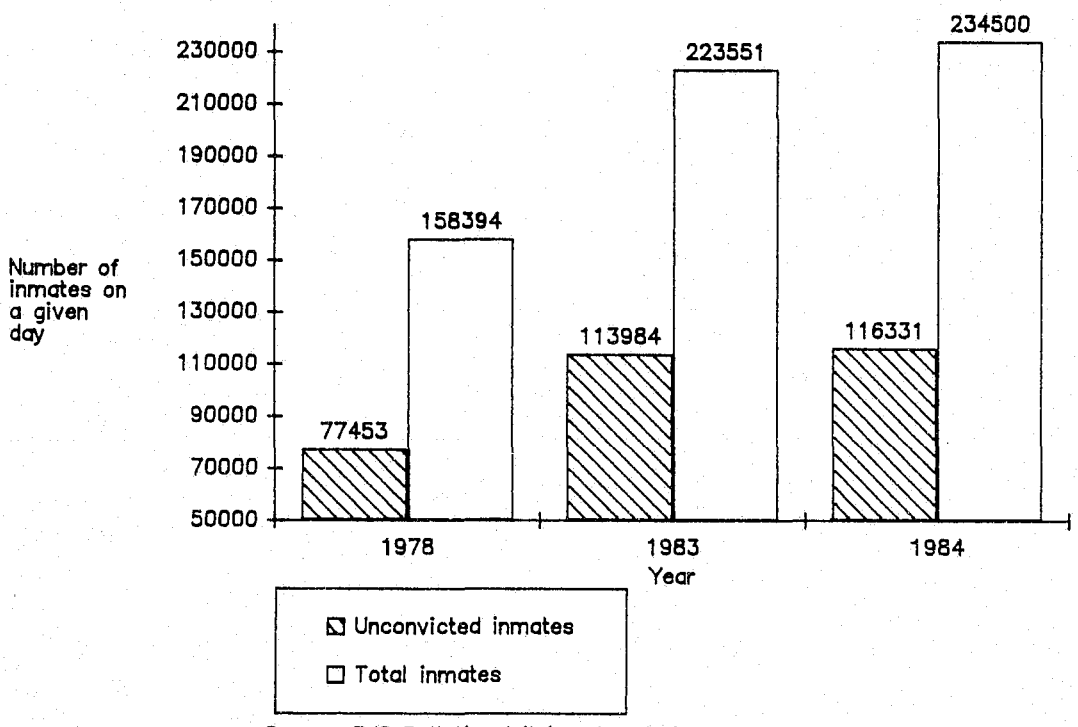
Figure 1.1 Growth of danger-related bail/pretrial release laws in the U.S., 1970-1984




[ Note: Jurisdictions include states, the District of Columbia, and the Federal jurisdiction.]

Source: J. Goldkamp, "Danger and Detention" (1985)

Figure 1.2 Growth of jail populations in the United States, 1978-1984




Source: BJS Bulletin, Jail inmates 1984

In a sense the agenda for change implicit in decision guidelines is more sweeping than such legislative measures. Guidelines aim for nothing less than to affect day-to-day decisionmaking by affecting the rules and traditions involved in case decisionmaking. But the method for problem solving is in fact more conservative in its targeted, step-by-step approach, and is anchored in a firm understanding both of past practices and of projections of its likely impact on future practices. The Philadelphia research suggests that change can be effectuated in an evolutionary fashion, on a category-by-category basis with an ability to adjust to emerging realities.

The goals of the current research are simple to summarize: 1) undertake the development of guidelines in three major urban courts, 2) seek to implement the guidelines once they are developed, and 3) evaluate their initial impact so that they may be modified as necessary. This report describes research in three urban court systems aimed at learning whether the lessons, if not the detail, of the Philadelphia research can be applied to other jurisdictions with equally satisfactory results.

## Chapter Two

# DESCRIPTION OF THE RESEARCH SITES: THE COURTS IN BOSTON, DADE AND MARICOPA COUNTIES

## SELECTION OF THE RESEARCH SITES

To begin our research, it was necessary to select three sites which not only had the willingness to participate in the self-study process but which also exhibited features likely to prove challenging for the method and likely to provide useful examples for other court systems not studied. Selection of the sites was guided by three general screening criteria at the outset: 1) they had to be different in important respects from Philadelphia; 2) they had to have concerns about aspects of bail/pretrial detention practices they would like to address; 3) they had to have histories of jail overcrowding.

The point of the first criterion, to be different from Philadelphia, was simply intended to construct tests of the guidelines approach in diverse settings. We sought to learn whether the methodology could be tailor-made to address profitably the localized concerns of different kinds of courts operating in different environments. In this regard, one important consideration in choosing sites was the nature of the bail/pretrial release laws governing bail practices in the various states. The Philadelphia courts, of course, operated according to the dictates of Pennsylvania law. Pennsylvania law exhibited some of the reform-inspired provisions deriving from passage of the landmark bail reform legislation, the Federal Bail Reform Act of 1966.[10] For example, it included a presumption favoring the release of defendants before trial on personal recognizance (ROR) and it listed a large number of criteria judges should consider in making the bail decision. Unlike the model bail reform legislation, however, Pennsylvania law did not specify that defendants should be released under the least onerous conditions possible. Moreover, the law was vague on whether the defendant's propensity to commit additional crimes was a legitimate concern.[11] We

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[10] Pa. Rules. Crim. Pro. 4003 appeared to permit consideration of the danger a defendant may pose to himself or others in the judge's consideration of ROR, but not in the assignment of financial bail. While the prevailing interpretation of the law at the time was that bail was to be decided only based on a concern for defendant flight, the judges of the Philadelphia Municipal Court decided as a matter of policy to include risk of rearrest as well as risk of flight in the guidelines.

[13] See Goldkamp (1985) for discussion.

thus sought sites that differed in significant respects about the presumptions concerning pretrial release and the legitimate goals of the bail decision.

In Philadelphia, the research and the guidelines system devised relied on the existence of a well-established pretrial services agency. That agency had the responsibility of assembling background, criminal history and case information through defendant interview before their first judicial appearance (referred to as preliminary arraignment in Pennsylvania) and computer criminal history checks. In addition, prior to the advent of guidelines the pretrial services staff made recommendations concerning the suitability of ROR or, at a subsequent stage, the release of defendants on conditions. Because bail guidelines were intended, among other things, to be an informational tool, procedures for collecting, verifying and summarizing information would play an important role in the eventual adoption of guidelines in a given jurisdiction. In reviewing sites for participation in the study, it was considered advantageous to choose at least one site having no formal pretrial services support system. We thought it important to address the question of whether the existence of such an agency is a requisite for meaningful guidelines construction.

We also thought it desirable to incorporate variability in the structures of the court systems in which we were going to try to develop guidelines. Again, the Philadelphia court consisted of about 22 Municipal Court judges who rotated into the bail assignment. The court operates around the clock, every day of the year and is highly centralized. It is administered by a President Judge, chosen by the other sitting judges. How applicable is the guidelines concept to other structures? Many "bail courts" consist of commissioners, appointed for the task by a larger court system but having little or no other judicial experience. Some systems rely on a very small number of decisionmakers who "take turns" in the bail courts in addition to other substantial duties; others involve only a few individuals who spend most of their time setting bail. Some are very nearly adversarial systems, with both the state and the defense are allowed to offer opinions and evidence; others involve little more than the defendant, the judge, and the law enforcement agency responsible for the arrest. Some systems rely heavily on bail schedules, with any hearings amounting to "appeals" of the schedule; others have no guidelines of any sort other than the relatively vague factors permissible in statute. There are strongly led court systems where the presiding judge dictates policy that generally is followed by other judges and there are court systems where it is pretty much every judge for him or herself. Our task was to incorporate as much variability as possible into our sites to test the generalizability of the

guidelines concept. Clearly, we could not, with resources for three sites, tap all of the potentially important variability. Nor do we have a design that will permit the unambiguous partitioning of failure of decision guidelines according to dimensions such as those discussed above. But our aim is more modest--to seriously test the applicability of guidelines in very different sites. If they have use in all of them, then at least the "uniqueness of Philadelphia" argument will not hold. If there are failures, we hope to have gathered sufficient information to deduce why.

As indicated above, our site selection also took into account jail crowding. One possible contributor to crowded jails is bail practices that are inefficient and chaotic, practices that hold categories of defendants needlessly and non-systematically. In Philadelphia, the jail facilities (appropriately named the Philadelphia Prisons) had been plagued by extreme overcrowding for more than a decade--and had been under suit since 1971. In developing their guidelines, the Municipal Court judges did not specifically build in provisions to accommodate jail population levels. However, later during debates in that city about the "source" of overcrowding, the Municipal Court was able to use the guidelines as evidence that it had examined and improved its bail practices and as a lens through which to assess the status of the pretrial population and the appropriateness certain population reduction strategies affecting bail. A theme in the current research was to determine whether guidelines could be designed with more specific reference to the jail problems facing the jurisdictions to be studied.

With these criteria in mind, many of the major courts in the United States were contacted. First, letters were written and telephone conversations were held with mid-level court officials to determine if particular courts would, according to general criteria, be potential candidates. Before considering a court system a serious candidate, however, telephone conversations were held either with the chief court administrator or the presiding judge to determine if guidelines might offer a useful tool. Once the list of serious candidates was narrowed to seven jurisdictions, the staff made site visits to observe the system and discuss the possibility of guidelines development and research with court officials. As a result of the site visits, strong interest was expressed on the part of five judiciaries. The three finally chosen, including courts in Boston, Phoenix and Miami, were selected with an eye to regional diversity and to making limited resources for the research to go as far as possible. The selection of courts in Boston, Miami and Phoenix certainly resulted in varied settings for the research. It is instructive to gain a

brief overview of the three court systems in the study, in terms of the bail or pretrial detention concerns that occupied the courts, their legal frameworks, and the structure of the pretrial criminal process.

## THE BOSTON COURTS

### Local Concerns about Jail Crowding and "Defaulting" Defendants

Boston would appear to be an excellent site for such a study not only because of its urban character, but because at the time the study was initiated there was evidence of strong public and judicial concern about jail overcrowding and the flight of defendants before trial. The bail practices in the Boston Municipal Court and the Suffolk County Superior Court, for example, had come under criticism in a Boston Globe series published during September, 1984, questioning the apparently high rate of felony defendants who were able to thwart prosecution of their cases merely by not attending court. In a number of instances, defendants were located by the investigative reporters living quietly at their normal home addresses. During the spring of 1985, the local press featured the story of the mother who followed a young man she suspected might be her daughter's attacker after overhearing him describe the crime on a bus. Although this incident was picked up by the national media with a focus on its "self-help" implications for criminal justice, it was later discovered that the suspect had been on pretrial release and probation (in juvenile matters).

In addition, the overcrowded conditions of the Charles Street Jail--serving Suffolk County at the heart of Boston--had been the source of great media, and even judicial attention. The jail, built in 1851, had in recent years exceeded its capacity of 266 detainees by a large margin and continued to suffer from a deteriorating physical plant.

As the project staff were considering site alternatives, the overcrowding at the Charles St. Jail had become increasingly the center of public debate and media attention. Furthermore, decade-old litigation[14] had reached a decisive point. The judge presiding over the case had named a special committee to supervise emergency actions ordered to address the crowding problem. Because the facility dealt solely with a pretrial population, there appeared to be a serious interest on the part of the judicial leadership to consider the impact of bail practices on the jail population.

[14] *Inmates of Suffolk County Jail v. Eisenstadt et al.*, 360 F. Supp. 676-693, 1973.

The Legal Context: Massachusetts Law Governing Bail

The Massachusetts law governing bail restricts the goals of bail at a defendant's first appearance to assuring appearance in court and clearly emphasizes a presumption favoring release of defendants on personal recognizance (without financial conditions). In fact, the law provides defendants with a right to have the decision reviewed at the next Superior Court session when they have not secured ROR. Protection of the community from dangerous defendants is recognized as a bail agenda in the statute, but is limited to the narrow instance when a newly arrested defendant is found to be on pretrial release pending adjudication of an earlier criminal charge.[13]

The Massachusetts judge may deny release to such a defendant after a hearing and upon a determination that there is probable cause to believe that the defendant committed a crime during pretrial release and that the defendant will "seriously endanger any person or the community." Because of this special combination of a broad emphasis on assuring appearance and release of defendants under nonfinancial conditions and a very narrow role for public safety concerns, the Massachusetts law presents an interesting legal framework within which to conduct the guidelines decisionmaking research. Indeed, it may by claimed that the Massachusetts law within which the Boston Municipal Court considers pretrial release is at one end of the continuum of statutes; it places a very heavy emphasis on the interest of pretrial defendants to liberty under the least restrictive conditions and a relatively light emphasis on the interest of the state (commonwealth) in community safety. Overall, the interest in orderly justice is the principal aim of the decision. The Massachusetts law thus meets our sampling criterion of maximizing variability along this important dimension for testing the versatility of the guidelines concept.

Court Structure and the Pretrial Process in Boston

The courts in Massachusetts are a recently unified state system led by the Chief Justice of the Supreme Judicial Court of the Commonwealth of Massachusetts and administered by the Chief Administrative Justice of the Trial Courts. The Trial Courts include the "felony" or major trial courts known as the Superior Court, the limited jurisdiction courts including the District Courts and the Boston Municipal Court, as well as others. Theoretically, the court "departments" within the Trial Courts are not organized in a hierarchical fashion; all report to the Chief Administrative Justice of the Trial Courts. Despite the new organizational chart, however, there are vestiges of traditions that are not quite so horizontal. In planning its approach in Boston, we agreed initially to a two-pronged

[15] Ann. Laws Mass. C. 276 :58.

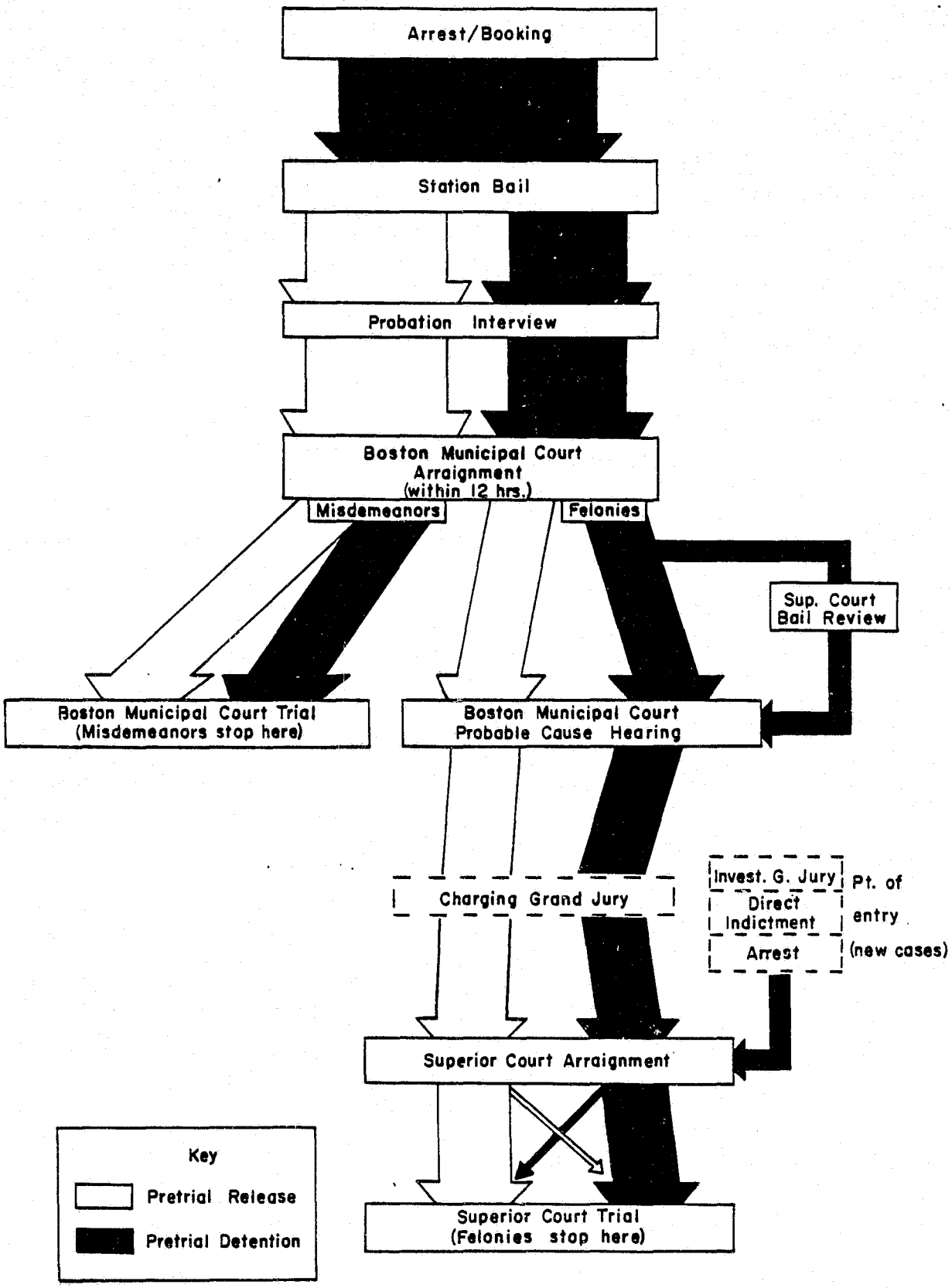
approach with primary emphasis on bail practices in the Boston Municipal Court (serving Suffolk County or central Boston) and secondary emphasis on the Superior Court (which has statewide jurisdiction as the major felony or trial court as well as special relevance to Boston).

Figure 2.1 illustrates the flow of criminal cases entering the system in the central Boston area, over which the Boston Municipal Court has jurisdiction. Bail is decided both immediately after arrest at the police station (not by a judge but by a bail commissioner who is a judicial designee[14]) as well as at the defendant's first appearance in court ("arraignment") by a Boston Municipal Court judge shortly thereafter. All criminal cases--whether the equivalent of felonies or misdemeanors[15]--must be arraigned promptly in Boston Municipal Court. Between the arrests (many of which took place the night before) and morning arraignments, all defendants are processed by the court probation staff so that, ideally, information relating to a defendant's prior record may be presented to the arraignment judge. Often the staff is able also to report on previous court appearances and absences. If a defendant has not gained release at this stage, he or she has the right to a review of bail by the Superior Court within 48 hours.

Serious felony cases (having penalties of 5 years or more) are next scheduled for "probable cause" (preliminary) hearings in Municipal Court to determine whether they will be bound over to Superior Court for trial. After being bound over, cases are also reviewed by the grand jury which must issue an indictment before a case can move to arraignment in Superior Court. Bail, which may be reviewed at the probable cause stage, is re-decided by a Superior Court judge at Superior Court arraignment. Generally, cases in which the penalty will not include a sentence to the state prison system (i.e., misdemeanor and lesser felony cases) are scheduled for trial in Municipal Court. Although bail may be raised at a number of stages in the two-tiered court system, the key judicial

[14] The state office of the bail commissioner reports to the chief justice of the Superior Court.
[15] Under common law in Massachusetts, crimes are not classified as felony/misdemeanor, but rather whether they are eligible for state prison terms and the length of incarceration that may be imposed.

*Figure 2.1: The processing of defendants in Boston, by pretrial custody status*



stages of interest to this research are arraignment in Municipal Court, review of Municipal Court decisions in Superior Court and arraignment in Superior Court.

The Superior Court is also a court of original jurisdiction for cases resulting from direct indictment by the investigating grand jury. Such felony cases have their first appearance at arraignment in Superior Court, at which charges are read and bail is decided.

In terms of structure, then, the Boston courts are in some respects similar to the Philadelphia system; the bail decision is made by several actors in the process, but fundamentally by lower court judges whose bail setting is only one small part of their judicial activities. The court is "governed" by a chief judge, referred to as the Chief Administrative Justice, who has general administrative responsibilities in addition to actively sitting.

## CIRCUIT AND COUNTY COURTS IN DADE COUNTY

### Public Safety and Jail Overcrowding in Dade County

Dade County has experienced one of the most rapid demographic changes of any American population center in the last decade. Of the three research sites, it has the most diverse ethnic make-up. Not only has the area emerged as a nucleus of a large Hispanic population with roots in the Caribbean basin, but it has accepted several waves of refugee immigration from Cuba and Haiti that have taxed its resources. The rapid change has challenged law enforcement over the years in areas ranging from homicide to drug smuggling and has tested the ability of the criminal justice system to respond. The Dade County Jail, a predominantly pretrial institution, has been the target of litigation in Federal District Court since 1975[16] because of crowding related problems. Although plans for new construction are on the books, population pressures have increased in recent years and continue to be a source of major concern to Dade County officials, including the judicial leadership.

### The Legal Context: A Strong Public Safety Orientation

In many ways, Florida stands in contrast to Massachusetts concerning the presumptions about bail. For several reasons, the recently revised Florida law governing bail and pretrial release must certainly qualify as one of

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[18] *Bridges v. Sandstrom*, F. Supp. , U.S. District Court for So. Fla., No. 74-994, Jan. 2, 1975.

the most interesting of all the states which have enacted new danger laws.[19] First, it is one of the few states explicitly stating the purpose for bail determinations in a bail statute:

> the purpose of a bail determination...is to ensure the appearance of the criminal defendant at subsequent proceedings and to protect the community against unreasonable danger from the criminal defendant...[20]

Secondly, detention based on public safety concerns is expressly permitted. In redrafting the state law, the legislature announced its intention to detain upon arrest "persons committing serious criminal offenses, posing a threat to the safety of the community, or failing to appear for trial."[21] In fact, the Florida law departs from all other jurisdictions in announcing the primacy of the public safety agenda at the bail stage: instructing that "the primary consideration" in bail proceedings should "be the protection of the community from risk of physical harm of persons."[22]

This reform of Florida law accompanies a weakening of some of the emphases of reform statutes common since the bail reform movement of the 1960s. The principle of release under least drastic conditions, is particularly diluted, notwithstanding legislative mention of "reducing the costs of incarceration by releasing ...those persons not considered a danger...who meet certain criteria."[23] Drastically restricting the notion of presumed release on personal recognizance or release under least restrictive conditions, the Florida law only weakly suggests a preference for nonmonetary release "for any person" so fortunate as to be "granted pretrial release."[24] Because cash bond is retained under the Florida law, however, both the traditional sub rosa means of securing the detention of defendants and the more recent, formal preventive detention procedures (requiring a hearing, etc.) exist side-by-side.

A final, unique feature of the legal framework governing bail practices in Florida is the new victim's provision which not only requires the state to notify victims or witnesses when defendants have gained pretrial

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[19] Fla. Stat. Ch. 903.046.
[20] Fla. Stat. Ch. 907.041.
[21] Id.
[22] Id.
[23] Id.
[24] Id.

release, but also provides for "consultation" with victims of felonies involving "physical or emotional injury or trauma" by the state's attorney regarding pretrial release.[25]

Clearly then, Florida meets our criterion for sample selection that we maximize variability in the attitude the state has taken in law about bail. When viewed in conjunction with Boston, Dade county might qualify as the opposite end of the continuum, providing a test of the guidelines concept in an explicitly danger oriented system.

:Court Structure and the Pretrial Process in Dade County

The court system in Dade County is structured as a two-tiered, hierarchial system. Judges are elected to each of the courts and chief presiding judges are elected by vote of all presiding judges in each court. Although the County and Circuit Courts are separate organizations, the are closely tied together by function and substantially influenced by the leadership of the chief administrative judge of the Circuit Court. Bail is largely the responsibility of the Circuit (or major trial) Court; however, County Court judges preside over bond hearing (the initial bail decision in felony cases) for the Circuit Court during the week and Circuit Court judges preside on a rotating basis on weekends. All persons arrested in Dade County are booked at the central jail (Pretrial Detention Center) and, shortly after booking is completed, have the opportunity to post bond in an amount designated by the bond schedule--except for persons charged with nonbondable offenses.[26] If release is not secured at that point, felony defendants will have bond decided by a judge at the next bond hearing, which is scheduled twice daily and on weekends. (Because of the large number of Circuit Court judges in the county, any given judge will decide bond relatively rarely.)

Misdemeanor cases that have not secured release immediately through the bond schedule, will have the opportunity to have bail decided by a County Court judge within a day at jail arraignments at which pleas are also accepted. Misdemeanors are scheduled for trial in County Court, while felonies are scheduled for arraignment and then trial in Circuit Court after a bond hearing in that court. Preliminary hearings are not routinely held, but a probable cause determination is made by judges at the bond hearing. Persons for whom bail has been denied (because the offenses are nonbondable) have a hearing within 5 days to review bail and probable cause.

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[25] Fla. Stat. Ch. 960.30 (1984).

[26] At the time of the research the following offenses were nonbondable: murder, rape, robbery using firearm/deadly weapon, sexual battery and other sex offenses, kidnapping, burglary with assault or armed, possession of bomb/explosive devices.

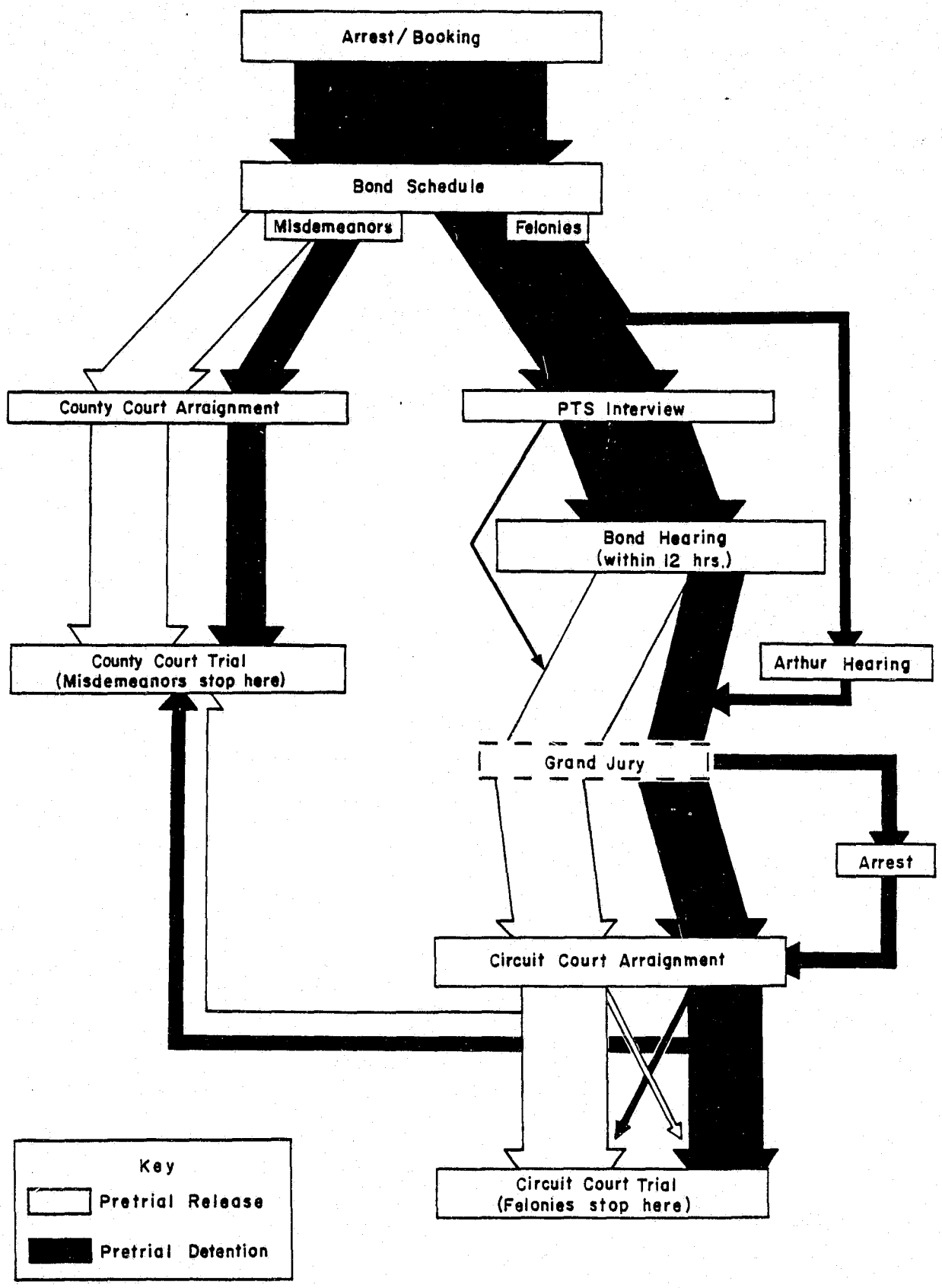
Other than booking stage release available to all defendants via the bond schedule, the key bail stages in the Dade County courts are the misdemeanor arraignments and the bond hearing. Felony defendants are screened by a pretrial services program which is operated by the corrections department (which runs the jail), usually prior to the bond hearing. See Figure 2.2. At the time of the beginning of the research, the pretrial services program generally would make recommendations to the bond hearing judge, either asking for custody of the defendant or not.

If the Court assigned a defendant to pretrial services, what is called an "alternate bond" was set at the same time. This alternate bond usually was the amount specified in the bond schedule originally.

Most defendants receiving referral to the pretrial services agency would then either be released immediately on personal recognizance, placed in a supervised release program, or allowed to post the alternate bond in the meantime. Because the corrections program actually has custody of these defendants, they do not generally release them until they are satisfied that they have sufficient background information. In some cases, they will subsequently decline to release defendants already given to their custody if later information suggests they are poor risks. The pretrial services agency also has the power to release immediately persons charged with nonviolent felonies who have no record of prior convictions which resulted in incarceration . A large number of defendants first booked on felony charges have their cases bound down (transferred) to County Court to be handled as misdemeanor matters, in which case they re-begin processing at County Court arraignment.

The structure of the Dade process thus introduces interesting dimensions to our test of the versatility of the bail guidelines concept. The existence of a bail schedule is an important consideration, as is the highly centralized character of the judicial process. Additionally, the role of the pretrial service agency is important in Dade (unlike Boston), but it has a distinctively different role to play in the process than did the pretrial service agency in Philadelphia. It also is located administratively in a different branch of government than was true of the Philadelphia court agency.

*Figure 2.2: The processing of defendants in Dade County, by pretrial custody status*



## SUPERIOR COURT IN MARICOPA COUNTY

### Public Safety, Jail Overcrowding and Divided Jurisdiction in Maricopa County

At the beginning of the research project, jail overcrowding had been the subject of a Federal suit in Maricopa County since the late 1970s--a time when the jail population reached more than 1,550 in facilities with a capacity of 1,300.[27] The Federal District Court ordered a population limit and a plan to develop alternatives to incarceration, in addition to requiring other improvements. During the research, a new 3,000 bed jail facility was opened; it was immediately filled to capacity and began to experience crowding related problems. Comprehensive action to address the pretrial and other aspects of the jail problem have been made more difficult by the divided jurisdiction of the City of Phoenix (misdemeanor) and Maricopa County courts.

### The Legal Context: A Recent Public Safety Emphasis

Arizona statutes governing bail and pretrial release were revised in 1970 and the constitution was amended in 1982 to permit the outright detention of defendants based on public safety concerns. Not only does the constitution now include the traditional limitation of a right to bail excluding persons charged with capital offenses, but persons charged with felonies who were on pretrial release in prior felony matters may be denied bail (and thereby release) categorically as well. The most recent amendment provides that defendants charged with felonies found to "pose a substantial danger to any other person or the community" may be detained if, after a detention hearing, no conditions of release can reasonably assure the safety of the community.[28] Because felonies in Arizona include offenses for which the penalty may be one or more years in incarceration--a broader classification than in many states--the detention-for-danger provision may apply to a potentially large number of criminal cases. The Arizona law mentions release on personal recognizance and on conditions but does not include a presumption for nonfinancial release or release under least restrictive conditions. The characteristics of the Arizona law thus seem to place it somewhere between the laws of the other two sites on the conceptual continuum, although perhaps closer to Florida's example. The provision for a detention hearing for those the state seeks to detain outright because of

[27] Hart v. Hill, CIV 77-479 PHX EHC-MS (1980). See Pryor and Murray, "Maricopa County, Arizona: On Site Technical Report," Pretrial Services Resource Center, 1981.
[28] Ariz. Const. Art. II:22; Ariz. Stat. Art. 12:13-3961.

dangerousness resembles Florida's "Arthur" procedures and the lack of a strong presumption for least restrictive conditions sharply distinguishes Arizona from Massachusetts.

:Court Structure and the Pretrial Process in Maricopa County

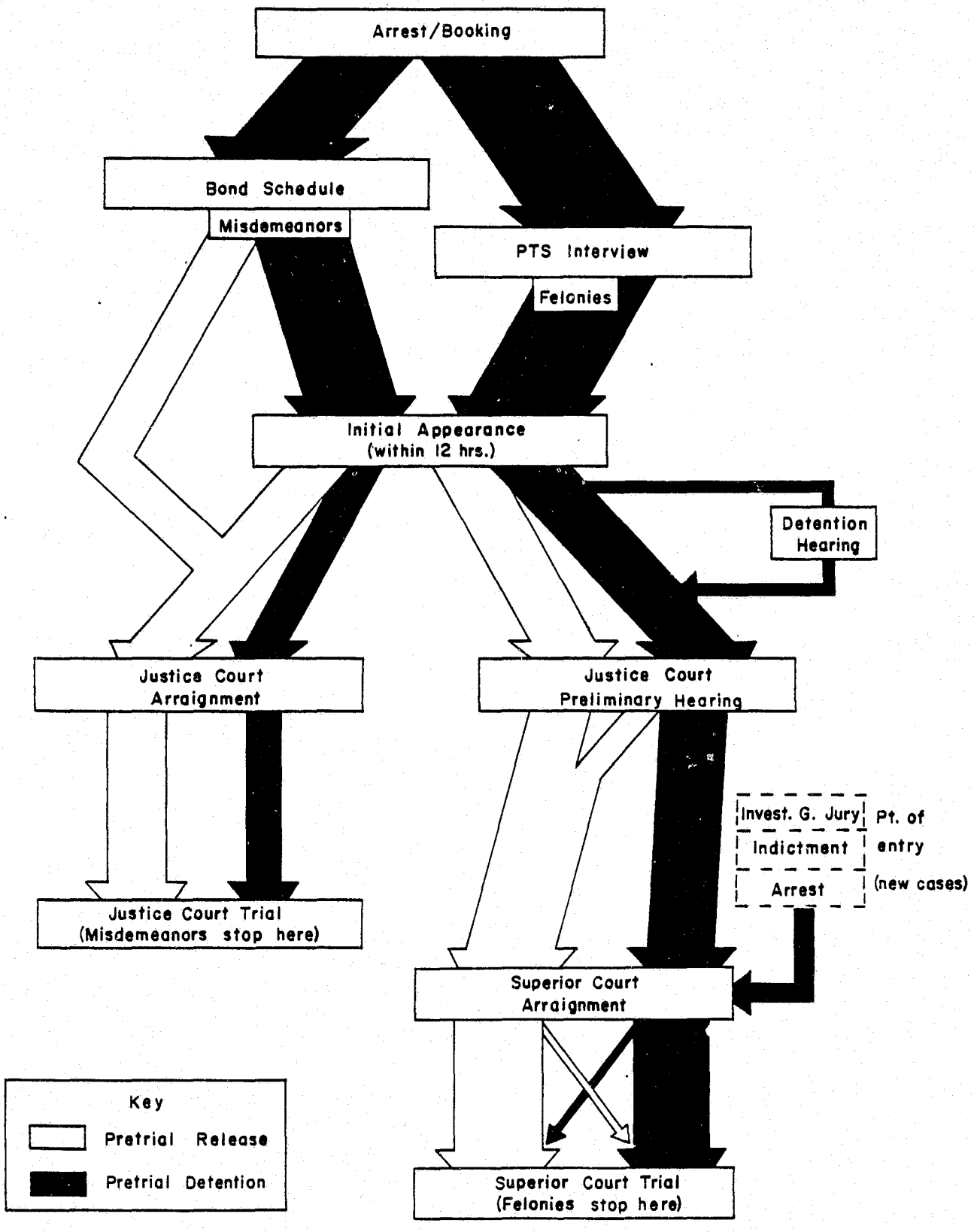
Maricopa County includes the City of Phoenix, a number of surrounding population centers and some rather remote rural areas. Jurisdiction for processing criminal cases is shared by the Superior Court, the Municipal Court of Phoenix and local Justice Courts located in the outlying districts outside of Phoenix. With few exceptions, the Superior Court, located in downtown Phoenix in a building adjacent to the main jail, handles the initial appearances of all defendants charged with felonies and all arraignments for felony cases. (Some felony arrests in the most remote locations have initial appearances in Justice Courts.) The Phoenix Municipal Court is responsible for all misdemeanors falling within city limits, except for weekends at which time they are processed by Superior Court.

Initial appearances for both misdemeanor and felony defendants in the County occur in the basement of the jail attached to the Superior Court, in adjoining rooms. See Figure 2.3. Five law-trained bail commissioners handle the bail tasks of both the Superior and Municipal Courts through a cooperative agreement between the two courts. Preliminary hearings occur in the 18 Justice of the Peace Courts scattered through Maricopa County.

For about a decade, the Superior Court has administered a pretrial services program assigned the responsibility of interviewing felony defendants prior to initial appearance at the central Phoenix location and of presenting a recommendation with background information to the initial appearance commissioners. Misdemeanor cases are not served by a pretrial services program.

The central role played by the commissioners, with the administrative and policy oversight of the Superior Court, makes the Maricopa court system of considerable interest in the question of the versatility of guidelines. On the other hand, the presence of an existing pretrial service function, working under the direction of the court system, parallels the Philadelphia experience. Thus, Maricopa provides an opportunity to examine the prospect for guidelines that is, as with Boston and Dade, different enough from Philadelphia's example to believe that a meaningful test is possible.

*Figure 2.3: The processing of defendants in Maricopa County, by pretrial custody status*



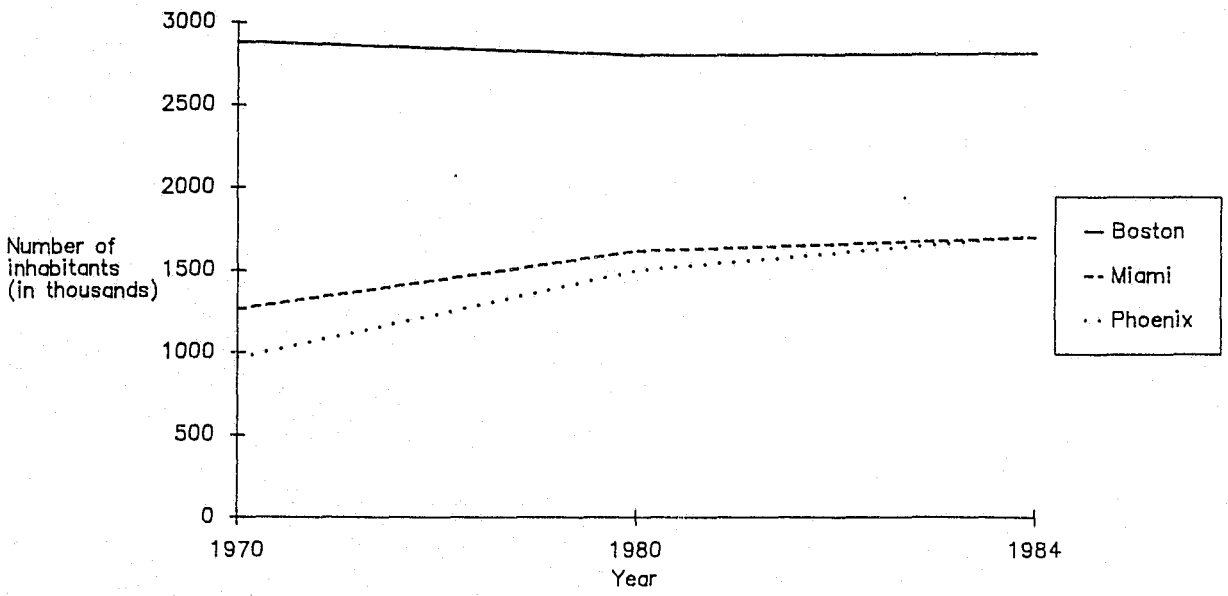
## POPULATION, CRIME, CRIMINAL COURT CASELOAD AND JAILING: A COMPARISON OF THE RESEARCH SITES

Quite obviously, the three court systems selected for the research were located in geographical areas--the Northeast, the Southeast, the Southwest--that differed considerably in character. As population centers dealing with crime (among their other social problems), they exhibited different histories as well. The following general data are briefly summarized to illustrate these differences.

### Population trends

Figure 2.4 charts the population trends in the three metropolitan areas over the 10 years prior to the beginning of the research. The two southern cities, Miami (Dade County) and Phoenix (Maricopa County), bear a remarkable resemblance. Each has slowly but surely grown from areas of just under to just over 1.5 million inhabitants from the mid-1970s to the mid-1980s. For most of that period, the Boston metropolitan area, with a much larger population, had been experiencing a gradual and then a precipitous drop in population. This drop seemed to be reversing itself in 1983, just prior to the beginning of the research.

Figure 2.4 Population trends in Boston, Miami and Phoenix metropolitan statistical areas from 1970, 1980 to 1984




Source: U.S. Bureau of the Census

Offenses known to the police

Although the Uniform Crime Reports data describing crime reported to area police departments has well-known limitations, they may still serve as useful rough indicators of the "crime problem" experienced by the justice systems in the sites studied.

Figure 2.5 contrasts the number of total index offenses[29] per 100,000 inhabitants reported to the police in the three jurisdictions between 1975 and 1984. At the beginning of that period Phoenix and Miami show reported index offense rates markedly higher than Boston. However, while each of the jurisdictions reveal a slight decrease at first and then a slight increase, the similarities stop at about 1978. Beginning in 1979 the crime rates in Miami increase abruptly. The rates in Phoenix begin a notable decline and in Boston they show a slight decline. By the end of the period, the Phoenix reported index crime rates were near the low level of the Boston rates, while the Miami rates appear to have headed up again.

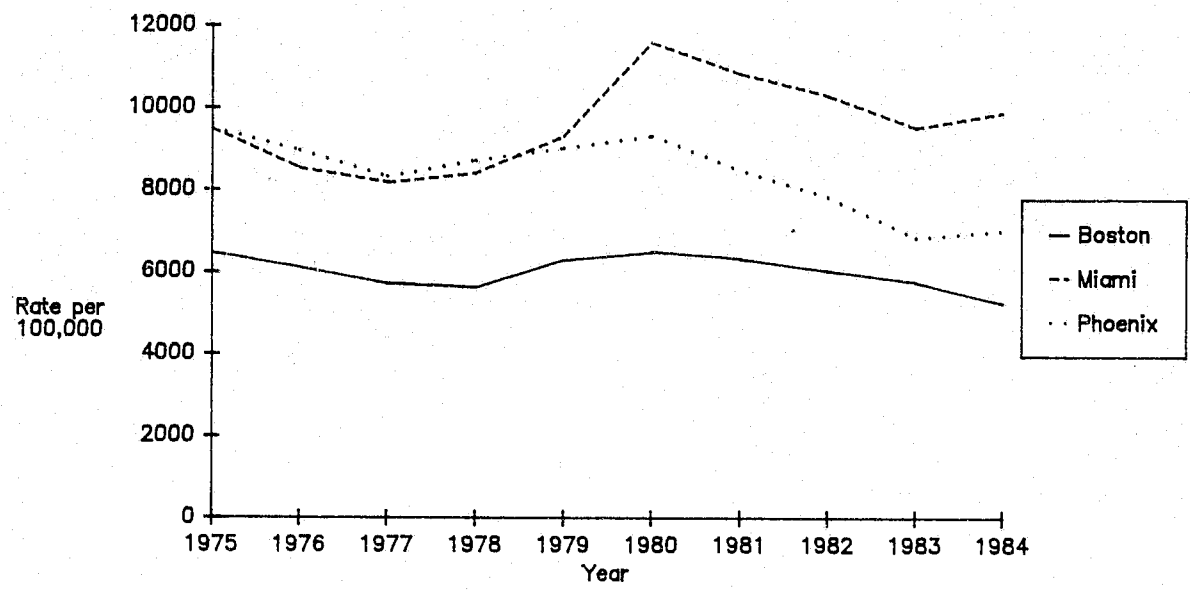
Other differences are demonstrated when particular subcategories of crimes are considered in more detail. For example, when violent offenses reported to police are compared--see Figure 2.6--the Miami area more strikingly stands apart from the other two sites, both in its generally higher rates each year and in its generally upward thrust in violent offenses. Phoenix and Boston show very similar patterns, ending up at rates only slightly higher than ten years previously.

When total property offenses are examined, the curves do not differ strikingly, except that the Miami rates have moved to the highest among the three sites by the decade's end to a point nearly one-third higher than Boston's. See Figure 2.7.

In 1975, Boston citizens reported motor vehicle thefts to police at rates more than twice those shown in Miami and Phoenix. See Figure 2.8. During the ten years, the Boston rates declined gradually but steadily as the Miami motor vehicle theft rates increased steadily. By 1984, the rates in two cities approached each other near a mid-point. Reported motor vehicle theft in Phoenix decreased ever so slightly throughout the 10 year period.

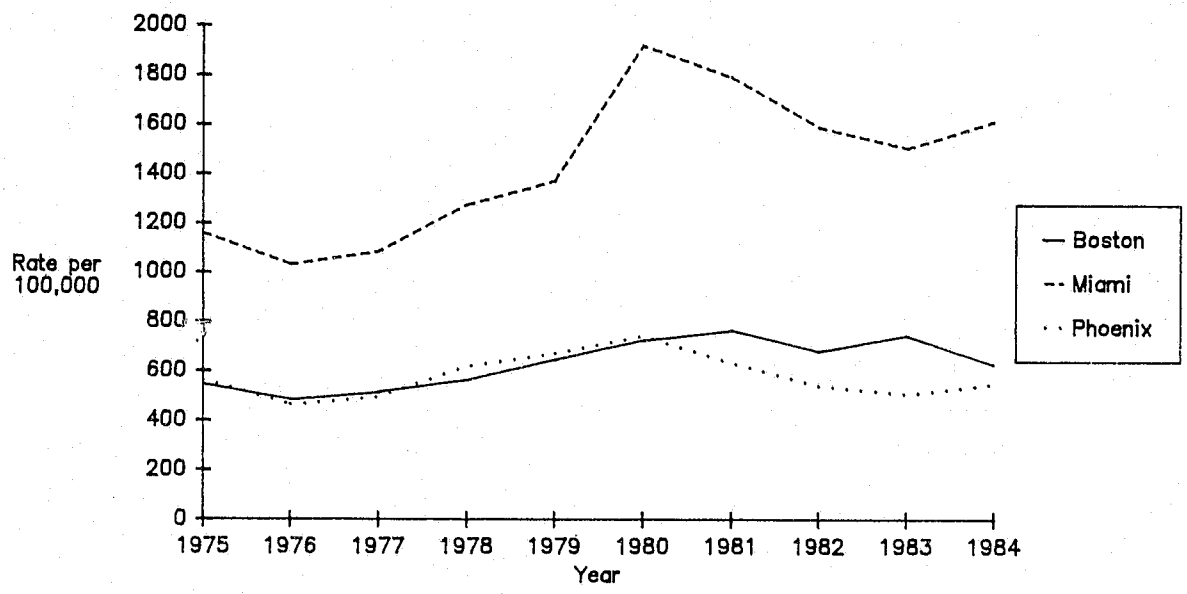
[29] In its series, Crime in the United States for the relevant years (see FBI, Crime in the United States, Washington, D.C.: U.S. Government Printing Office, 1975-84), the Federal Bureau of Investigation lists the numbers of index crimes known to police per 100,000 inhabitants. Index offenses are murder, non-negligent manslaughter, forcible rape, robbery, aggravated assault, burglary, larceny-theft, motor vehicle theft and arson.

Figure 2.5 Total index offenses known to police per 100,000 inhabitants in Boston, Miami and Phoenix (MSAs), 1975–1984



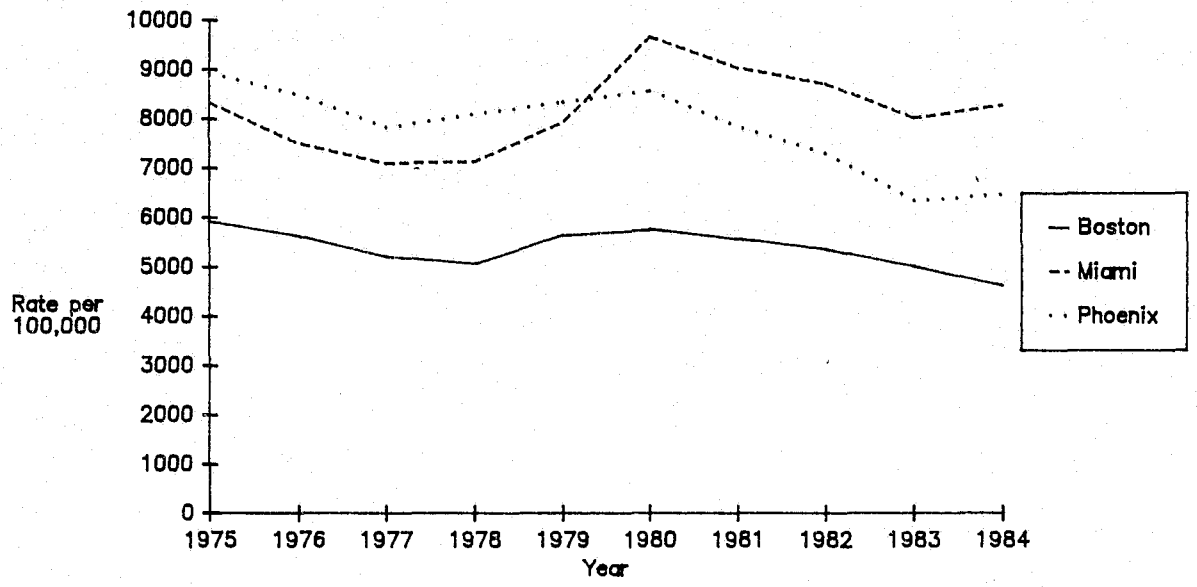

Source: UCR 1975–1984

Figure 2.6 Total violent offenses known to police per 100,000 inhabitants in Boston, Miami and Phoenix (MSAs), 1975–1984



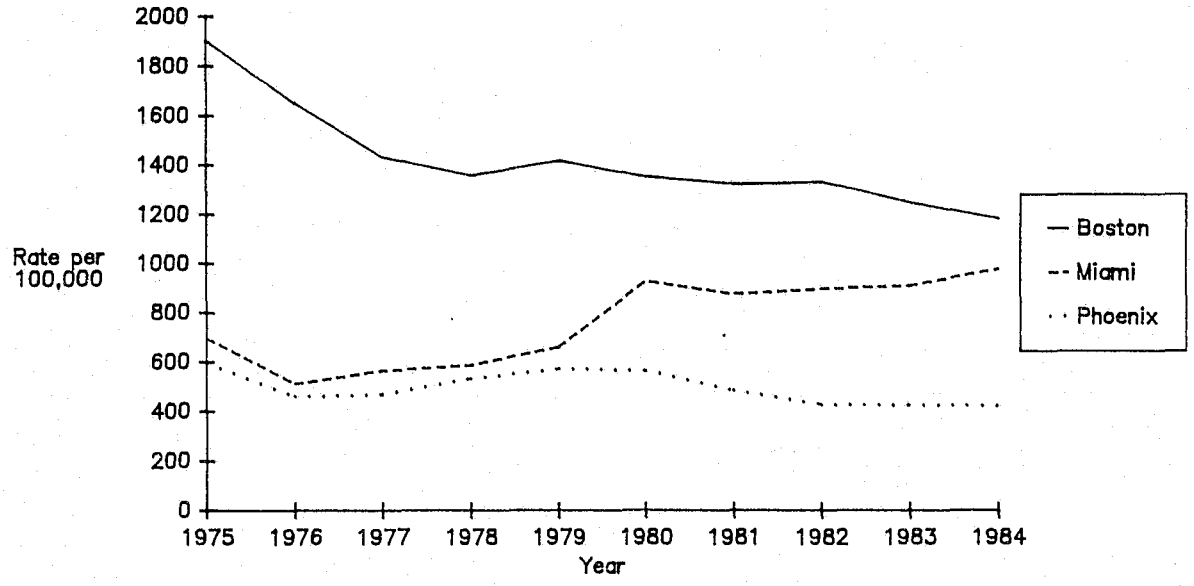

Source: UCR 1975–1984

Figure 2.7 Total property offenses known to police per 100,000 inhabitants in Boston, Miami and Phoenix (MSAs), 1975–1984




Source: UCR 1975–1984

Figure 2.8 Total motor vehicle theft offenses known to police per 100,000 inhabitants in Boston, Miami and Phoenix (MSAs), 1975–1984




Source: UCR 1975–1984

:Arrests

It can be argued that arrest rates may at least serve as rough indicators of the volume of cases entering the earliest stage of the criminal process. Obtaining reliable arrest data is quite difficult, particularly in areas served by more than one police agency--as was the case in each of the sites. The following charts employ much narrower data sources than the "offenses known" indicators given in the UCR. In fact, these data had to be requested from state agencies the size of whose reporting bases varied considerably.

Arrests per 100,000 inhabitants for index offenses appear very similar in Miami and Phoenix through 1979, at which point the two cities part company. See Figure 2.9. Phoenix arrests blip up temporarily in 1980 but then begin a decline, leveling off in 1984 at a level slightly lower than in 1975. The Miami rates jump up in 1980 and even out at a higher rate than at the beginning of the decade.

The different character of the crime problems experienced in the sites is again reflected when arrests for murder and robbery, for example, are examined. In Phoenix, arrests for these crimes remain relatively stable throughout the decade. They jump precipitously in Miami. See Figures 2.10 and 2.11. Arrests for motor vehicle thefts during the same period soar in Miami, while they appear nearly unchanging in Phoenix. See Figure 2.12.

The characteristics of arrestees entering the systems in the three sites are important because arrest decisions by police established the nature of the caseload to be processed by the criminal courts and because of their possible influence on the local jail populations.

:Bail-Relevant Criminal Caseloads

Another way to contrast the courts involved in the research is to compare the volume and nature of the bail-relevant caseloads they dealt with. Figure 2.13 shows that during 1984, the year the study began, the Dade County courts processed an estimated 56,000 entering criminal cases, more than three times the volume entering the other two court systems.[30]

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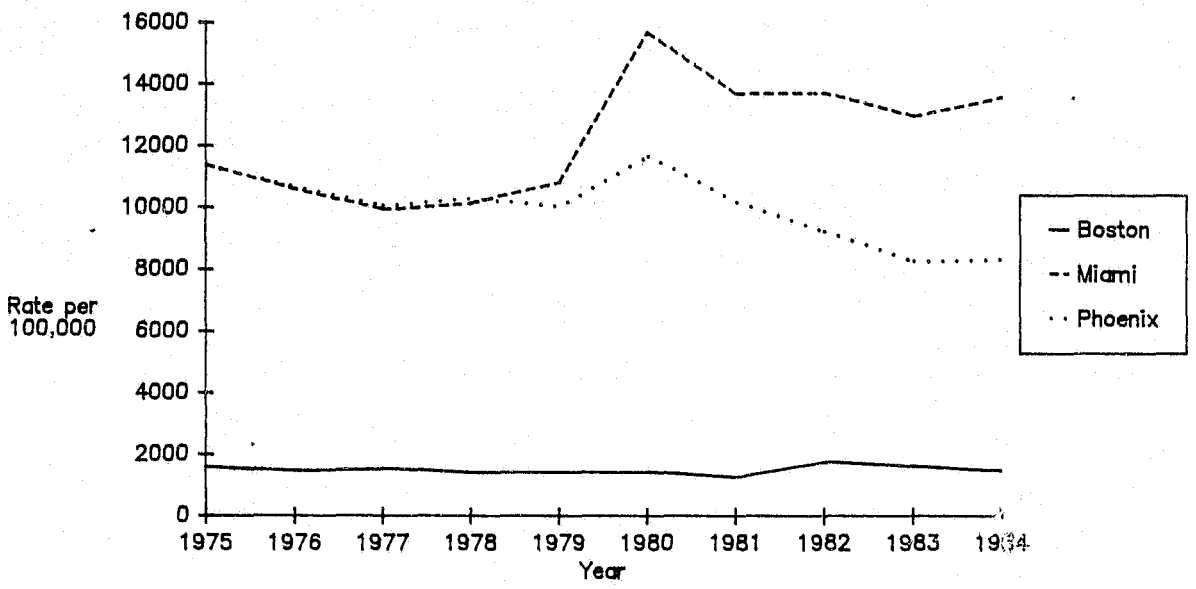
[30] These estimates were projected from the samples studied to arrive at an annualized criminal caseload in the criminal court systems. For example, in Maricopa County, the sample includes all relevant cases entering the system during June and July of 1984 or during one-sixth of the year. Multiplied by six, the sample provides a rough estimate for the courts annual criminal caseload. In Boston the sample in the BMC included all cases entering between April and October, 1984, or during half a year. Of course, these estimates of annual bail-relevant criminal casesloads suffer important limitations. First, to the extent that the cases entering during the sample months differed from cases entering during other months, the annualized estimate will be biased. (This would be more of a problem in Maricopa County, but less of a problem in Boston, for example.) In addition, the estimate is of the annual bail-relevant criminal cases entering the respective court systems, excluded are the kinds of cases excluded from the samples (non-bondable criminal cases as well as cases involving only probation or parole revocation, only bench warrants or warrants from other locations.)

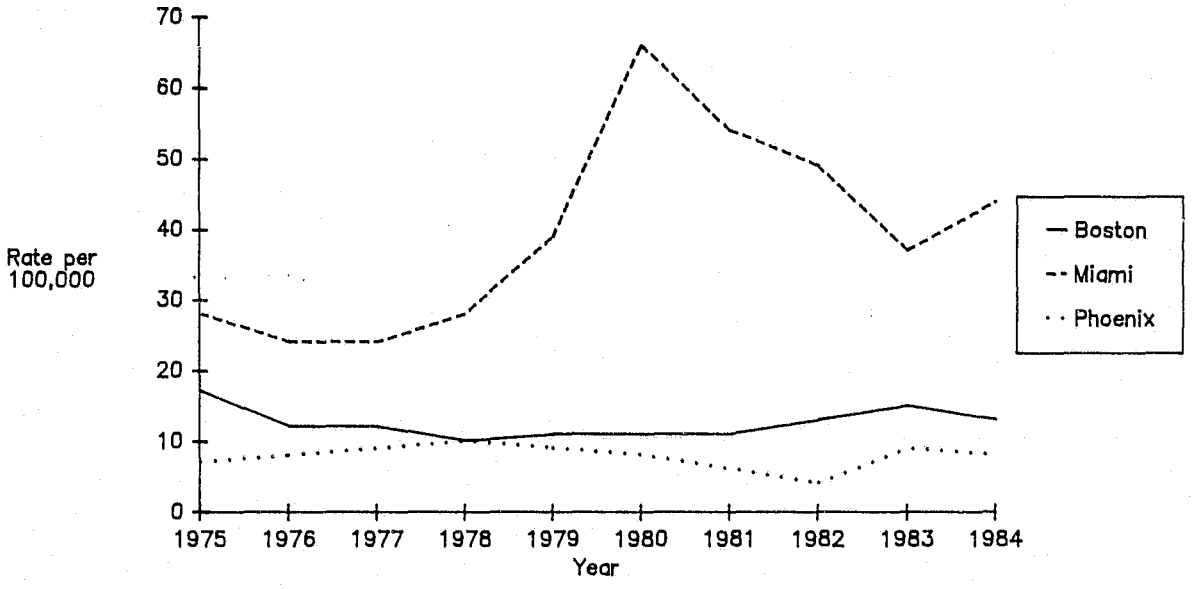
Figure 2.9 Arrest rates for index offenses in Boston, Miami and Phoenix between 1975 and 1984




Source: Boston Police Department, Florida State UCR and City of Phoenix Police Department

* Population Source: Editor and Publisher Market Guide, 1975–1986 editions

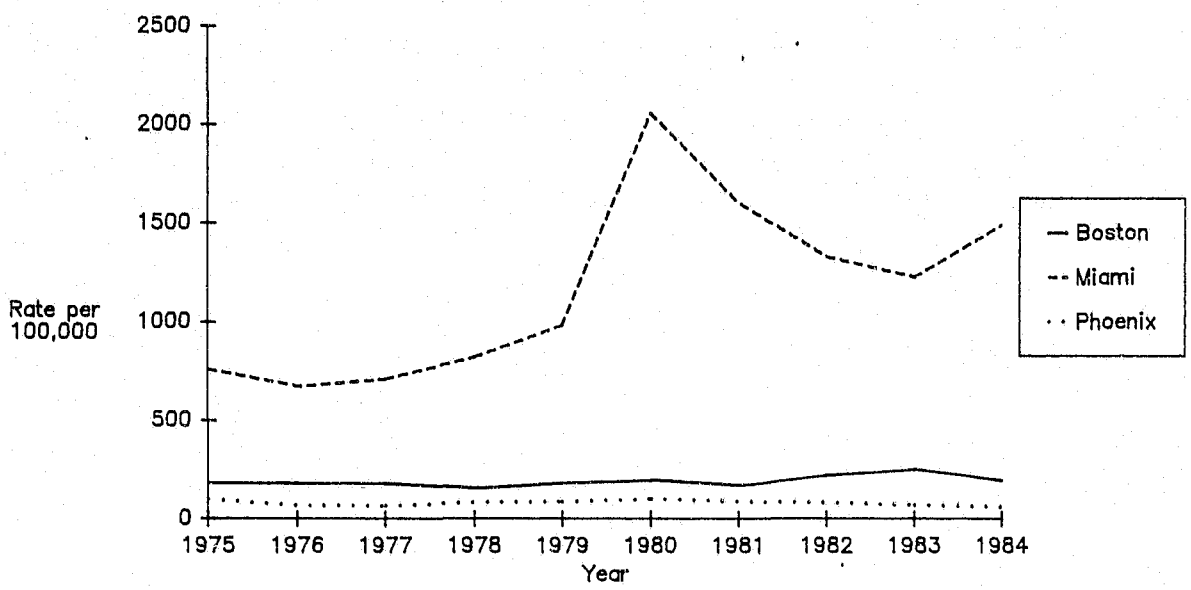
Figure 2.10 Arrest rates for murder offenses in Boston, Miami and Phoenix between 1975 and 1984




Source: Boston Police Department, Florida State UCR and City of Phoenix Police Department

* Population Source: Editor and Publisher Market Guide, 1975–1986 editions

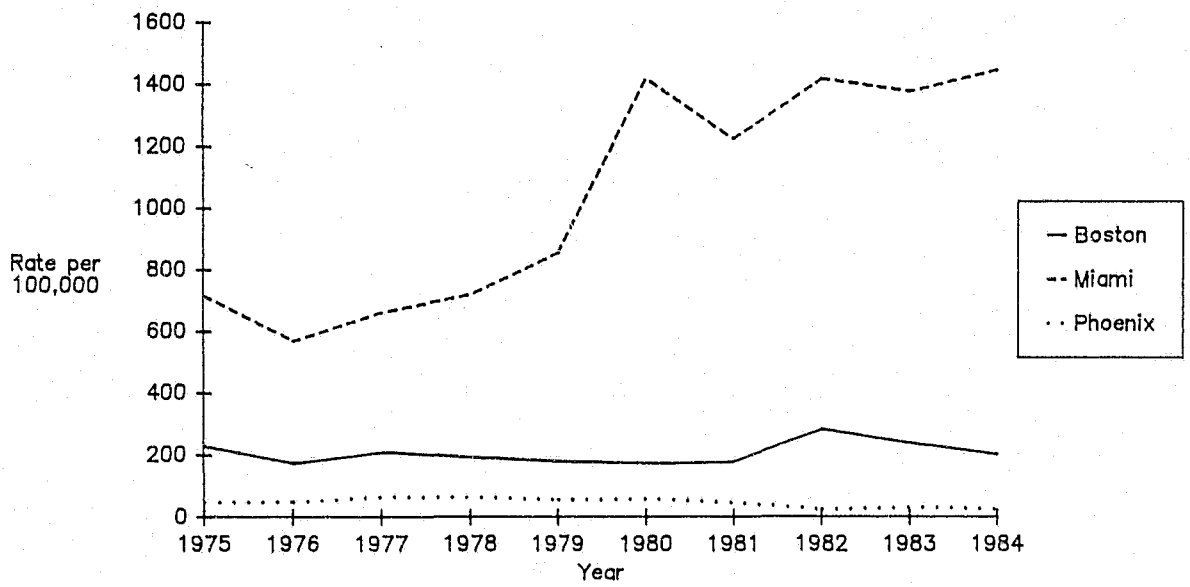
Figure 2.11 Arrest rates for robbery offenses in Boston, Miami and Phoenix between 1975 and 1984




Source: Boston Police Department, Florida State UCR and City of Phoenix Police Department

* Population Source: Editor and Publisher Market Guide, 1975–1986 editions

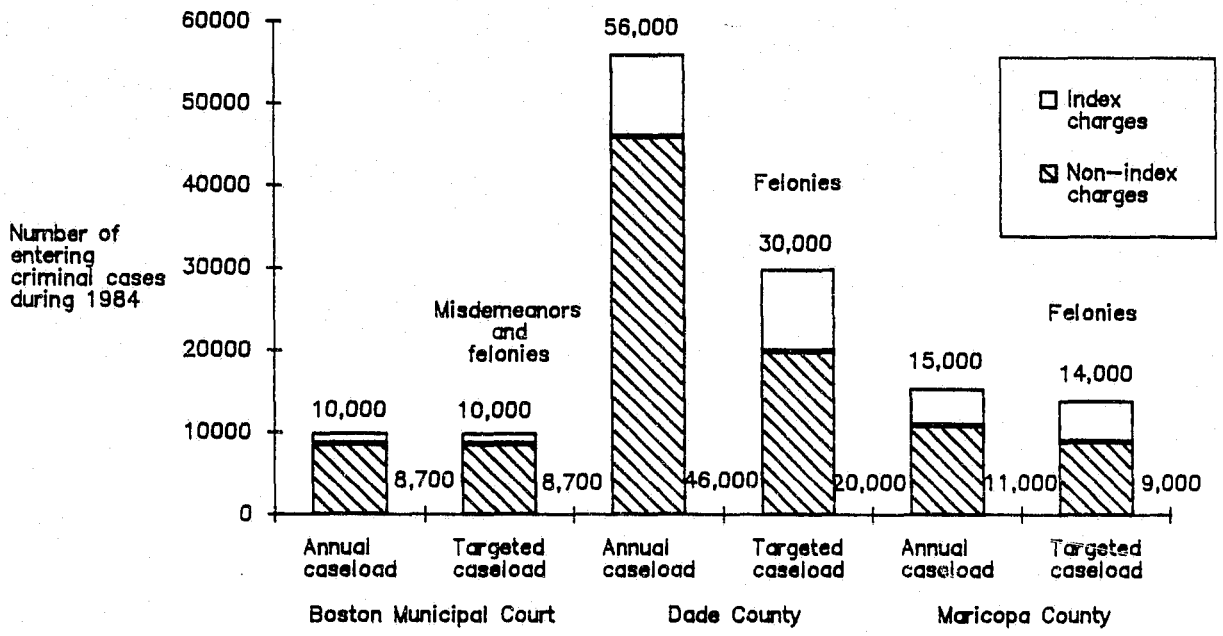
Figure 2.12 Arrest rates for motor vehicle theft offenses in Boston, Miami and Phoenix between 1975 and 1984




Source: Boston Police Department, Florida State UCR and City of Phoenix Police Department

* Population Source: Editor and Publisher Market Guide, 1975–1986 editions

Figure 2.13 Estimated annual criminal caseload of entering ("new") cases in Boston Municipal Court, Dade County Circuit Court and Maricopa County Superior Court during 1984, by seriousness of charges (modified index v. non-index)




[Note: Charges were classified as non-index versus index offenses using the FBI UCR method--except that larceny and motor vehicle theft were not included as index offenses. "Targeted caseload" refers to the part of the criminal caseload that the guidelines research would address.]

The caseloads differed also in the proportions of felonies and misdemeanors processed by the courts.[31] A majority of the cases processed by the Boston Municipal Court involved misdemeanor charges. In the Dade County courts, misdemeanor and felony cases entered in almost equal numbers during 1984. In Maricopa County's Superior Court, roughly nine of ten entering cases were felony matters during that time.

Because definitions of felony and misdemeanor crimes vary across the sites, Figure 2.13 further characterizes the kinds of criminal cases processed by the court systems by applying a modified version of the FBI's UCR classification of offenses into index and non-index offenses across jurisdictions.[32] Note that, according to this classification, a majority of the total cases entering each of the court systems annually involved non-index charges. The second columns show the composition of the populations targeted by the guidelines research: in the Boston

[31] Note that the differing definitions of felony between Arizona, Florida and Massachusetts make the comparisons uneven. In Arizona and Florida, offenses punishable by more than one year are classified as felonies. In Massachusetts, which does not formally classify offenses according to a felony misdemeanor grading, offenses with incarcerative penalties of 5 years or more are considered felonies.

[32] We dropped motor vehicle theft and larceny from the FBI's index offense list to provide a measure of more serious offenses. See note 30, above.

Municipal Court the relevant caseload in 1984 would have been composed of approximately 13 percent index cases and 87 percent non-index cases. In Dade County, the courts ultimately requested a focus primarily on felony cases; thus, the targeted population included offenses that were more serious, roughly 34 percent involved cases with index crimes. In Maricopa County, a felony focus was decided upon as well: the targeted caseload in 1984 was comprised of about 35 percent index-offense cases.

The Local Jail Populations

Figure 2.14 depicts the estimated average annual populations[33] of unsentenced persons in the local jail facilities in each of the study sites during the years preceding and including the periods studied. The Dade and Maricopa County populations had been moving up rapidly, surpassing "crowded" levels around 1980 and heading toward their absolute ceilings (about 1,350 in Dade's detention center and about 1,500 in Maricopa's new, 1985, facility). The population of the Suffolk County Jail (Boston's Charles St. Jail) had reached its maximum capacity of less than 300 inmates in the late 1970s, thus its flat curve gives a deceptive appearance of stability. (Its population had "stabilized" at overcrowded levels for most of the last ten years.)

Prior to the conclusion of our analyses of bail/pretrial release decisionmaking data, we studied the jail populations in each location during the fall of 1985 (see Appendix B for a more detailed discussion of the jail studies). Tables 2.1 and 2.2 summarize the characteristics of the three populations and, in particular, persons awaiting trial.

In Boston, nearly all inmates (about 96 percent) were awaiting trial on the date of the jail profile (November 18, 1985). In Dade County, of the 2,900 persons confined in Dade facilities overall, roughly 58 percent

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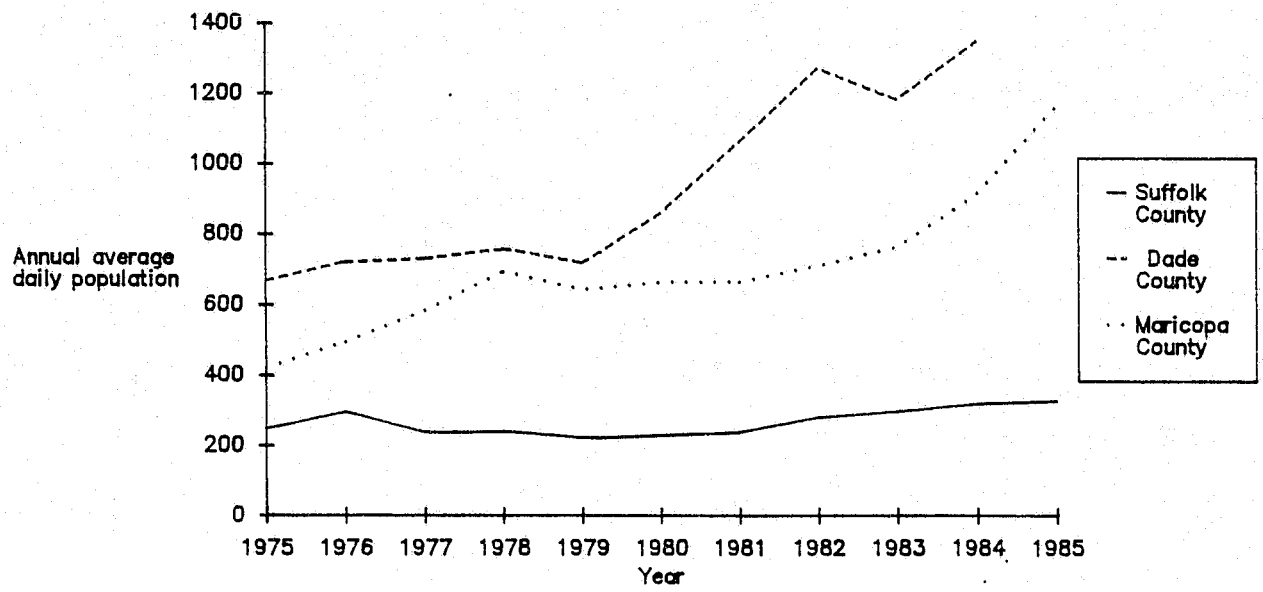
[33] These numbers are estimates because of the great difficulty in locating reliable data describing the jail populations in the jail systems over time. The Boston data, based on records of head counts taken over the years, appeared reasonably reliable (both for the total and pretrial populations), particularly because the Charles St. Jail is largely a pretrial detention facility. The Dade pretrial population is based on averaging the daily head counts for unsentenced prisoners at the Women's Annex and the Dade County Detention Center, although we had to estimate the years before 1979 based on annual bookings. We discovered in examining the overall population of the Dade correctional facilities that the computerized list provided by the County overstated the population of the facilities between 16 and 25 percent when actual head count lists were contrasted. Reliable daily head count lists were only available from 1979 on. In Maricopa County, reasonably reliable population data were available from 1977 on. We should note as well the discrepancy between the jail's classification of sentenced versus unsentenced and our more precise definition of persons awaiting trial versus those not awaiting trial (persons awaiting trial as well as persons awaiting sentence, etc., are included among "unsentenced" inmates).

were confined awaiting trial on the date of the study (September 19, 1985). In Maricopa County, the population of persons awaiting trial accounted for about 44 percent of all inmates in custody on the date of the study (September 21, 1985). Of course, all persons held awaiting trial on particular charges were not confined exclusively for bail-related reasons: in Boston 77 percent of detainees were held only because they could not post bail; in Dade County 75 percent fell into that category; in Maricopa County only 47 percent of the persons awaiting trial had no other reason associated with their confinement.

Figure 2.15 helps contrast the make-up of the local jail populations further by comparing the charges associated with their detained defendants. Detainees in the Dade County and Maricopa County jails showed more than four times the proportion of defendants with cases involving weapons charges than defendants held in Boston on the study date. Dade and Maricopa County defendants also held greater proportions of detainees having drug-related charges. In the Boston jail,proportionately more defendants were held on charges involving crimes against the person and a slightly higher proportion of defendants had charges alleging harm to a victim than in the other jail facilities.

These comparisons are important to set the stage for the research. The courts participating in the study exhibited criminal caseloads differing both in size and in the kinds of cases processed. This mix certainly presents problems for many comparisons among the three court systems, problems we will attempt to be cognizant of as we proceed. But this mix is precisely what we sought in the first place; our sites differ in pretrial law, court organization, region, crime problem, case mix, and demography. They have in common general problems with the visibility, equity and rationality of their pretrial decisionmaking and concerns about jail overcrowding and community safety.

Figure 2.14 Estimated annual average daily pretrial population in the local jail, by research site, 1975 to 1985




Source: Suffolk County Sheriff's Department, Metro–Dade Corrections and Rehabilitation Department and Maricopa County Sheriff's Department

[Note: Population numbers for Dade County, 1975–1978, are estimates.]

Figure 2.15 Criminal charges of defendants detained in local jails, by research site, on a single day in fall, 1985

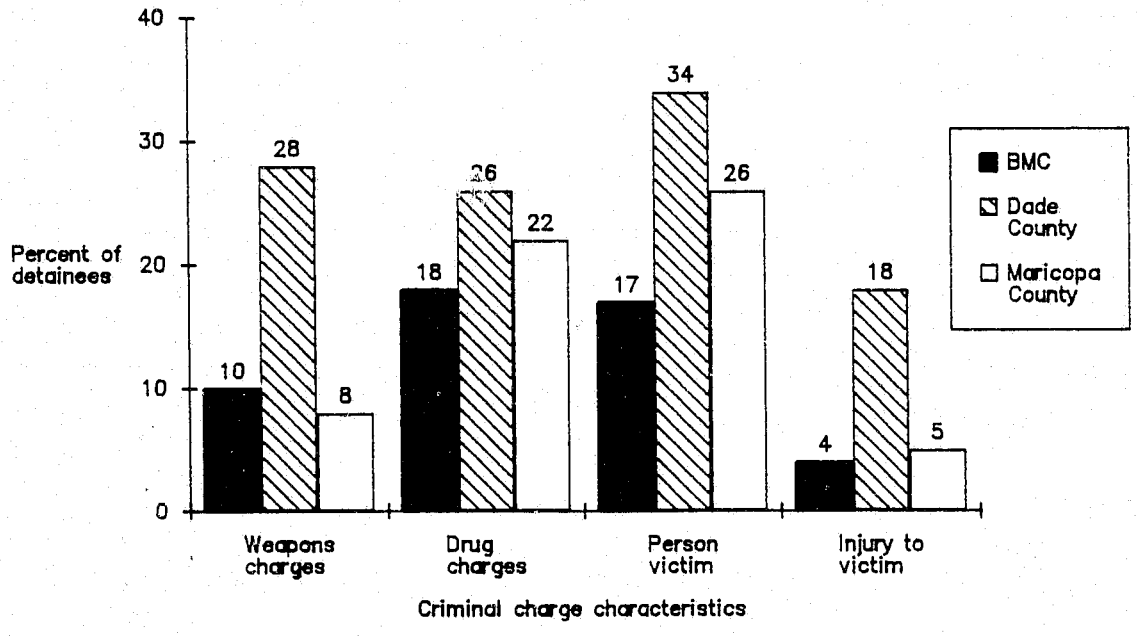


Table 2.1 Characteristics of populations of local jail facilities, by site, by custody status, 1985

| | Jail | | | | | |
|---|---|---|---|---|---|---|
| | Suffolk County[a] | | Dade County[b] | | Maricopa County[c] | |
| Population characteristics | Number | Percent | Number | Percent | Number | Percent |
| Average annual total population for 1984[d] | 320 | | 2,800 | | 1,840 | |
| Average annual population awaiting trial for 1984 | 310 | | 1,349 | | 937 | |
| Population on study date in 1985[e] | 323 | | 2,900 | | 2,484 | |
| Custody status of inmates | | | | | | |
| Total | 323 | 100.0 | 352 | 100.0 | 404 | 100.0 |
| Awaiting trial | 311 | 96.3 | 203 | 57.7 | 177 | 43.8 |
| Other | 12 | 3.7 | 149 | 42.3 | 227 | 56.2 |
| Awaiting trial | | | | | | |
| Total | 311 | 100.0 | 203 | 100.0 | 177 | 100.0 |
| Awaiting trial only | 238 | 76.5 | 153 | 75.4 | 83 | 46.9 |
| Awaiting trial and other | 73 | 23.5 | 50 | 24.6 | 94 | 53.1 |

Table 2.2 Characteristics of defendants awaiting trial, 1985, by site

| | Jail | | | | | |
|---|---|---|---|---|---|---|
| | Suffolk County[a] | | Dade County[b] | | Maricopa County[c] | |
| Population Characteristics[e] | Number | Percent | Number | Percent | Number | Percent |
| Total awaiting trial | 311 | 100.0 | 203 | 100.0 | 177 | 100.0 |
| Weapons charges | | | | | | |
| Total | 309 | 100.0 | 203 | 100.0 | 174 | 100.0 |
| No | 294 | 95.1 | 166 | 81.8 | 142 | 81.6 |
| Yes | 15 | 4.9 | 37 | 18.2 | 32 | 18.4 |
| Drug charges | | | | | | |
| Total | 309 | 100.0 | 203 | 100.0 | 174 | 100.0 |
| No | 257 | 83.2 | 152 | 74.9 | 119 | 68.4 |
| Yes | 52 | 16.8 | 51 | 25.1 | 55 | 31.6 |
| Person victims | | | | | | |
| Total | 304 | 100.0 | 202 | 100.0 | 164 | 100.0 |
| No | 119 | 39.1 | 100 | 49.5 | 108 | 65.9 |
| Yes | 185 | 60.9 | 102 | 50.5 | 56 | 34.1 |
| Injury to victims | | | | | | |
| Total | 152 | 100.0 | 102 | 100.0 | 50 | 100.0 |
| No | 42 | 27.6 | 35 | 35.0 | 22 | 44.9 |
| Yes | 110 | 72.4 | 65 | 65.0 | 27 | 55.1 |

[a]Based on a 100 percent sample of persons in jail on November 18, 1985.
[b]Based on a 12 percent sample of persons in jail on Septenber 19, 1985.
[c]Based on a 16 percent sample of persons in jail on September 21, 1985.
[d]These averages were based on head count data or other summary data provided by the jail officials in each site.
[e]See Appendix C for estimates of error associated with these figures.

# Chapter Three

## DESIGN OF THE RESEARCH: SAMPLING AND DATA COLLECTION PROCEDURES

### SAMPLING STRATEGY AND THE PURPOSES OF THE DESCRIPTIVE PHASE

It is possible to construct guidelines for the bail decision in many ways (Goldkamp and Gottfredson, 1985; Gottfredson and Gottfredson, 1984). Depending on the particular philosophy of guidelines construction one adopts, there will be implications for the kinds of data to be collected (if, indeed, data are to be collected at all), the types of cases to be represented, and the decisionmakers to be included. It is essential, therefore, that we note assumptions that shaped the guidelines technique used in this study, and the data collection and empirical analyses undertaken in each of the jurisdictions.

First, we undertook to assist courts in the development of voluntary guidelines. It was a voluntary process in the sense that the courts agreed at first only to examine their bail/pretrial release practices--through use of descriptive research--and to review the policy implications of what they found. They also agreed to consider how some version of guidelines might or might not be designed to tackle important problem areas. At that time, at a point considerably far along in the research process, each court would make a determination whether to make use of the resource developed or not. In other words, none of the courts committed itself in advance to adopting a product sight unseen. But the guidelines themselves were also meant to be voluntary, in the sense that they were to be developed as decisionmaker aids that left provision for meaningful discretion.

Second, the guidelines research process was conceived to involve four distinct phases:

a) a rigorous descriptive analysis of current (or recent past) practices, that was meant to describe representative operating practices of the court as a whole.

b) a discussion with the court of the findings and their apparent implications for policy and development of decision guidelines.

c) an implementation of a finalized version of guidelines (depending upon the court's decision).

d) an evaluation of initial use of the decision guidelines and feedback to the court concerning their possible revision.

The General Research Plan

Data collection for the description of decisionmaking practices at the pretrial stage followed a similar plan in each of the courts, although the focus and the particular sampling strategy depended on a diagnosis of the criminal process and the areas each of the judiciaries wished to emphasize. In general, we sought to collect data describing a large number of cases which had recently entered the criminal process at the bail/pretrial release stage, to follow the cases through the system long enough to determine if they had secured release, and to observe whether they failed to appear in court or were rearrested while on release or, if they were not released before trial, to determine how long they were detained. By "recent" we attempted to draw a sample recent enough to reflect "current" court practices, but "old" enough to assure that by the end of data collection most of the cases would have proceeded to final disposition.

The goal was to be able to examine factors influential in the judicial determination of bail, the determination of release, and the likelihood of flight or crime during pretrial release. Specific analyses in each of these areas were reported back to the courts as particular problem areas singled out for attention by them. In addition, the jail populations were analyzed so that inferences about the impact of pretrial release decisionmaking on the jail could be discussed.

Sampling to Meet the Concerns in Each Site

This general approach was adapted to the practicalities and interests of the courts in each of the sites. At the same time, we designed our data collection procedures to be as similar as possible, so that some comparisons among the jurisdictions could be made, once appropriate cautions were exercised. The strategies employed in each of the jurisdictions are briefly summarized here.

Maricopa County: Superior Court of Arizona

Discussion with the judicial leadership revealed that the principal thrust of the guidelines research would focus on felony defendants. Thus, all "new" felony cases entering the process at initial appearance in Superior Court in Maricopa County during June and July, 1984, were included in the sample of defendants studied for guidelines

purposes. Although 3,667 defendants appeared before commissioners at initial appearance in Superior Court during that time, 1,435 were excluded because they were not relevant to the bail/pretrial release questions being examined.[34] The remaining, total sample of entering felony cases included 2,232 defendants who had bail decided at initial appearance during June and July by five commissioners sitting three sessions per day. Preliminary examination of the court records indicated that this procedure would result in sufficient numbers of serious cases (those which generally occur least frequently) to permit meaningful analyses and would also result in nearly proportionate representation of the five commissioners who were deciding bail in Maricopa.

A large amount of information describing defendants and their cases from booking until their status 8 months later was collected. Cases were tracked for 90 days to learn whether pretrial release had occurred; if, by the time 90 days had elapsed, release had not occurred, the defendant was considered "detained" for the purposes of the research. If released at some point prior to 90 days after initial appearance, defendants were tracked on release to determine whether rearrests or failures to appear in court were recorded.

During the research at a point about a year before implementation of decision guidelines--on September 21, 1985--a sample of the local jail population was also drawn to depict persons held in custody "on a given day." A 16 percent random sample of the 2,484 inmate population on that day yielded a sample of 405 persons for study.

Dade County: Circuit and County Courts

The committee of judges assembled to supervise the guidelines research in Dade County initially requested that both misdemeanor and felony cases be considered. Fortunately, all criminal cases were booked at the central jail before being channeled into the separate court systems (County Court for misdemeanors and Circuit Court for felonies) so that a list of entering cases could be compiled for sampling purposes.

Because bond hearings for felony defendants (equivalent to initial appearance in Maricopa County) were to be an important focus, the scheduling of judges sitting at bond hearings had to be considered. It was found, for example, that one County Court judge generally sat in Circuit Court to conduct bond hearings in felony cases during

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[34] Exclusions included persons held on misdemeanor charges, persons appearing because of bench warrants or fugitive warrants only, or persons absent without leave from local or state correctional facilities. The rationale behind such exclusions was that more would be learned about typical pretrial release decisionmaking by concentrating on criminal cases entering the system without mixing them with categories of special defendants whose cases would generally be handled quite differently.

the week (9 to 4) but that a variety of Circuit Court judges were rotated in to sit at bond hearings on weekends. In order to include a sample of felony cases representing decisions of a sufficient number of judges, it was decided to sample weekends--Friday, Saturdays and Sundays. While this same County Court judge would still be over-included because he decided bond every Friday morning, many other judges decided bond on Friday afternoons and during the rest of the weekend.

Populations of entering misdemeanor and felony defendants were defined with the help of the Research and Systems Division of the Dade County Court Administrative Office. Minus excluded cases (cases involving nonbondable offenses, fugitives or escapees), 2,238 felony cases and 1,972 misdemeanor cases entered the system on weekends between June 1 and September 2, 1984. Since a sample of roughly 2,000 cases was desired and an emphasis on felony cases was considered important (because of bond hearing), a stratification with disproportionate sampling was employed. Roughly two-thirds of the weekend felony cases were randomly selected (n=1,492) and one-fourth of the misdemeanor cases were randomly selected (n=493) to produce a total sample of 1,985 cases. As with the Maricopa sample, a 90 day period was used to determine whether defendants gained release before trial; if they were released, their cases were tracked for 90 days to learn of any failures-to-appear in court or rearrests for new crimes.

On September 19, 1985, the collective population of the Metropolitan Dade Corrections and Rehabilitation Department jail facilities stood at 3,455. A random sample (n=431) was drawn to describe that population on a "given day."

Boston: the Boston Municipal and Suffolk County Superior Courts

In discussing the appropriate focus of a guidelines development process in Boston courts, the Trial Court suggested that both the Boston Municipal Court, a central urban limited jurisdiction court comparable to but larger than other district courts in the state, and the Suffolk County Superior Court, a state-level major trial court located in central Boston, might be worthwhile arenas for investigating and exploring bail issues. On the one hand, the Municipal Court was the court processing the largest volume of incoming criminal cases, though more misdemeanor than felony in number. On the other hand, the Superior Court received felony-level cases produced from direct indictments, cases bound over from the BMC and other district courts in the area, and reviewed bail decisions of

defendants detained after initial bail decisions at arraignment in the BMC or the other courts. The bail review function, mandated by statute,[35] seemed particularly important to study.

With primary emphasis given to the Boston Municipal Court, the two court systems were studied in the following manner. Cases entering the Municipal Court at arraignment were sampled using a list kept by Municipal Court Probation. So that a sufficient number of serious cases (which were relatively rare in the BMC caseload) could be included in the study, the approximately 4,500 cases entering between the beginning of April and the end of October, 1984 (after subtracting exclusions[36]) were stratified on the basis of charge seriousness.[37] All of the serious cases (involving index offenses minus larceny and motor vehicle theft) during that period (n=603) were included in the sample, and one-third of the roughly 4,000 less serious (non-index cases) (n=1,376) were randomly taken, resulting in a total sample of 2,193 cases.

Several smaller samples were taken to investigate Superior Court case processing. First, to examine cases entering the judicial process directly at Superior Court arraignment, we randomly sampled one-third of the Court's direct indictments for the year of 1984 to produce a sample of 356 cases. This excluded cases unavailable for coding due to sealed files.[38] Second, bail reviews were studied by including all available bail reviews (n=564) during 1984 from any lower court in the area. To study "bind over" cases entering Superior Court at the arraignment stage, we examined only the BMC cases that were bound over during the seven month period in 1984 that were already collected as part of the BMC sample (n=164).

A particular problem was encountered in trying to obtain systematic information describing the subsequent criminal histories of defendants released before trial for the Superior Court and Municipal Court samples: such information was not routinely available in a reliable form from the probation agencies, who generally held information relating to prior criminal records. Because criminal history was kept in manual card files by the Commissioner of Probation, separate sampling was required to obtain this important information. Given existing procedures, expense, time and space, it was necessary to limit the request for record checks to two subsamples of

[35] See Mass. Gen. Laws Ann. vol. 45 sec. 58 (1987 Supp.).
[36] Exclusions included cases listed for arraignment but not involving bail determinations, such as those dismissed or otherwise disposed at arraignment.
[37] We employed a modified version of the FBI's UCR non-index v. index classification, dropping larceny and motor vehicle theft from the "index" category.
[38] Thirty cases were either missing from the records or sealed and unavailable in this category.

defendants, one a 500 defendant random sample of the Municipal Court defendants, the other the Superior Court's 356 defendant direct indictment sample.

In addition, we studied all the cases (n=324) held in the Charles St. (Suffolk County) Jail on November 18, 1985 in order to describe persons confined there on a "given" day.

## THE COLLECTION OF DEFENDANT AND CASE DATA IN THE JURISDICTIONS

Data collection was designed to permit us to address several analytic goals. First, it would be necessary to chart the progress of criminal cases as they passed through the early stages of the criminal process and beyond. This would be important so that key decisionmaking stages could be identified and their impact on later outcomes analyzed. Second, a central analytic goal was to examine a large sample of bail decisions made by a variety of judges or judicial officers so that inferences could be drawn about themes governing their transaction. Third, we wanted to examine the allocation of release and detention among entering defendants and attempt to discern patterns differentiating the two groups. Fourth, we wanted to follow the performance of defendants during pretrial release (at least for a 90 day period) and try to determine attributes of defendants or their cases that appeared related to misconduct (flight and crime). Finally, once decision guidelines were developed, we saw it as critical that we try to project the impact of their future implementation on like cases.

Accomplishment of these goals meant that several kinds of information were needed, including demographic, social background, case-related, charge, and prior criminal history data. In practical terms this meant that a number of agencies in each of the jurisdictions would have to be consulted. In Boston, for example, data collection required access to records located in eight agencies, including the Municipal Court Clerk's Office, the Superior Court Clerk's Office, the Municipal Court Probation Department, the Superior Court Probation Department, the District Attorney's Office (two departments), the Office of the State Commissioner of Probation, the Office of the Suffolk County Sheriff and the Massachusetts Correctional Institute at Framingham. No computerized files were available for court or case information or criminal history.

In Dade County sources of data were located in records held by four principal agencies, the Research and Systems Division of the Administrative Office of Circuit Court, the Pretrial Services Division of Metropolitan Dade Corrections and Rehabilitation, and the offices of the Circuit Court Clerk and the County Court Clerk. The Court

assisted the research by providing computerized lists of entering criminal cases and allowing access to a computerized criminal history file.

In Maricopa County, the Court Administrator's Office of Superior Court, the Pretrial Services Division of Superior Court, and the Maricopa County Sheriff's Office offered access to the necessary files and provided computerized case and criminal history information which greatly expedited data collection.

Although a great deal of information was collected describing large cohorts of cases entering the judicial processes, not all of the desired information was equally available in the three jurisdictions. Although this discovery is not in itself surprising, it foreshadowed information-related difficulties that would confront development of guidelines in one fashion or another later. Indeed, the presence or absence of particular data items is itself a significant finding from this research, documenting the considerable variability among these court systems in their "essential data base". The fact is, what one court could not imagine doing without, another court lacks utterly; the information base that some decisions rest on would surprise the general public and criminal justice professionals alike. Table A3.1 contrasts the availability of key information (indicated by the proportion of cases in which the information was missing) in the three sites. (See Appendix A.)

Dade County, for example, did not routinely record certain kinds of demographic information that would have been helpful. Maricopa County did not always have certain charge-related and victim-related information available. Perhaps most dramatic was the large number of cases in Boston for which criminal history data (prior and subsequent to the case being studied) was not available at all.

The sites differed as well in the reliability of the data, even when available. For example, when defendants were interviewed by pretrial services in Dade and Maricopa Counties concerning their drug abuse habits, the interviewers generally placed little faith in the responses obtained. In Boston, when criminal history information was available, it was not often complete; comparison of criminal history information from Municipal Court Probation files, the jail files and the Probation Commissioner's files showed inconsistencies.

But regardless of the quality or the quantity of the available information in the three sites, the data we collected represented the actual data that the decisionmakers themselves had to rely on in setting bail. Whatever the deficiencies present in this data, they are the appropriate vehicle to begin to model the decisions and review their consequences for our three sites.

## Chapter Four

## THE CRIMINAL CASELOAD: A COMPARISON OF THE DEFENDANTS AND THEIR CASES IN THE THREE COURTS

In order to better interpret the discussion that follows, it is essential to first gain an impression of the differences among our three sites in the people and cases that routinely come before them. Thus, before we report the findings of our guidelines research ( in which we shall describe the processing of criminal cases and the character and consequences of the bail decisionmaking in each of the participating courts) we will present a brief comparison of the characteristics of the defendants and their cases entering the systems.

Table A4.1 summarizes selected demographic, criminal charge and prior criminal history characteristics of our samples of defendants entering the criminal process in the Boston Municipal Court, Circuit Court in Dade County, and Superior Court in Maricopa County--the three principal foci of our research.[39] It should be kept in mind that the following descriptions are of our samples, drawn as described above, and thus do not represent a simple random sample of the cases before these courts. Although we will, from time to time, refer to characteristics of the courts, it is these sample characteristics that we refer to.

### Demographic Characteristics

Slight differences among the courts are evident when the age and gender of the entering defendants are examined; more noticeable differences occur when the race/ethnicity of defendants is considered. Circuit Court defendants, for example, are somewhat older (with a median age of 28 years) than defendants in the Boston Municipal Court and the Superior Court in Maricopa County (whose median ages were 25 and 26 years). Female defendants accounted for twice the proportion of defendants in the Boston Municipal Court (28 percent) than in the Circuit and Superior Courts (13 percent in each instance).

[39] Table A4.2 in the appendix describes the attributes of defendants and their criminal cases entering the criminal process in the remaining two courts studied, the Suffolk County Superior Court in Boston and Dade County Court. More specifically, after preliminary descriptive research focusing on both the Boston Municipal Court and the Suffolk County Court, both courts agreed that the greatest impact could be produced by focusing on the Boston Municipal Court. In Dade County, a similar development occurred. At the outset, the judicial working committee--comprised of Circuit and County Court judges--asked that the research focus on both misdemeanor and felony case processing. Near the conclusion of the descriptive phase of the research, the committee asked that the focus shift exclusively to felony cases--thus the emphasis on Circuit Court.

A more marked difference is found in the racial/ethnic composition of the caseloads of entering defendants in the three systems. See Figure 4.1. White defendants accounted for only 22 percent of the caseload entering the Circuit Court in Dade County, but were 42 percent of defendants in the Boston Municipal Court and 55 percent of the defendants entering the Superior Court in Maricopa County. Black defendants accounted for 45 percent of Boston defendants and 39 percent of Dade defendants, but only 15 percent of Maricopa defendants. The courts differed as well in the proportions of entering defendants who were Hispanic: in Dade County 35 percent of entering defendants were Hispanic, in Maricopa County 26 percent were; but only 6 percent of Boston Municipal Court defendants were Hispanic.

Criminal Charges

Given their different jurisdictions, of course, entering defendants in the three court systems may be distinguished as well on the basis of their criminal charges. As we noted above, the Boston Municipal Court accepts misdemeanor and felony cases for initial proceedings, though serious charges are comparatively rare. Both the Circuit Court in Dade and the Superior Court in Maricopa County are primarily felony courts. However, beyond the obvious, gross differences in the seriousness of criminal charges associated with entering cases, Figure 4.2 highlights a number of other charge-related characteristics that set the courts apart from one another.

First, using the modified index v.nonindex classification borrowed from the FBI as a gross measure of charge seriousness,[40] Figure 4.2 shows again the similarity in the charges of defendants entering the Maricopa and Dade courts (with 35 and 33 percent index charges respectively), and the generally less serious nature of the offenses adjudicated by the Boston Municipal Court (only 13 percent of BMC defendants were charged with index-level offenses). The similarity of even the Dade and Maricopa County courts seems to hide some important differences, however. Of the three courts, Circuit Court defendants seem proportionately to be most often charged with weapons offenses (nearly three times the proportion of the other two courts), with drug offenses (a slightly greater proportion than the other courts), with crimes involving person-victims (somewhat more than Maricopa defendants but twice the proportion of BMC defendants), and with crimes involving injury to victims (more than three times the proportion of the other courts).

[40] As we noted above, we have dropped larceny and motor vehicle theft from the FBI "index" category, but otherwise have left the classification intact.

Figure 4.1 Comparison of characteristics of defendants entering the criminal process in the Boston Municipal Court, Dade County Circuit Court and Maricopa County Superior Court, 1984: race/ethnicity

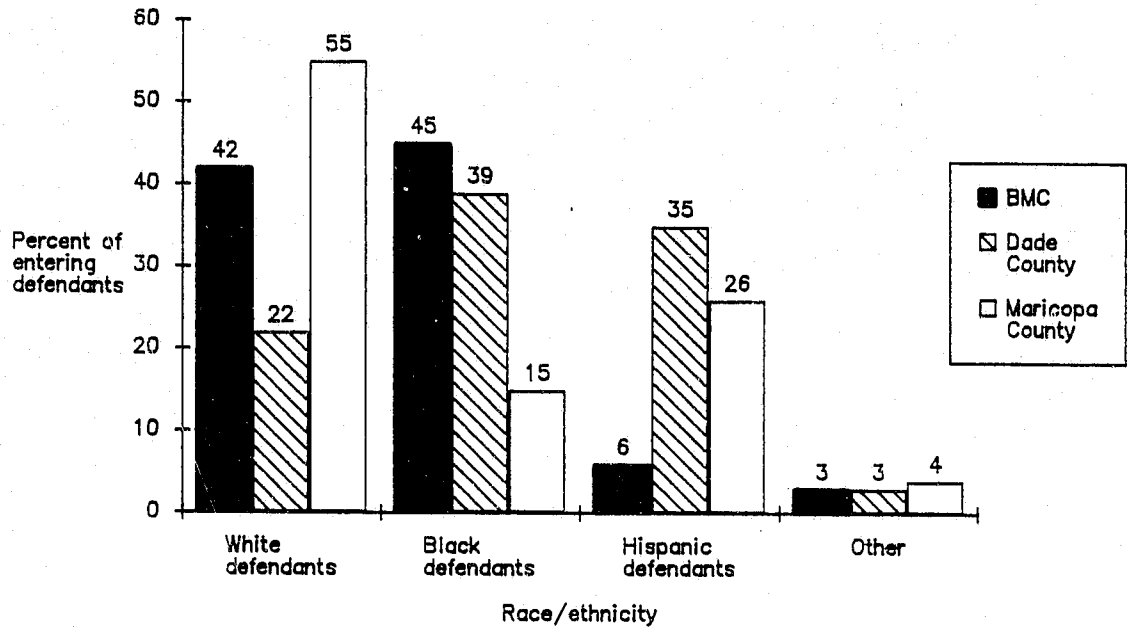
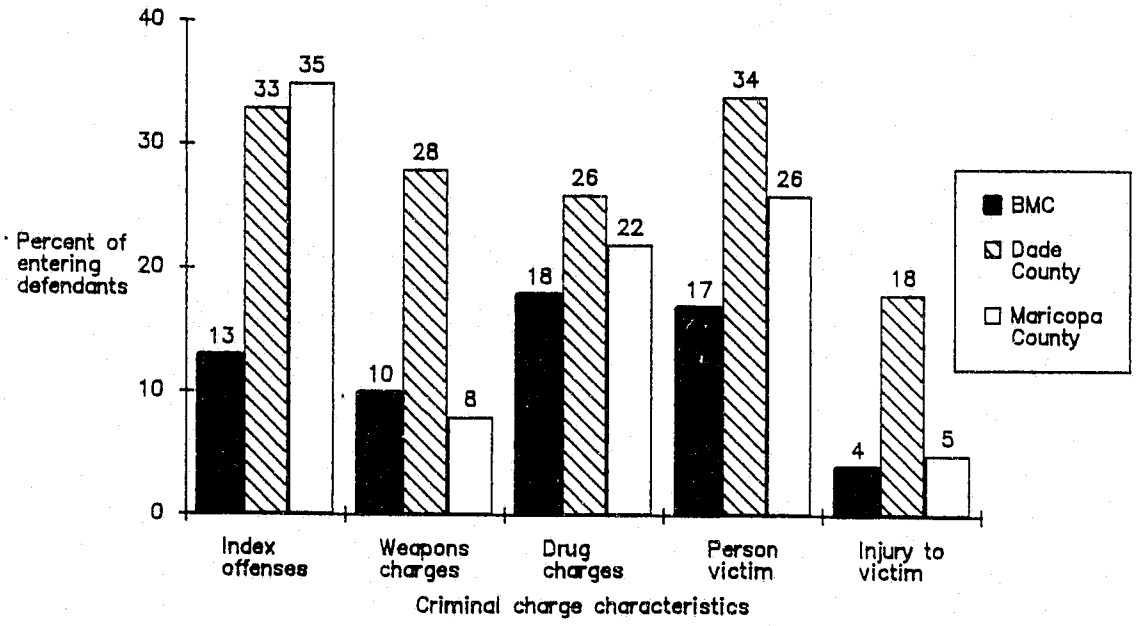


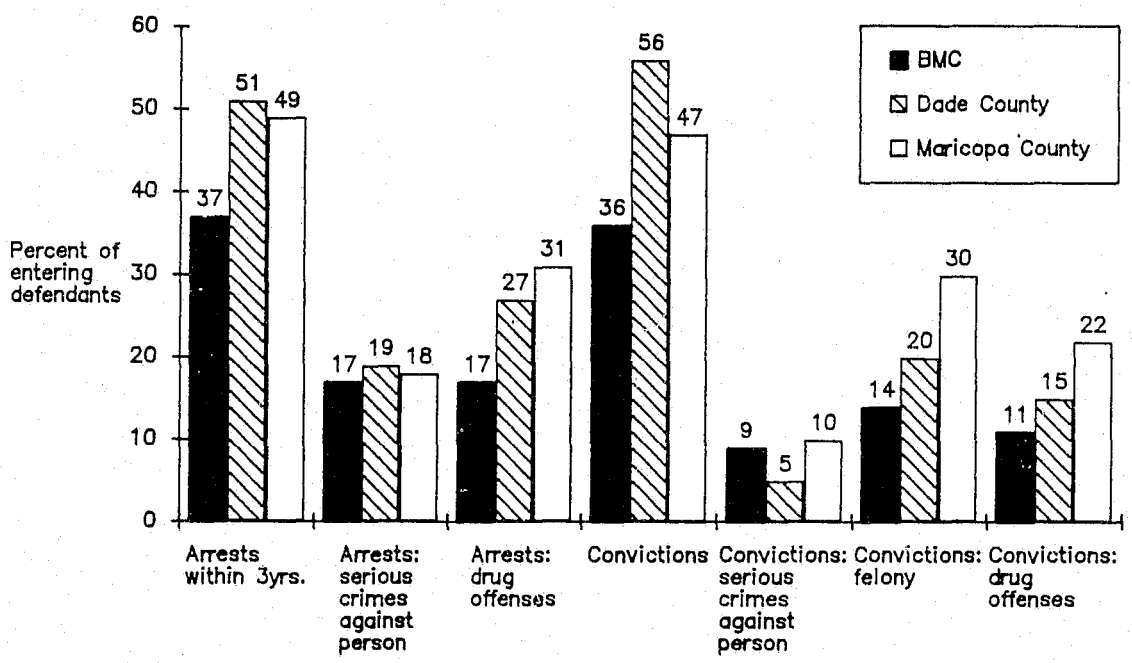

Figure 4.2 Comparison of the criminal charges of defendants entering the criminal process in the Boston Municipal Court, Dade County Circuit Court and Maricopa County Superior Court, 1984



Criminal History

Figure 4.3 highlights selected criminal history measures describing defendants entering the three court systems during the study periods in 1984[41]. Nearly half of the Dade and Maricopa County defendants had arrests within the last three years.[42] Fewer BMC defendants showed recent arrests (37 percent compared with 51 and 49 percent of the other defendants respectively). Each of the groups of defendants, however, showed just under one-fifth having prior arrests for serious crimes against the person. A slightly greater proportion of Dade defendants (31 percent) had prior arrests for drug-related offenses than Maricopa defendants (27 percent). Boston defendants had notably fewer prior arrests for drug offenses.

Figure 4.3 Comparison of the criminal histories of defendants entering the criminal process in the Boston Municipal Court, Dade County Circuit Court, Maricopa County Superior Court, 1984




[41] It may be useful to recall that the rigor of prior criminal history information may not be comparable in each jurisdiction. While each of the systems had its weaknesses and acknowledged shortcomings in their criminal history information (particularly its geographical limitations), the Boston information may have been most problematic. Thus, it is difficult to know whether differences in criminal history rates among the defendant groups are due to actual differences or differences in the thoroughness of the criminal history information available.

[42] The measure "arrests within the last three years" is used both because recent history has been found to be more accurate (as criminal history systems improve) and because it has been viewed as more relevant. The reader may then understand better the apparent discrepancies between arrest and conviction statistics (the former seeming incongruously smaller than the latter).

Dade defendants showed a higher proportion (56 percent) with previous convictions than both Maricopa (47 percent) and Boston (36 percent) defendants. Convictions for serious crimes against the person were rare among all defendants: 10 percent of Maricopa defendants, 5 percent of Dade defendants, and 9 percent of Boston defendants had such histories. Maricopa defendants showed the highest rate of prior felony convictions (30 percent), when compared with the rates of Dade (20 percent) and Boston (14 percent) defendants. Maricopa defendants led the way in prior drug convictions (22 percent) over Dade (15 percent) and Boston (11 percent) defendants.

There are thus substantial differences among our samples in the characteristics of the defendants they include. In general, the Maricopa and Dade samples involve defendants with cases that are more than the cases in the Boston sample. There are greater proportions of minority group members in Maricopa and Dade than in Boston, and the prior records of the defendants in the Boston sample are shorter. These differences, many of which certainly influence bail setting and the consequences of release, obviate any simple comparisons among our sites. In subsequent sections of this report when we do make comparisons for some purposes these differences will have to be taken into account.

## Chapter Five

## DESCRIPTION AND DIAGNOSIS: BAIL/PRETRIAL RELEASE DECISIONMAKING IN THREE URBAN COURTS

### In Some Ways Each Court Is Unique

In Chapter Two, we described the structure of the courts participating in the research and the paths taken by cases entering the criminal process. Certainly, there are clear and important differences among the courts--in the way things are done, in the way tasks are valued, and, even, in what things are called--and one of the goals of the guidelines research is to recognize and address this uniqueness. For example, booking procedures are decentralized in Boston, carried out in each police precinct. Defendants are either temporarily held or released at the several police locations that fall within the jurisdiction of the Boston Municipal Court. However, all defendants must report to the BMC for "arraignment" at the next scheduled session. Thus, "intake" is not "centralized" until the first judicial stage at which defendants are interviewed by BMC probation officers who conduct a record check, and then attend arraignment (which is held twice a day, weekdays). If they do not secure release as a result of the judge's bail decision at that stage, defendants are transferred to the Suffolk County Jail to await further proceedings.

In Maricopa County, booking procedures are heavily--if not totally--centralized. Most bookings occur at the central jail location in Phoenix, at the same location where bail commissioners conduct initial appearances. Because of the very large distances between central Phoenix and the outlying towns in Maricopa County, some bookings occur at police locations on the periphery of the county. Hence, most defendants are booked in the same building in which their initial appearance will be held (three times a day, seven days a week) and are not released from custody until appearing before a Superior Court commissioner. If release is not secured, they are returned to the jail for further processing.

In Dade County, persons arrested for felony offenses are booked at the Dade County Pretrial Detention Center which is located across the street from the court where the bond hearing will occur in Circuit Court. Interestingly, once the police have finished with booking procedures, felony arrestees may gain immediate release by paying bond specified by a bond schedule--by making use of a bondsman or raising the required amount in other ways. If defendants do not gain release from jail at the booking stage , they are presented at the next bond hearing to a County Court judge sitting in Circuit Court during weekdays or a Circuit Court judge if the arrest occurs on a

weekend. (Bond hearings occur twice daily, seven days a week.) Defendants who do not gain release as a result of the bond hearing are returned to the jail to await further proceedings.

In Boston, a Municipal Court judge determines "bail" at "arraignment"; bond has a specific meaning designating special alternative financial arrangements equivalent to a particular bail amount. "Bondsmen" are very rarely in evidence. No "pretrial services" exist in Boston, although BMC Probation improvises several pretrial services-like functions. In Dade County, "bail" is referred to as "bond" which may be set according to schedule or at the "bond hearing;" "bondsmen" may or may not be employed by the defendant to secure release. The "pretrial services" program in Dade County is a division of the corrections department with locations at the jail and the court. In Maricopa County, the Superior Court commissioner decides "pretrial release" at "initial appearance." This may involve nonfinancial release ("OR") with particular "conditions of release" attached or "secured bond" (financial bail) with or without similar conditions. "Bondsmen" may be used as well in Maricopa County. The "pretrial services" program in Maricopa County is a division of court administration.

In Some Ways All Courts Are Similar

These structural, procedural and "cultural" differences notwithstanding, each system shares similarities with the others in the performance of bail/pretrial release tasks. To put it simply, at some point, defendants are booked, presented to the judiciary and may be released or detained pending adjudication--although not necessarily in that order.

This similarity in the "things courts do" and the common focus on the deprivation of liberty permitted us to bring one conceptual focus to this research. It allowed us to follow a similar strategy in each of the principal court systems. In each, the leadership of the courts assembled a working committee of judges and other related officials to participate in and to guide the guidelines research. The goal of these working committees, ("Judicial Steering and Policy Committees"), was to provide direction for the empirical investigation and "diagnosis" of the bail decisionmaking apparatus, to surface policy issues of importance, and to shape, critique and refine bail decision guidelines, when and if they emerged.

Thus, in Maricopa County, the presiding judge of the Superior Court convened a group to be chaired by the criminal presiding judge and to include a justice of the peace, court commissioners (who had bail responsibilities), a court administrator, and officials representing the pretrial services staff. In Dade County, a similar procedure was

followed by the presiding judge. The criminal presiding judge chaired a working group of Circuit and County Court judges, the director of the pretrial services program and the Court's chief research officer. In Boston, the Chief Administrative Justices of the Suffolk County Superior Court and the Boston Municipal Court convened separate committees to guide the guidelines research.

In its first phase, the goal of the process was to be descriptive, educative as to the nature of bail practices and their impact, and to help surface key issues. Making use of the research staff, data were collected describing a large number of defendants for whom bail decisions were made (see descriptions of the samples in Chapter Three). Examination of their cases as they progressed into the criminal process, analysis of the decisions made about them as well as of their later outcomes provided the basis for a review of bail practices--for a self-diagnosis--and for discussion of particular features that the courts might wish to improve upon.

A brief description of the transaction of bail, pretrial release and detention in each of the sites is presented in this section and summarized in Table A5.1. The next chapters will focus in more depth on the special character of the findings in each site and on more in-depth analysis of bail decisionmaking and its effects.

## BAIL DECISIONS AND PRETRIAL RELEASE

### Release at Booking and the Earliest Judicial Stage

Persons arrested on felony charges in Maricopa County did not have a means of gaining release at the booking stage. In Boston, arrested persons who were to be arraigned subsequently in Municipal Court gained release at the station house after booking in nearly half (48 percent) of all cases during the period studied. Dade County felony arrestees were able to post bond required by the bond schedule at the booking stage in about 20 percent of all cases.

In Boston and Maricopa County, all of the entering defendants must appear before a judge (or judicial officer) at the first judicial stage (arraignment and initial appearance, respectively). In Dade County, only felony defendants who have not posted the bond amount noted on the bond schedule attend bond hearing in Circuit Court. In addition to the bond schedule releases (the 20 percent of entering cases noted above) an additional one percent of the studied defendants gained release before bond hearing because they were eligible for direct, administrative

release by the pretrial services program.[43] In short, 79 percent of Dade felony defendants attended bond hearing to have bond determined by a judge.

In each of the jurisdictions, judges/commissioners employed financial bail (or bond), nonfinancial bail (personal recognizance release or OR) and denied bond[44] at the first judicial stage. Figure 5.1 depicts the use of these bail options among the three courts. Boston defendants were assigned nonfinancial release (ROR) in 68 percent of the cases, Dade defendants were given ROR 67 percent of the time, but Maricopa defendants were granted nonfinancial release in only 40 percent of the cases. Financial bail/bond was assigned most frequently in Superior Court (58 percent of the time), and notably less frequently in the other courts (30 percent of the time in Circuit Court and 28 percent of the time in the BMC). Denials of bail occurred in each court in 2 or 3 percent of the cases.

Even though bail/bond was used in similar proportions of cases in two of the courts, at least the financial option was used quite differently by each judiciary. Reflecting no doubt the large number of misdemeanor cases, the average (median) financial bail in the BMC, for example, was $100. The median bond was $3,750 in Circuit Court, however, but $2,000 in Superior Court. This last difference is probably explained by the fact that since financial bond is used so rarely in Dade County, it is relatively high when it is assigned. In Maricopa County, the Superior Court commissioners employ secured bond in a majority of cases but in lower amounts.

Figure 5.2 further illustrates the different uses of financial bail by comparing the decision ranges most common in each court. At arraignment in Boston Municipal Court, the judges assigned nonfinancial release 72 percent of the time, compared to 69 percent of the time in Circuit Court and only 41 percent of the time in Superior Court in Maricopa County. Bail was rarely set in amounts over $500 in Boston (3 percent of the cases). In Dade County, 6 percent of felony defendants were assigned bonds over $10,000; such bonds were set 8 percent of the time in Maricopa County. The median bail/bond amounts shown in Figure 5.2 and Table A5.1 highlight the differences among the courts further: (assuming ROR is the same as a bail of $0) the median bail for Boston Municipal Court defendants was $0, for Dade defendants it was $11, and for Maricopa defendants it was $685.

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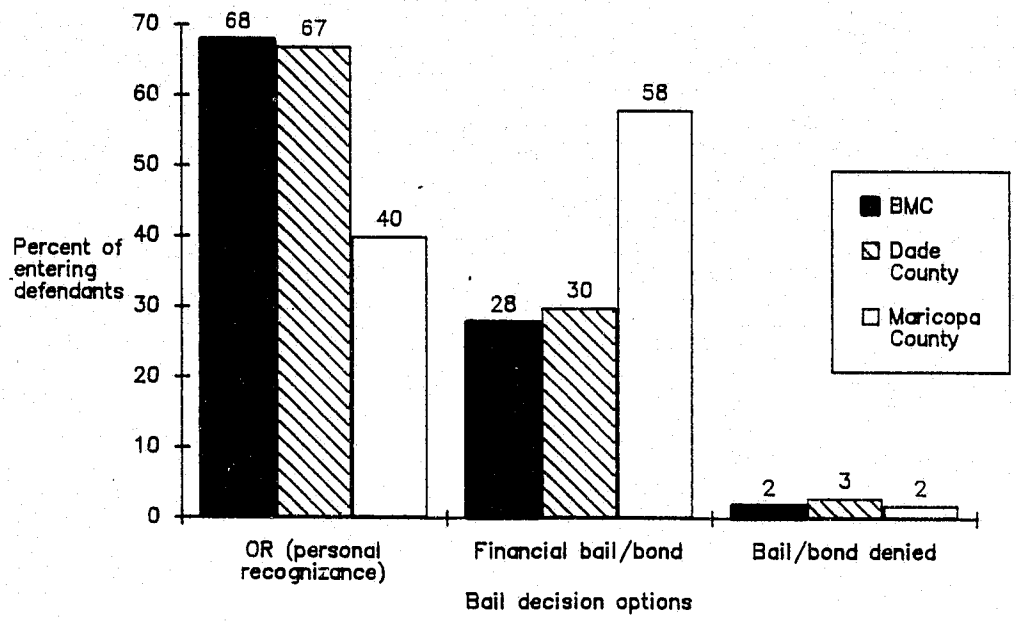
[43] By administrative order, the Circuit Court authorizes defendants charged with nonviolent offenses and having no prior convictions for violent offenses to be released directly by Pretrial Services.

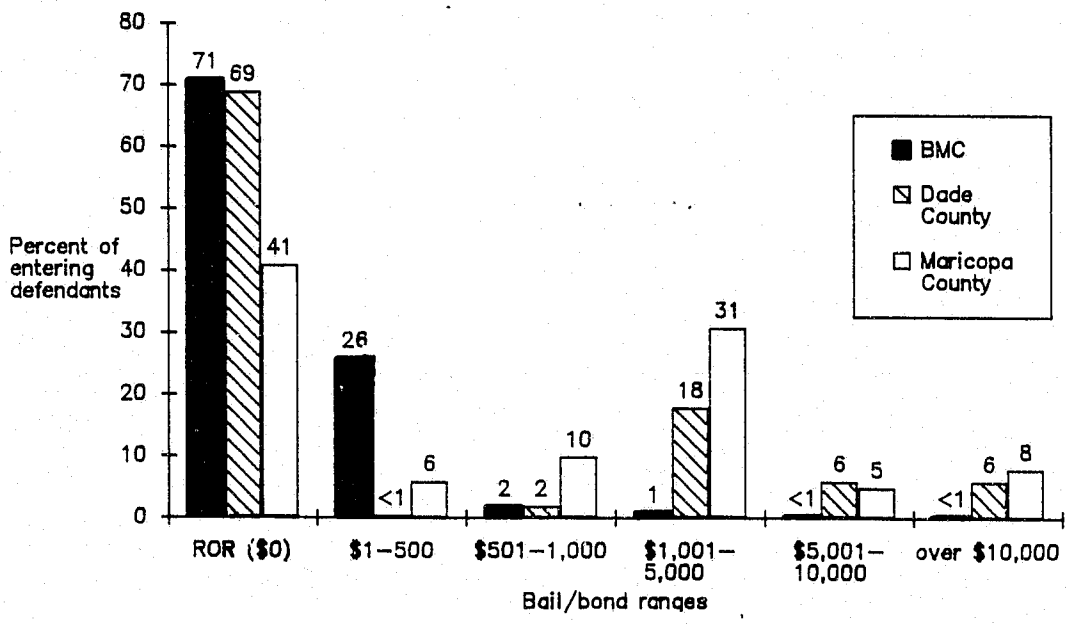
[44] The samples excluded categories of defendants for whom bond and thereby release could be routinely denied by statute. The denials of bail referred to in this instance were not provided for by statute, but rather reflected some informal denial policy--for example, concerning probation detainers or bench warrants--followed within the courts.

Figure 5.1 Use of bail decision options at first judicial stage in Boston Municipal Court, Dade County Circuit Court and Maricopa County Superior Court, 1984




[Note: In Dade County, 20 percent of entering felony defendants secured release at booking prior to bond hearing (the first judicial stage).]

Figure 5.2 Distribution of bail amounts assigned to entering criminal defendants, by court, 1984




| | Median Bail ($0) | Median Bail (without $0) |
|---|---|---|
| BMC | $0 | $100 |
| Dade County | $11 | $3,775 |
| Maricopa County | $685 | $2,054 |

Pretrial Release and Detention

The bail decision, how it is made and its effects, are at the heart of the guidelines research. However, one might choose to set aside the "niceties" of decisionmaking and ask, rather, what the results of the process were--in terms of the release and detention of defendants and the performance of defendants who secured release. This is because, in most jurisdictions in the United States, the "bail" decision and the "release" or "detention" decision are not necessarily the same thing. Although judges in Boston, Dade and Maricopa County might decide the release of defendants directly when selecting the personal recognizance (OR) option, they are not deciding detention directly when employing a financial option. Some defendants can afford release when bail is set at certain levels and some cannot. Thus, while a judge may be hedging in the direction of making release unaffordable or affordable in particular cases, the release or detention outcome may be determined rather on the basis of a defendants financial resources at the time of arrest.

Two useful ways of measuring pretrial detention and release among defendants entering the criminal process are a) to determine release status shortly after the initial bail decisions, for example, within 24 hours of booking; or b) to determine whether a defendant was ever released before the adjudication of his/her case. Table A5.1 contrasts the rate of release measured both ways, secured within one day of booking or achieved within 90 days of booking and/or prior to adjudication.[45]

Again, given the large number of misdemeanor cases entering the Boston court system, the frequent use of ROR and of low bails, it's not surprising that 78 percent of defendants gained release within 24 hours. Sixty-percent of the Dade felony defendants did, but only 45 percent of the felony defendants in Superior Court in Maricopa County gained release within 24 hours. Ninety-four percent of BMC defendants were released within 90 days or prior to the adjudication of their cases; 80 percent in Dade ultimately secured pretrial release; 55 percent of Maricopa defendants were released before trial.

Figure 5.3 compares the timing of release of defendants before trial in the three court systems. In each of the jurisdictions, the bulk of the release that occurred had been effectuated within the first 24 hours or so. The

[45] The rationale behind use of the first measure is that it reflects the impact of the bail decision, while the second measure adds the effects of the system's other opportunities for release and review not directly tied to the initial bail decision. The second measure, release or detention within 90 days or prior to adjudication, whichever is sooner, is sometimes difficult to interpret. A defendant detained for 90 days (as long as his/her case has not been completed) will be considered detained under this measure, just as a defendant who was confined for two weeks and then had his case adjudicated.

initial "burst" of release in Maricopa is changed only very slightly and gradually, so that between one day and 90 days just ten percent more defendants gain pretrial release. In Boston and Dade County that proportion of defendants are added to those released between day one and day seven. In Boston, a release rate of nearly 90 percent is reached at that time and can be little improved upon through the remainder of the 90 day period of observation. In Dade County, still another 10 percent were released between the one week and 4 week mark, although the maximum release of 80 percent of felony defendants appears to have been reached then and changes little after that.

Even in Boston where at least a small number of defendants spend time in jail before trial, detention is brought about through the vehicle of cash bail. In fact, just the fact that the judge resorts to a financial bail increases the chances that the defendant will probably spend some time in detention. Of defendants for whom a cash bail was set, 58 percent were released within one day in Boston, 11 percent in Dade County and 10 percent in Phoenix. Eighty-six percent of Boston's financial defendants gained release within 90 days, only 51 percent of Dade County's financial bond defendants gained release and 25 percent of Maricopa defendants within that period. Interestingly, the average (median) bail paid by financial defendants securing release in the 1984 study varied across jurisdictions as well: the median posted bail in Boston was $100, in Dade was $4,000, and in Maricopa was $1,600.

The relationship between amounts of financial bail chosen by judges and prospects for release is illustrated in Figure 5.4. In Maricopa County, even bails under $500 appear to have caused the detention of a majority of defendants. In Boston and Dade, it required bails of over $500 to hold a majority of defendants, at least for some period. In Dade County, bonds of over $1,000 served to hold 9 out of 10 defendants in detention.

Detention as a Dynamic Measure: the Context of Case Processing

Although these two measures of the use of pretrial detention among entering criminal defendants are helpful in comparing the pretrial processing of cases in the three court systems, each measure has limitations. A more accurate picture of the detention resulting from bail decisionmaking may be important when considered in the context of the processing of cases within each of the courts.

1. Early adjudication and detention: For example, the measure of release throughout the pretrial period (through 90 days or until adjudication, whichever comes sooner) may be very misleading, depending upon the extent to which a jurisdiction disposes of cases prior to 90 days. Figure 5.5 contrasts the rate of adjudication (within 90 days) in each of the courts for defendants overall as well as for released and detained defendants. First, we find

Figure 5.3 Days until release in Boston Municipal Court, Dade County Circuit Court and Maricopa County Superior Court: cumulative percentage of defendants released during 90 days following booking

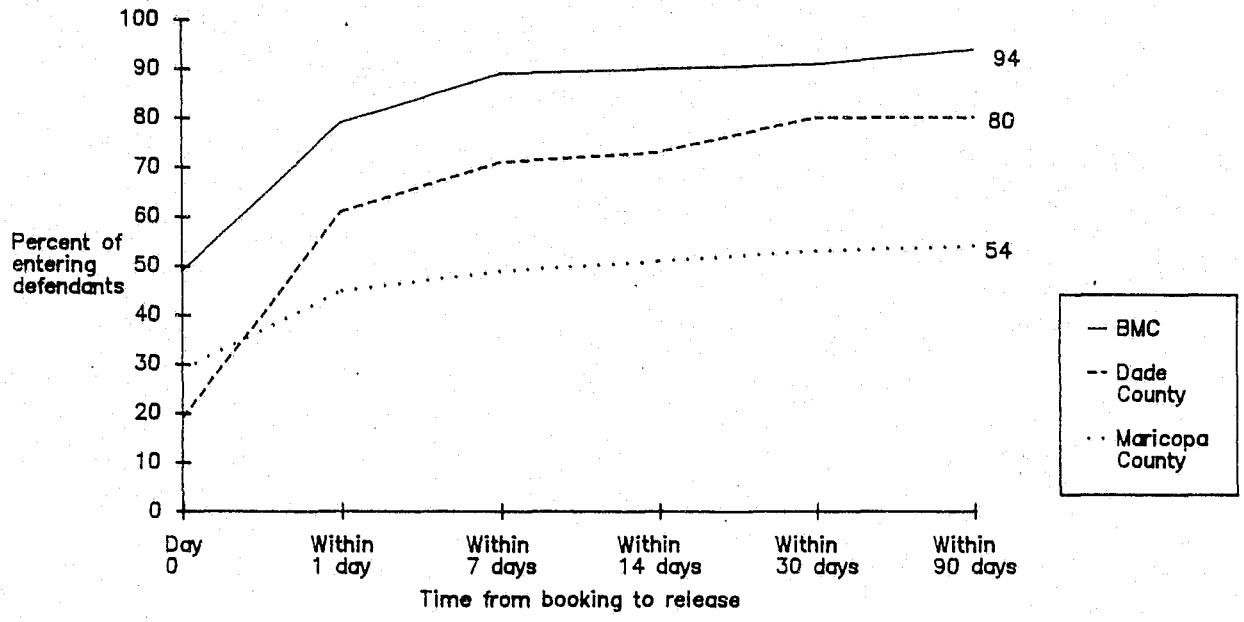
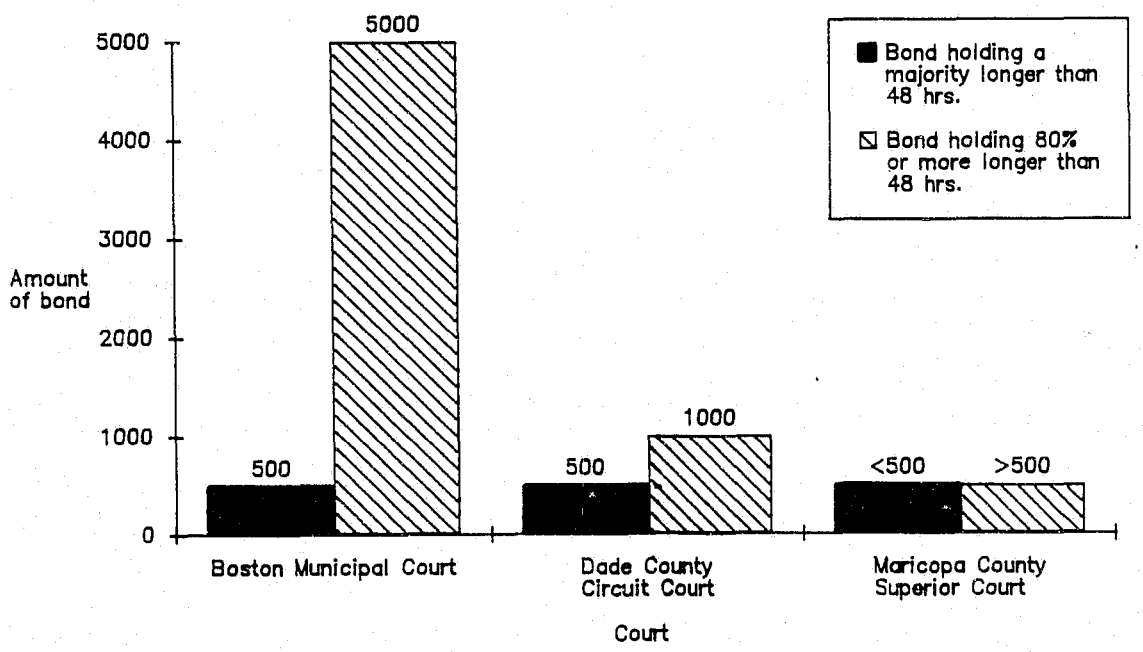



Figure 5.4 The levels of bond causing the detention of defendants, by court



that the courts differed notably in their rates of early adjudication of cases. The quickest pace is found in Superior Court in Maricopa County, where 89 percent of entering felony cases were adjudicated within 90 days of booking; 66 percent of the Circuit Court cases in Dade and 54 percent of Boston Municipal Court cases were completed within that period. Or stated more simply, after 90 days, only 11 percent of the caseload remains in the adjudicatory process in Maricopa County, 33 percent remains in Dade County, and 46 percent remains unresolved in Boston Municipal Court.

That figure also shows that in each jurisdiction, a larger proportion of the cases of detained defendants than of released defendants were adjudicated within that period. The difference in adjudication rates between detained and released defendants is greatest in Boston, is noticeable in Dade County, and is slight in Maricopa County. There are several interpretations that can be made of this finding. First, one might assume that this is evidence of "expedited" handling of the cases of detained defendants, a principle espoused in a number of recent laws.[46] Or, second, one might conclude that detention brings about the conclusion of many cases, either as a pressure on the defendant to plead or as an incentive to agree to time served in exchange for release. In any event, the findings from Figure 5.5 suggest that the magnitude of detention may be overestimated when measured in the manner we have chosen: many cases are detained through their pretrial periods, but often these periods fall short of 90 days.

2. Early "dropout" of criminal cases and detention: Figure 5.6 adds to this kind of analysis by examining the frequency with which cases are completely "dropped" (dismissed by the judge, dropped by the prosecutor, or otherwise discharged) prior to 90 days. Dropped or dismissed cases further point to detention periods shorter than 90 days--as well as detention that may have been inappropriate. (To the extent that the system has detained people whose cases are later dropped from the process, the use of detention in the first place may be questioned.[47])

That figure shows a rather low dropout rate in the Boston Municipal Court (occurring in only 13 percent of the cases), but rather high rates in Dade County and Maricopa County. Roughly half of entering felony defendants in those sites drop out within 90 days of booking. The rates of dropout vary little by custody status in the jurisdictions.

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[46] See Goldkamp (1985: Figure 9 and accompanying text).
[47] See Dan Freed's "imbalance ratio," Feely (1979).

Figure 5.5 Adjudication of cases within 90 days of booking, by court, by custody status, 1984

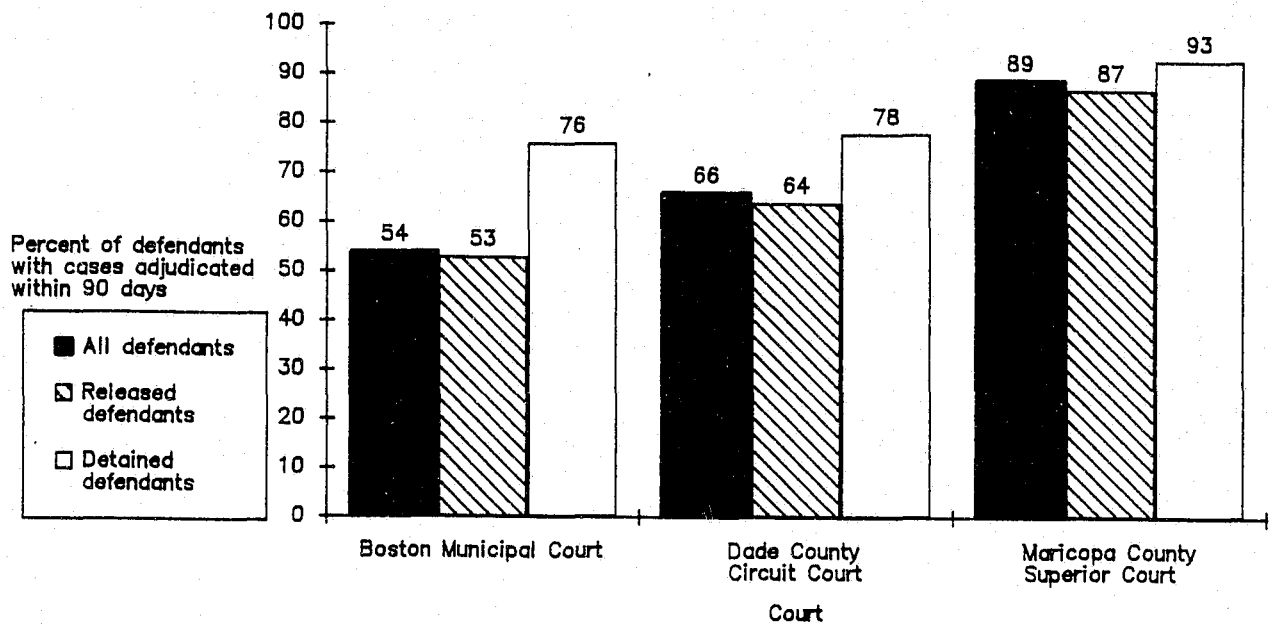
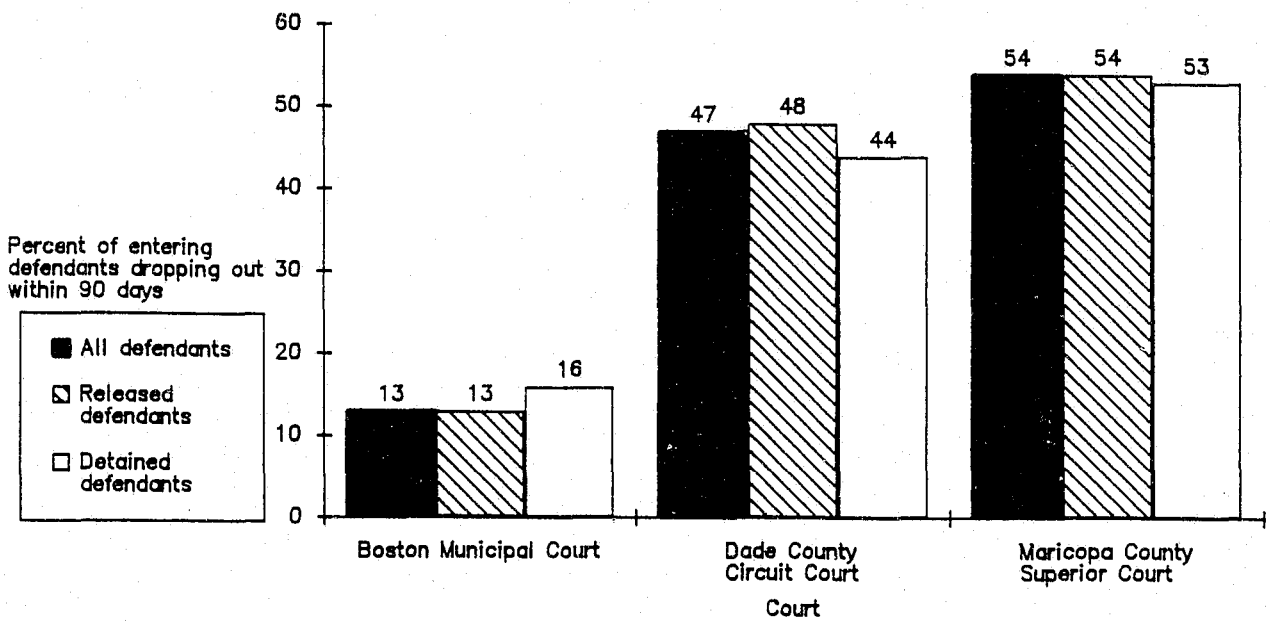



Figure 5.6 "Drop out" (dismissal, dropping) of cases within 90 days of booking, by court, by custody status, 1984



Nevertheless, one may conclude that a large number of detained defendants in two jurisdictions ultimately had their charges dropped or cases dismissed.[48]

3. Days spent in confinement by pretrial detainees: From the findings relating to the early adjudication of defendants' cases in each of the jurisdictions we can draw the inference that many defendants who are detained "throughout their pretrial periods" are spending less than 90 days in confinement. Figure 5.7 charts the average (median) number of days spent in confinement by those detained in the three jurisdictions: in Boston and Dade County, the median stays are relatively low (13 and 20 days, respectively); in Maricopa County, the median stay of Superior Court detainees is 90 days. We may conclude that detention among Boston Municipal Court and Dade County detainees is shorter term, but that detention in Maricopa County is longer term, averaging roughly four times longer.[49]

4. Jail days: an overall caseload measure: Still a simpler measure of the pervasiveness of detention among entering criminal defendants in the three sites is to compare the jail days associated with their processing. Figure 5.8 shows that defendants entering the system through the Municipal Court in Boston and the Circuit Court in Dade County average 4.4 and 11.2 days in jail per defendant. Yet, in Maricopa County, the average is 42.7 days in jail per defendant. It is perhaps predictable that the Boston defendants would average the smallest amount of time in jail, considering the predominantly misdemeanor nature of their criminal charges. Particularly striking, however, is the large difference between the average jail times of Dade and Maricopa County defendants, given the roughly comparable make-up of their criminal caseloads.

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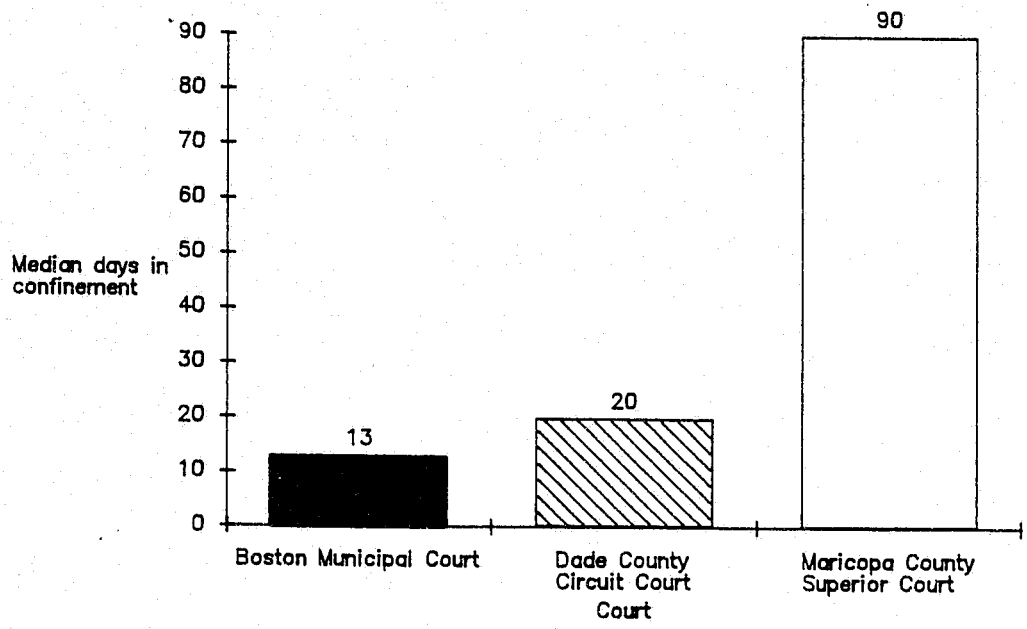
[48] In Maricopa County a large share of the early "dropouts" may be accounted for by the prosecutorial practice of "scratching" cases within the first 48 or 72 hours, often to be refiled by the prosecutor at a later date. The "scratching" or dropping of charges at this time results from the fact that the prosecutor does not routinely review criminal charges until several days after a defendant has been arrested. Cases are scratched when it appears that there is not enough evidence to support the prosecution of charges at that time. In Dade County a similar phenomenon, but extending to 14 days, occurs because there is no routine indictment or preliminary hearing process to screen charges; rather the prosecutor produces the information that serves as the basis of formal processing. As a result, a large number of cases are dropped at approximately the 14-day limit and/or a sizeable number are transferred to County Court for processing as misdemeanor cases.

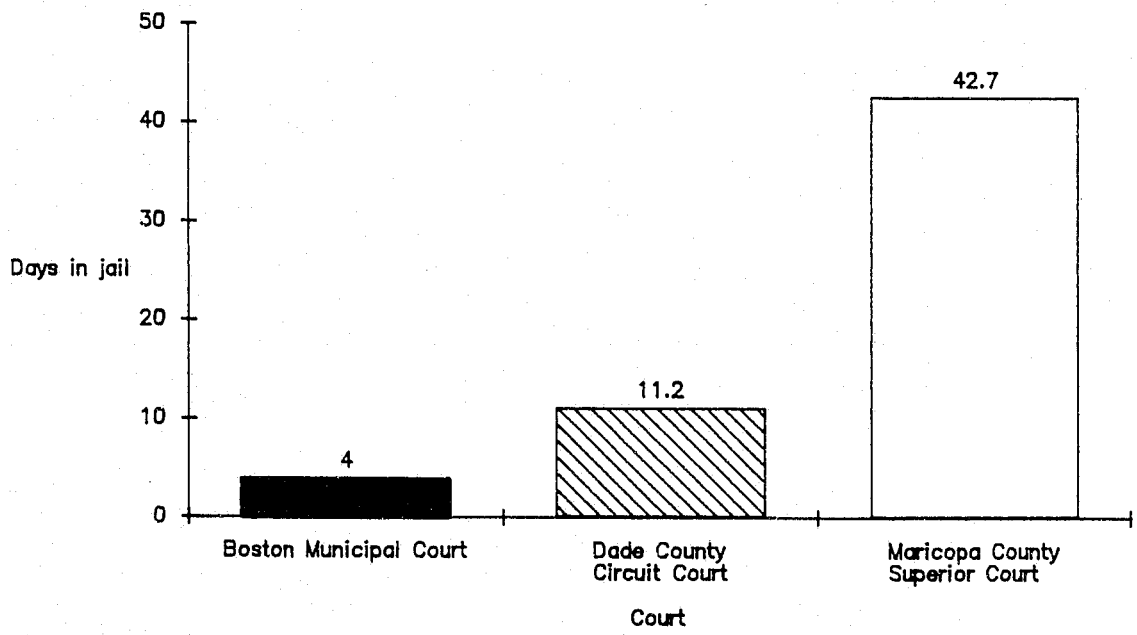
[49] The reader should note that the median days in confinement has an artificial ceiling of 90 days because of the approach taken in the research. The progress of defendants' cases was followed only up to 90 days to determine whether pretrial release was secured. If the defendant had not been released by that time--and still had not had his/her case adjudicated--not further effort was made to check for release before trial because of limitations of time and resources. Of course, many defendants may have been detained for longer periods--thus, the odd-appearing finding that the median length of detention in Maricopa County among detainees was 90 days.

Figure 5.7 Median days in confinement (up to 90 days) by detainees, by court, 1984




[Note: The closer the median days in confinement are to the 90 day maximum, the less likely periods of detention were shortened by early adjudication of cases.]

Figure 5.8 Average jail days (per defendant) generated by bail practices in Boston Municipal Court, Dade County Circuit Court and Maricopa County Superior Court, 1984

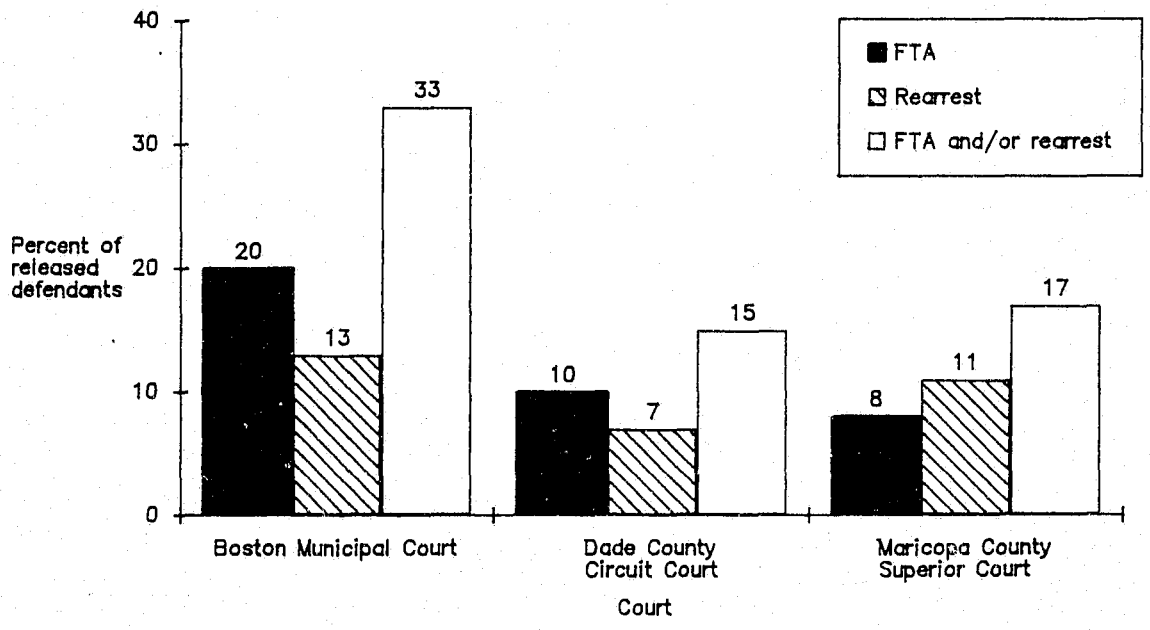


## THE PERFORMANCE OF DEFENDANTS DURING PRETRIAL RELEASE

### Flight and Rearrest

Despite the considerable variation in detention practices among the three jurisdictions (ranging from detention of 6 percent of entering defendants in Boston to 20 percent in Dade County and 45 percent in Maricopa County), a majority of defendants did gain release prior to adjudication of their cases. Figure 5.9 contrasts the performance of released defendants in Municipal, Circuit and Superior Court. During the period studied, Boston defendants who gained release failed to appear in court two and one-half times as often as Maricopa defendants (who failed to appear 8 percent of the time) and twice as often as Dade County defendants (who missed court 10 percent of the time).[50] Boston defendants also recorded slightly higher rearrest rates than the other two court

Figure 5.9 Defendant misconduct during pretrial release (failures to appear, rearrest, either/both), by court, 1984




[50] A "failure to appear" is recorded in the study when a bench warrant (or alias capiases in Dade County) has been issued for missing a required court appearance. Actual rates of failure-to-appear may have been higher if "unintentional" failures were included. For example, in Boston 28 percent of released defendants missed a court appearance, although warrants were issued only for 20 percent. In each study, once it was determined that defendants had gained release, they were followed for 90 days--or until their charges had been adjudicated if earlier--to see if FTAs, or arrests on new charges had occurred.

systems, 13 percent were rearrested in Boston compared to 11 percent in Maricopa and 7 percent in Dade County. Not more than two percent of released defendants were rearrested for "serious" crimes against the person in any of the sites.[51] When flight and crime measures are combined to form a general measure of misconduct during pretrial release, Dade County defendants appeared to perform best overall--only 15 percent failed to appear and/or were rearrested--Maricopa defendants "failed" 17 percent of the time, and Boston Municipal Court defendants performed most poorly, failing at roughly twice the rate of the other two jurisdictions (at 33 percent).

In the aggregate, these descriptive characteristics of our three sites establish the two themes noted at the outset of this chapter. The early stages of the judicial process, from arrest to pleading, have commonalities regardless of jurisdiction. The bail decision under study here has significant deprivation of liberty connotations regardless of the court system. It also has implications for community safety and the integrity of the court system itself, albeit at substantially different levels depending on jurisdiction. Our courts also differ considerably in some ways relevant to the issue of guidelines; they differ in time, in cases, in preferred release mechanisms, in detention levels and so forth. The similarities suggest that guidelines may be appropriate; the differences present a challenge to their utility and acceptability.

[51] Serious rearrests include rearrrests for the following kinds of offenses: murder, voluntary manslaughter, involuntary deviate sexual intercourse, forcible rape, statutory rape, robbery, kidnapping, aggravated assault, assault by a prisoner, arson with personal injury, battery. Of course, the terminology describing criminal offenses varies from jurisdiction to jurisdiction; thus, by "serious offenses," we mean these offenses or their closest equivalents.

## Chapter Six

# THE NATURE OF BAIL DECISIONMAKING: RELEASE AND DETENTION IN SUPERIOR COURT, MARICOPA COUNTY

## INTRODUCTION:CONCEPTUALIZING THE BAIL/PRETRIAL RELEASE DECISION AT THE FIRST JUDICIAL STAGE

We have already described some features of the defendants and their cases entering the three court systems. In Chapter Five, we briefly contrasted the decisions made about each cohort of defendants and their detention or release outcomes. We found differences among the sites in the characteristics of defendants entering the court systems and in the kinds of offenses with which they had been charged. In reviewing the bail decisions made regarding the entering defendants and the subsequent use of pretrial release and detention, we again noted key differences--even between Dade and Maricopa Counties, the jurisdictions with the most similar felony caseloads.

For example, although the Boston Municipal Court generated the highest rate of release among its heavily misdemeanant caseload, it also produced by far the highest rates of defendant misconduct during pretrial release. Circuit Court in Dade County managed to release 80 percent of its felony defendants before trial and yet still succeeded in producing the lowest flight and crime rates among defendants on pretrial release of the three sites. Finally, the Superior Court in Maricopa County released dramatically fewer defendants than its companion courts, about half the proportion of defendants released in the Dade Court. However, the frequent resort to pretrial detention in that jurisdiction did not produce misconduct rates that were even as good as those found in Dade County.

Beginning with this chapter, our objective is to focus more directly on the bail decisionmaking generating these phenomena in each of the courts individually. To accomplish this, we begin with an attempt to define what we mean by the bail decision, so that we have a common conceptual framework for analysis. Then, on the basis of large samples, we report on the results of statistical analyses designed to "predict" or "explain" bail decisions made by judges and commissioners in each of the court systems. We then turn to detailed consideration of the consequences of bail decisionmaking, the use of pretrial detention and release, and the performance of defendants gaining pretrial

release. In this chapter we examine decisionmaking in Superior Court in Maricopa County; in the next two chapters we turn to practices in Circuit Court in Dade County and Municipal Court in Boston.

In analyzing bail decisions in each of the courts, we collected data that judges (and commissioners in Maricopa County) would have had available at the time of the bail task. (Of course, we made use of subsequent information to chart the later outcomes of the cases in which decisions had been made.) The purpose of these analyses was to discover patterns or regularities in decisionmaking associated with particular attributes of defendants or their cases. The assumption is that if patterns can be found in the types of variables used by these decisionmakers, then these patterns might represent important policy themes that implicitly guide the judges or commissioners in the setting of bail. Finding such patterns--or lack of patterns as the case might be--would provide the basis for a review of practice and discussion of policy among the court officials, particularly when combined with the findings characterizing pretrial practices and case processing in each of the courts.

Choosing a Conceptual Framework

As a logical first step in the descriptive phase of guidelines development in each court, it was necessary to decide upon a useful way of conceptualizing the bail/pretrial release decision for purposes of analysis and consideration within the judicial committees. While perhaps an academic undertaking in its own right, the choice of a working model of the bail task was accomplished through analysis and discussion by the judges. Although, on its face, the bail decision might not appear overly complex, theoretically at least it could be conceived of in different ways.

First, as we have noted earlier, there is debate--even within courts and among decisionmakers--over the appropriate goals of the bail decision. In each of the states where the research was conducted, a provision authorizing consideration of the potential danger posed by a defendant can be found in the state law; the authorization is for broad consideration in Arizona and Florida, but is strictly limited in Massachusetts law. In all three states, a main theme of the bail task is to assure the attendance of defendants in court. Individual judges and court systems as a whole, therefore, vary according to the degree they consider either or both of these goals.

Beyond questions of appropriate goals, a working model of the bail task may be viewed in different ways. For example, is the bail decision a "pretrial release" or detention decision or a (mostly financial) "bond" decision, of

which release or detention is the often inadvertent result? Is the bail decision a simple, single choice decision? Or is it a decision consisting of contingent, step-wise considerations?

As Figure 6.1 illustrates, several theoretical conceptualizations of the bail decision are possible and were considered by the judicial working groups in each location. Figure 6.1 displays, for example, four of the principal alternatives:

1. Bail as a simple choice of a financial amount:

Under this alternative, the judge's task is relatively straightforward, involving only the choice of a financial amount ranging from ROR ($0) to any financial amount imaginable.

2. Bail as a two-step choice:

Under this model of the decision the judge performs a two-stage conceptual task. On the first stage, the screening stage, he/she decides whether a defendant is a nonfinancial or a financial candidate. Second, if the defendant is a nonfinancial candidate, the judge may next decide whether or not any conditions ought to be attached to release, such as supervision or drug treatment. If the defendant was not considered an appropriate nonfinancial candidate, the second stage consists of selecting a particular amount of financial bond.

3. Bail as deciding release under the least restrictive conditions:

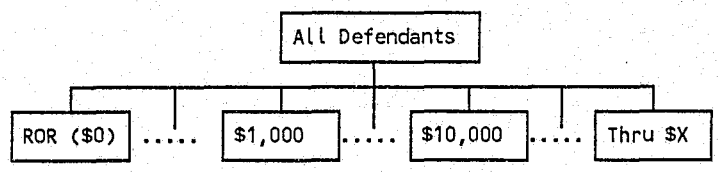
Another conceptualization derives from the laws of many states, the District of Columbia and the Federal law which establish a presumption that a defendant should be released under the least restrictive condition that assures appearance and minimizes the threat to the community. Thus, a first task would be to decide whether or not a defendant could be released outright, on a mere promise to appear. If this would not satisfy the judge's perception of the risk posed by the defendant, he/she would consider and/or reject options involving increasing restrictions on the defendant's liberty, such as third party custody or supervision by a pretrial services program or a probation department. Resort to financial bond would be considered a comparatively drastic (and restrictive) decision choice. In some states, the judge could consider outright detention of the defendant after having rejected release under lesser options.

4. Bail as a detention versus release decision:

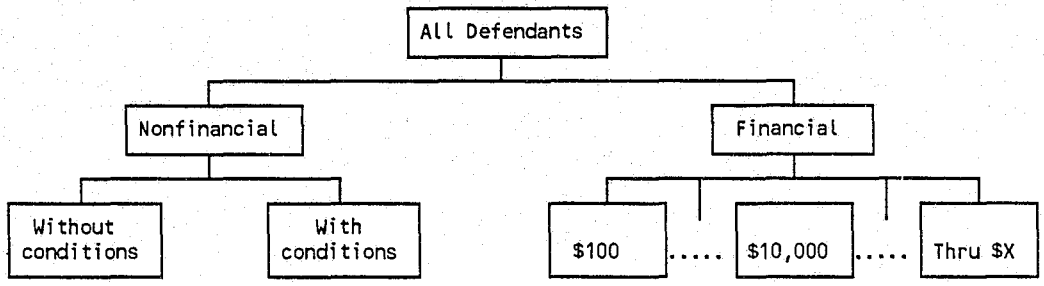
Finally, judges might be making an outright detention versus release decision in each case. If the task followed the theoretical model of the bail task outlined in the laws of the District of Columbia and the recent

Figure 6.1 · Alternative conceptualizations of the bail/release decision

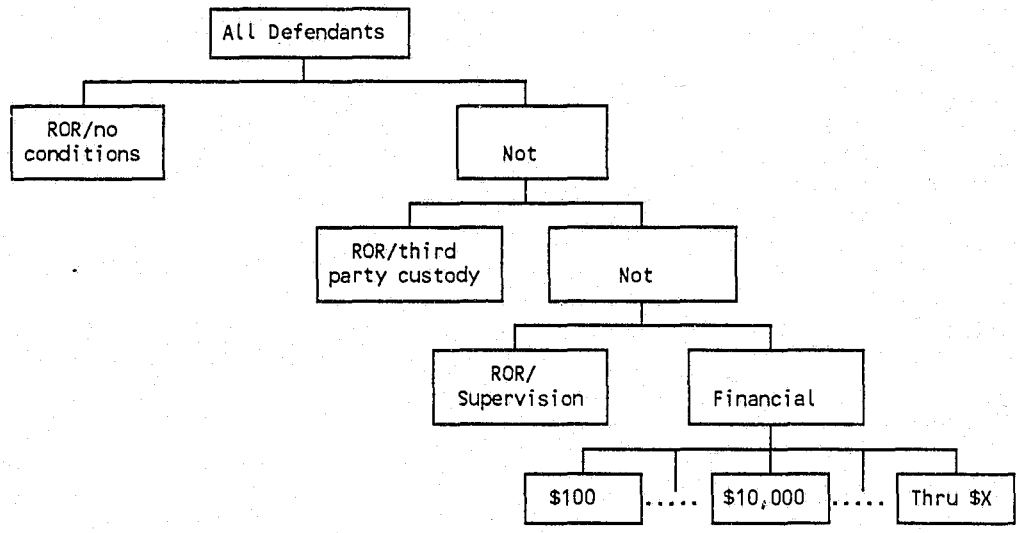
Model I: Choice of Financial Amount (one step)



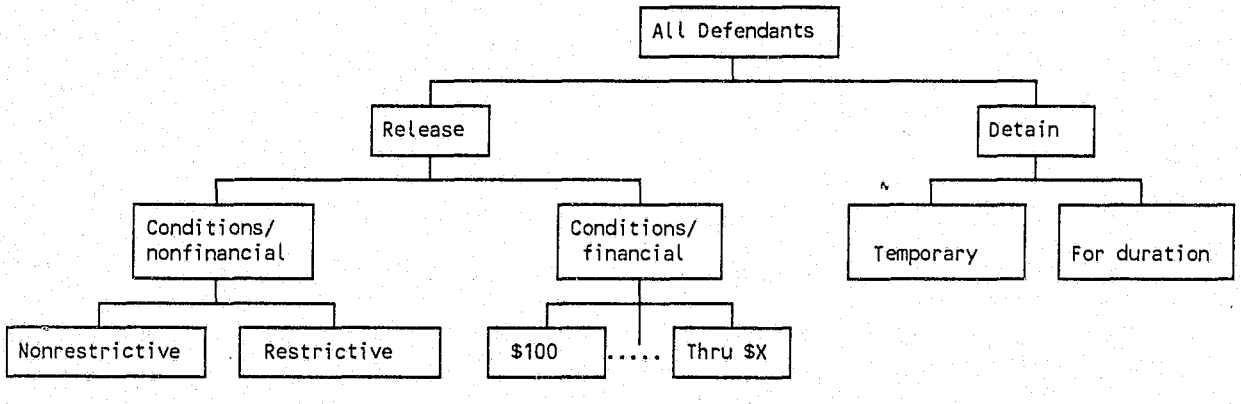

Model II : Two Step Decision




Model III: Release under Least Restrictive Conditions




Model IV: Bail as a Detention versus Release Decision



Federal legislation, the judge could be determining whether a defendant should be released or detained quite directly, on a first step. On a second step, the judge could be selecting conditions of release, if any were to apply, or could be deciding whether to detain the defendant temporarily (such as when probation or parole violations might be involved or medical exams) or for the full pretrial period. It could be argued, of course, that bailsetting under traditional practices has followed this version, albeit in a *sub rosa* fashion. That is, judges have manipulated bail in setting it either within or outside of the reach of a defendant's ability to post it to cause his or her release or confinement.

These models of how the bail decision was transacted were discussed with the judicial working committees until, in conjunction with analyses of the decisionmaking data, one version was chosen to serve as the vehicle for discussion and further analyses. Once a common analytic framework could be agreed upon, analysis focused on explanation of the decisions made by the judges and commissioners.

## THE BAIL/PRETRIAL RELEASE DECISION IN MARICOPA COUNTY

### Agreeing on a Working Model of the "Pretrial Release Decision"

To begin examination of bail decisionmaking in Superior Court, we analyzed data describing 2,200 Maricopa County felony cases entering the system between the beginning of June and the end of July, 1984. To find a working model of the bail task in Maricopa County--referred to there as the "pretrial release decision"--data were organized as if to comport with the four models depicted in Figure 6.1 above. Multivariate analyses were conducted to determine whether knowledge of defendant or case characteristics could explain variability in the various decisions or decision stages.[52]

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[52] Statistical analyses of bail decisions or components of the decisions employed the following general procedures: The first task was to reduce the number of relationships under consideration for mulitvariate analyses between up to 60 independent variables and the various dependent measures. Correlations were first examined as well as interrelationships among independent variables. As a rule of thumb, relationships showing a gamma of less than .2 were discarded.

Subsequently, independent variables were grouped into one of several categories: demographic, charge-related, prior criminal history, and system-related. Multiple regression was then employed as a rough screening device to identify independent variables showing the greatest contributions to explaining the variance in the criterion. Using a best-subsets routine and exercising controls (by altering the order of entry in regression) each category of independent variable was reduced to its strongest measures.

If the dependent measure was interval-level (for example, we treated bail amount as an interval level measure, although we employed the logarithm of the bail amount in analysis), we concluded the mulitvariate

The model subdividing the bail decision into consideration of least restrictive release options in a sequential fashion (Model 3) received little empirical support.[53] Although it appeared to receive strong empirical support, the model portraying the decision as a direct choice between release and detention (Model 4) was not regarded by the working committee as an intuitively justified representation of the way decisions were made.[54] (Although this model may not have been viewed as accurately evoking the commissioners conceptualization of the bail task, the release versus detention outcome may represent the effect of the commissioners' decisions quite well, see the discussion of detention in the next section.)

In a technical sense, both Model 1 and a modified version of Model 2 received strong empirical support in the sense that defendant attributes or case characteristics were able to "explain" roughly 90 percent of the variance in decision choices. (See Table 6.1.) Analysis of Model 2, the two-step version of the pretrial release decision, showed strong results on the first stage where nonfinancial (ROR) versus financial (secured bond) options were considered. On the second step, when the choice was to decide whether to assign conditions of release among nonfinancial defendants, the solution was decidedly weak. When the choice was an amount of secured bond, regression was moderately successful.

Because it appeared that little systematic differentiation among defendants was detectable on the second stage nonfinancial/condition decision, we concluded that the conditions or no conditions sub-decision would not

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analysis with regression. If the dependent variable was dichotomous--and most were--we stopped regression analysis once we had roughly ten or fewer candidate independent variables remaining. At this stage, marginally related variables were temporarily kept in the analysis. For the dichotomous measures, we attempted to model decisions using logit procedures until we found a parsimonious model that best fit the data (including consideration of interactions). One advantage of using regression for screening analyses was that we were able to contrast the strength of solutions across jurisdictions using R2.

[53] As Figure 6.1 shows, this model subdivided the pretrial release decision into four decision components sequenced according to restrictiveness from least to most restrictive. In the first component, the commissioner decided whether to assign outright ROR without restrictive conditions (although standard conditions to appear and refrain from crime applied) or not. Without knowledge of the pretrial services recommendation for ROR instead of secured bond, nine independent variables explained about 19 percent of the variance ($R^2$=.19), knowing the recommendation, 45 percent. The next step involved the choice among those not receiving outright ROR whether to assign third party release or not: regression analysis was able to explain 10 percent of the variance with six independent variables (R2=.10) and 49 percent with knowledge of the recommendation. The next decision component decided among persons not receiving outright ROR and not assigned third party release whether supervision by pretrial services would be assigned or not; here the R2 was .08 based on five independent variables, but .70 when knowledge of the recommendation was added. On the last step, the choices had been narrowed to cash bond (secured bond) and the only decision was to select a given amount, this analysis is the same as discussed in the text above.

[54] Knowledge of nine variables was able to explain 70 percent of the variance in release versus detention of Maricopa defendants.

play a role in a working model of the pretrial release task. The judicial committee concurred in this view; they argued that the first model (Model 1) was perhaps too simplistic a framework and that they felt comfortable on an intuitive level with the modified version of Model 2.

Factors Explaining Bail Choices in Maricopa County

Not surprisingly, it was found that variables explaining the bail decision in Maricopa County under Model 1--as the simple choice of cash amounts (from ROR or $0 to any dollar amount)--were generally those explaining the bail decision as a two stage operation. The components of the two-step model, however, seemed to be influenced by different emphases and thus reflected qualitatively different decision concerns. See Table 6.1.

Defendants were more likely to be considered suitable candidates for nonfinancial than financial options when they had no outstanding warrants, were longer term residents of Maricopa County, had no prior arrests, were not viewed by the police as posing risks of flight, had earned wages during the previous year, had not been charged with offenses involving use of a weapon, had no prior felony conviction, did not live alone, and, finally, were recommended for nonfinancial release by the pretrial services program. Thus, the "ROR decision" appeared influenced by "community ties" as well as some charge and prior history variables. The selection of amounts of secured bond for defendants viewed as financial candidates, however, appeared more heavily oriented to considerations of the seriousness of the charges. These findings of different emphases in the ROR and financial choices correspond to findings in previous research that have been interpreted as reflecting a greater public safety or danger orientation among decisionmakers when financial bail is employed.

In several respects, these findings are of special note. In reviewing and interpreting these findings, the Superior Court commissioners appeared comfortable in the suggestion that these attributes of defendants and their cases played a primary role in their bail determinations. There was some surprise, however, as well as a little disbelief, in the finding that the police notation on the arrest report that the defendant was believed to pose a risk of flight was taken seriously by them. Although some admitted that they viewed the police information seriously, other commissioners stated the belief that police officers generally viewed defendants as poor risks and almost always made that notation--causing them to view the notation with some skepticism.

Two findings, taken together, however, were of more important consequence for the guidelines research. The first is that by statistical standards and considering previous research, the power of the regression solutions--the

Table 6.1 Factors influential in commissioners' decisions at initial appearance for entering felony defendants (from regression analysis) using Model I (choice of bail amounts) and Model II (two-step decision), Maricopa County[a] Superior Court, June-July, 1984

| Model of pretrial release decision | Influential factors (explanatory variables) | $r^2$ | Significance |
|---|---|---|---|
| Model I | | | |
| Simple choice of financial amounts ($0 thru any amount) (n = 2,179) | Outstanding warrants | | |
| | Police: risk of flight | | |
| | Length of residence | | |
| | Recent prior arrests | | |
| | Robbery charges | | |
| | Any sexual assault victims | | |
| | Reported wages | | |
| | Weapons used | | |
| | Prior convictions | | |
| | Lives alone | .34 | < .00 |
| | Nonfinancial recommendation[b] | .86 | < .00 |
| Model II | | | |
| Two-step decision | Outstanding warrants | | |
| 1. Choice of nonfinancial or financial options (n = 2,188) | Length of residence | | |
| | Recent prior arrests | | |
| | Police: risk of flight | | |
| | Reported wages | | |
| | Weapons used | | |
| | Prior convictions/felonies | | |
| | Lives alone | .29 | < .00 |
| | Nonfinancial recommendation[b] | .90 | < .00 |
| 2a. If nonfinancial: conditions versus no conditions of release (n = 892) | Drug related offense | | |
| | Defendant under 21 | | |
| | Present address in Maricopa | | |
| | Number of victims | | |
| | Length of residence | .07 | < .00 |
| | Nonfinancial recommendation[b] | .07 | < .00 |
| 2b. If financial: selection of amount (n = 1,296) | Severity of most severe booking charge | | |
| | Any sexual assault victims | | |
| | Robbery charges | | |
| | Police: risk of flight | | |
| | Number of charges | | |
| | Alcohol or drug related charges | | |
| | Weapon used | | |
| | Employment status | .40 | < .00 |
| | Nonfinancial recommendation[b] | .40 | < .00 |

[a]Logit analyses were conducted to model Model II, steps 1 and 2a. Under Model II, step 1 the following factors fit the data well: outstanding warrants, length of residence, recent prior arrests, police noting risk of flight and pretrial services recommendation for nonfinancial release (goodness of fit Chi-sq. 83.69, degrees of freedom 127, P value .999). Without pretrial service recommendation, the logit model is not significant.
[b]The contribution of this variable to the explanation of variance when entered last may be estimated by subtracting the $r^2$ without the variable from the total $r^2$.

ability to explain nearly 90 percent of the variance in decision choices made by the commissioners in Superior Court using knowledge of eight or nine kinds of information about a defendant or his/her case--is extraordinary. (Usually, such analyses report explaining 30, 40 or, perhaps, 50 percent of the variance.) Ordinarily, such a successful analysis would permit the conclusion that we have rather certainly identified the factors judges or commissioners rely on in making their decisions. Discussion in the working committee could then proceed to flush out the policy implications of the reliance on the handful of factors.

The second striking finding is the relative importance--rather dominance--of one piece of information, the recommendation of the pretrial services interviewer to the commissioner for either nonfinancial or financial bond. Of the 86 percent of variance explained in the analysis of the bail decision as a simple choice of financial amounts (Model 1), knowledge of the pretrial services recommendation contributed 52 percent when entered last (i.e., when the effects of other relevant factors were controlled). Of the 91 percent of variance explained in the analysis of the choice between nonfinancial and financial options, 61 percent was contributed by the pretrial services recommendation after controlling for other relationships. Stated another way, without knowledge of the pretrial services recommendation for ROR or secured bond in defendant's cases, we would have been able to report rather modest and tentative findings.

The Importance of the Pretrial Services Recommendation in the Commissioners' Pretrial Release Decisions

Without knowing much else, if we could know the staff's recommendation concerning nonfinancial or financial bond, we would make few mistakes in guessing what the commissioners subsequently decided. An examination of the data reveals that the commissioners' nonfinancial pretrial release decisions, for example, agreed with the recommendations made by pretrial services in more than 96 percent of all cases. See Figure 6.2. Moreover, given a recommendation for a secured bond option, the odds were rather small that the defendant would secure release either within the next 24 hours or within 90 days. As Figure 6.3 suggests, the secured bond recommendation, thus, translated into a high probability that a defendant would be detained, other things being equal.

Because of the apparent influence of the recommendations in initial appearance decisionmaking, discussion in the Superior Court judicial working committee focused on looking for an explanation.

Figure 6.2 Relationship between pretrial services recommendation and bail decision in Maricopa County, 1984

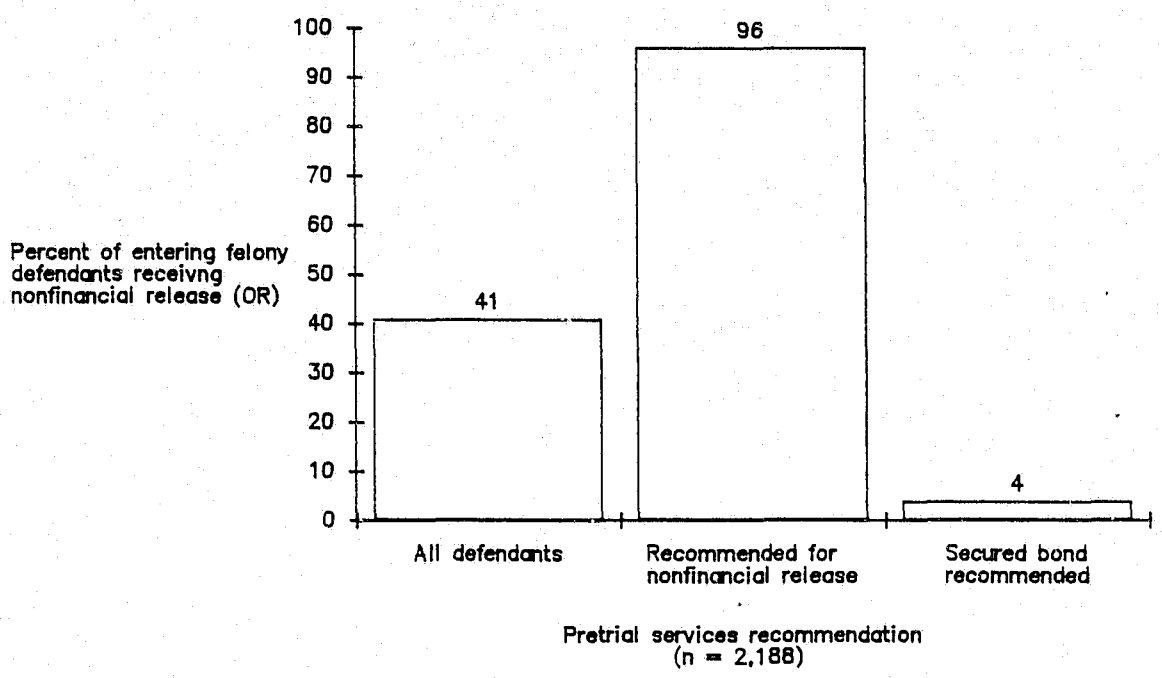
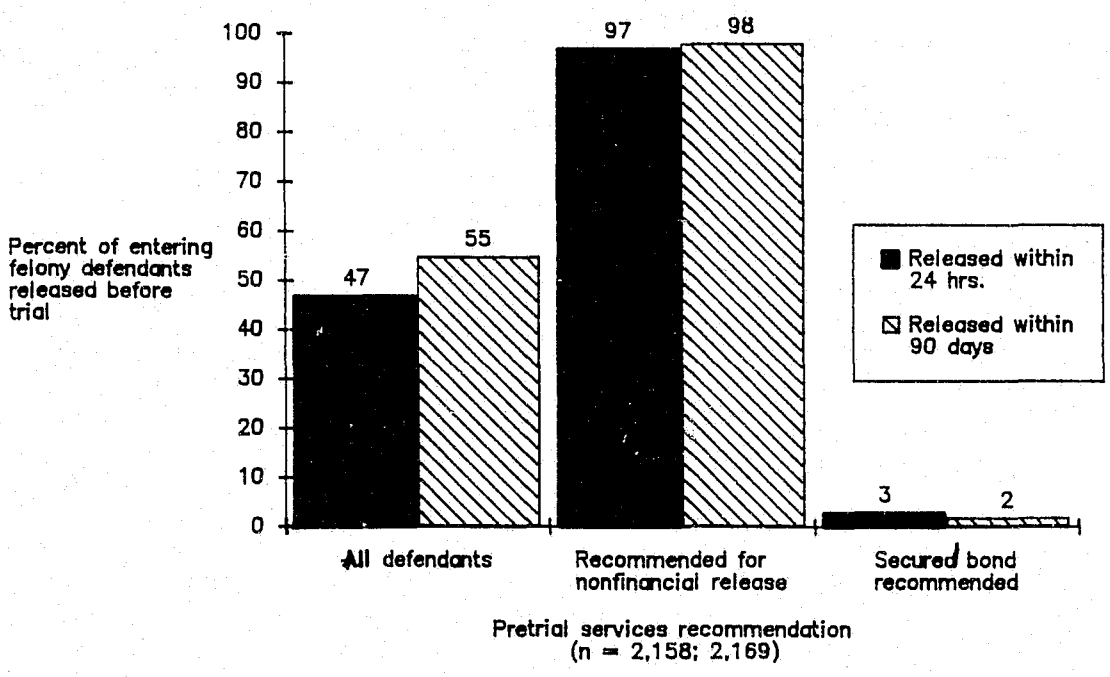



Figure 6.3 Relationship between pretrial services recommendation and pretrial release (within 24 hrs., within 90 days), in Maricopa County, 1984



In trying to understand why the pretrial services recommendation appeared so influential, we considered several explanations:

1) The commissioners valued the recommendation highly because it represents an objective evaluation of defendants according to explicit screening criteria agreed upon by the commissioners. From an empirical perspective, this explanation would assume that known kinds of information (such as prior flight, prior record, etc.) would play a known and predictable part in an analysis of recommendations.

If, for example, defendants with no local ties, prior records of flight, and long prior criminal histories of arrest were routinely "scored" in such a way by pretrial services that they were consistently not recommended for nonfinancial release, then defendant flight, local ties and arrests would emerge as "predictors" of recommendations for ROR. This would in turn explain why the pretrial services recommendation had emerged as such a powerful predictor of commissioners decisions.

2) The recommendation was valued so highly by commissioners in part because of the high regard they had for the independent (subjective) judgment of the pretrial services staff who interview defendants and review background information before making up the recommendations. This explanation recognizes that the judgment--and therefore recommendations--of different interviewers could vary from staff member to staff member. Thus, for example, interviewers working on the night shifts may be more conservative about their recommendations simply because it is more difficult for them to verify the information they are receiving. Or, recommendations could vary with the predilections and antipathies of individual interviewers as they react to criminal cases they confront. A statistical analysis in this case would find that known criteria would be unlikely consistently to "explain" pretrial services recommendations, as the different interviewers reacted differently to information. Rather, recommendations would depend most often on the "recommender".

3) A third explanation also assumes that the pretrial services recommending process is subjective. This hypothesis does not explain the high rate of agreement between recommendations and commissioner decisions on the basis of high regard for the independent judgment of the pretrial services staff, but sees the phenomenon as the result of an accommodation of staff to decisionmaker. More specifically, perhaps pretrial services interviewers, having worked closely with the six commissioners over long periods, have learned to anticipate the ways in which their subjective recommendations would be received.

For example, staffer X might know that commissioner Y would never entertain granting ROR in a case involving drunken driving. Over time, then, staffer X has learned instead to recommend secured bond in those cases. Commissioner Y receives the recommendation he expects, and, as a result, almost always agrees with it.

To determine which explanation was more likely, we examined the recommendations of the pretrial services staff much as we have examined the commissioners' decisions. We attempted to learn if we could predict recommendations (whether there was a recommendation for nonfinancial versus financial bond) using all the various items of information we had available. Unfortunately, not having anticipated this finding, we had not recorded the identity of each of the interviewers making recommendations.

What we found was that we were able to "explain" recommendation decisions rather modestly based on knowledge of the following kinds of defendant or case attributes (see Table A6.2).[55]

1. arrests within the last three years;
2. length of residence in Maricopa County;
3. outstanding warrants;
4. prior felony convictions;
5. living arrangements (alone or with others);
6. wages last year.
7. robbery related charges;
8. prior misdemeanor convictions.

To the extent that patterns governing the recommendations could be detected, it appeared that pretrial services interviewers were relying on apparently relevant kinds of information regarding the kinds of charges involved, the defendant's prior history, local ties and income. When pretrial services staff were asked about the results, they agreed that, while there were no explicit screening criteria employed to screen defendants systematically, interviewers were instructed to take these kinds of criteria into account in making there subjective recommendations. In fact, these are factors not unlike some listed in the Arizona statutes and considered by judges and pretrial services programs in other parts of the country.

[55] Regression, used to reduce the data in preparation for logit analysis, produced an R2 of .27 using 8 independent variables. The final logit model is shown in Table 6.2.

Thus, recommendations were found to follow some, albeit weak, themes and could not be described as wholly random. However, it is also notable that--in terms of multiple regression results--two-thirds of the variance went unexplained. This finding suggests either that recommendations were to large extent athematic (random) or that we failed to consider important information that could have increased our ability to account for the variability in recommendations. Given the large number of descriptors of defendants and their cases that were examined, this latter explanation is unlikely--with a single exception. We did not record the identity of individual staff "recommenders." Perhaps if we had that information available we could have added substantially to our ability to predict recommendations. But, had that been the case, we would have been left with the conclusion that recommendations depended substantially on the recommenders.

To some extent then, our analysis has called into question the soundness of our first hypothesis concerning the relationship between recommendations and commissioners' decisions: explicit, consistently applied criteria were not found to govern objective recommendation policy.

Looked at another way, we could have asked the question whether--assuming that the recommendation from pretrial services is shorthand for scoring defendants on specific criteria--after controlling for the effects of the explaining variables listed above in an analysis of commissioners' decisions, the recommendation contributed powerfully to explaining outcomes in their initial appearance decisions. Here we are asking what effect the "unexplainable" part of the pretrial services recommendation had on the commissioners' decisions. When this analysis was carried out, we still found that, independent of other concerns, the pretrial services recommendation was the single dominant influence. (See Table 6.1.) Further analysis showed that, after controlling for these eight factors in analysis of commissioners' decisions, the powerful influence of the pretrial services recommendation remained. (Table 6.1, Model II, step 1.)

We conclude that the influence of the pretrial services recommendation is to a certain extent unique, not explained by available information, and relied on by commissioners at least partly as a recommendation (judgment) *per se*. While we have empirical evidence that emphasizes the highly subjective nature of the recommending function, we are not able to shed light on explanations 2 or 3 above. That is, we cannot say whether commissioners were relying strongly on the largely unguided judgment of the pretrial services interviewers or whether the

agreement between the two is the result of a flexible accommodation to commissioners' preferences by pretrial services recommenders.

This finding has important implications: For one thing, beyond their summary of information collected through the interview of defendants, the judgment of the pretrial services staff who prepare the recommendations for initial appearance may play an important role in the commissioners' decisions.

The recommendation heavily influences the decision to place defendants in a nonfinancial versus financial (secured) bond category. However, it appears to have little influence on the particular amount of secured bond chosen by the commissioner. Thus, where there is no recommendation to guide them, commissioners exercise more discretion and, as we see in the next section, produce decisions which may vary considerably between them.

The Role of Charge Seriousness in Pretrial Release Decisions

Another somewhat surprising finding has to do with the role of the seriousness of the charged offense in pretrial release determinations. Although judges' over-reliance on the seriousness of the defendants' charges has been criticized in legal commentary concerning bail practices in the United States over the last 25 years, most previous research has nevertheless shown this factor to be the most powerful influence in initial appearance decisions.[56] Charge seriousness has not appeared to play the expected dominant role in Maricopa County release determinations that it has in other jurisdictions.

In the analysis of the pretrial services recommendation, the only charge related factor to play an even somewhat influential role was whether or not robbery charges were involved in the defendant's case. This may indicate a concern for seriousness on the part of the interviewers, or it may indicate a concern for a certain "kind of charge". Overall or general seriousness of the defendant's charges did not appear to be a dominant factor.

In our analysis of Model 1 more charge-related measures appeared to figure into commissioners' decisions: the presence of robbery charges, of crimes with a victim of sexual violence, and of weapons charges. Although these factors point to the presence of charges for serious offenses, they do not reflect general seriousness but rather "kind of offense" concerns.

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[56] Severity of charge has not been found to relate to prediction of flight or crime during pretrial release, although kind of charged offense has.

In Model 2, in which the commissioners first sorted defendants conceptually into nonfinancial versus secured bond categories, only the presence of weapons charges appeared to figure in at all on the first decision step. However, in the second decision step in which commissioners select an amount of secured bond, almost nothing but charge severity (as measured by the statutory grading of offenses) played an influential role. After the statutory ranking charge measure (clearly an overall severity measure), most of the other factors importantly related to the selection of bond amounts seemed to reflect the presence or absence of various serious charges. (See Table 6.1.)

The surprising finding is that in an overall sense, unlike other jurisdictions studied, the seriousness of the current charges are not the sole or dominant factor that commissioners relied on. Instead, they appear to rely on the pretrial services recommendation principally--which we have seen is not dominated by seriousness of the charged offense. [57]

Different Treatment of Similar Defendants Based on the Commissioner Presiding at Initial Appearance

In earlier research in Philadelphia, it was discovered that, after taking into consideration other relevant factors, bond decisions varied by judge (Goldkamp and Gottfredson, 1985). To a notable extent, particularly in the use of financial options, a defendant's bond depended on which official was presiding at initial appearance.

In Maricopa, where initial appearance responsibilities were handled by five commissioners (as opposed to 20 judges as in Philadelphia), we also found a role for decisionmaker variation after controlling for other factors.

Under the Model 1 framework, which conceptualized the commissioner's choice as selection of a dollar amount from zero to any amount, knowledge of which commissioner was presiding contributed significantly (in a statistical sense) but not importantly, to prediction of the initial appearance decisions.

Under the two-step format (Model 2), the presiding commissioner did not play a role in the first step decision dividing defendants into financial versus nonfinancial groupings. However, on the second step involving the

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57 Of course, one explanation for this rather unique behavior may be that we do not measure the seriousness of the offenses charged very well if we employ the statutory classification of offenses as our ruler. To examine this possibility, we decided to ignore the statutory grading and create instead a measure that might reflect the commissioners' views of offense severity. This alternate measure ranks all offenses (in our study) according to how often commissioners assigned nonfinancial release to defendants so charged, arguing that in the most serious cases nonfinancial release would be given very rarely and in the least serious cases, it would be given quite frequently. When measured in this manner, we found that seriousness did appear to be even less influential than previously. For example, when we entered the statutory grading of offense last in a regression of commissioners' financial bond choices, the R2 increased from .32 to .40. When the second, non-statutory version of charge severity was entered last, the R2 increased to only .37.

selection of cash amounts, decisionmaker variation appeared to play a role. In the selection of particular amounts of secured bond, after other factors were held constant, knowledge of which commissioner was presiding increased our ability to account for variability in decisions by approximately 25 percent. See Table A6.3.

Apparently, commissioners tended to be consistent when they had recommendations to follow--in choosing between ROR and secured bond--but they tended to act much less consistently in similar cases when, unguided, the task was to select amounts of secured bond. Because it is through secured bond that detention is achieved, this finding of decisionmaker disparity has important implications for the allocation of pretrial detention as well.

## PRETRIAL DETENTION OR RELEASE RESULTING FROM INITIAL APPEARANCE

The commissioners did not necessarily agree with the model of decisionmaking that assumed that the bail decision was, at least implicitly, a detention versus release decision. For the sake of argument, however, and because of the important impact of the bail decision, we could consider the initial appearance decision more forthrightly as a choice--albeit somewhat murky--of release versus confinement for felony defendants. This is not an unreasonable leap in logic if we recall that a large share of the pretrial release, at least, is determined directly when a commissioner assigns nonfinancial release.

In fact, we know that roughly 40 percent of the felony defendants in the study were released on nonfinancial conditions at initial appearance and that only 47 percent overall gained release within 48 hours (and that only 55 percent ever gained release prior to adjudication of their cases). Thus, 89 percent of initial releases were as a result of OR release at initial appearance, and 73 percent of all releases (early or later) were OR releases. In short, it would not be much of an exaggeration to argue that because so few secured bond defendants were released the commissioner's resort to secured bond at all is almost tantamount to a detention decision. Whatever the amount selected, only 14 percent of defendants secured release through secured bond within 48 hours. (Refer back to Figure 5.4 in the previous chapter.) Simply stated, when a commissioner set secured bond in a case at $500 or higher, the odds were approximately nine out of ten that the defendant would be held for longer than 48 hours. Thus, merely choosing a bond at that level was the functional equivalent to deciding that the defendant would be held.

Given the importance of the detention outcome of the initial appearance decision (for the defendant, for the Court and for the jail), we examined the factors most influential in dividing defendants into the two classes of accused, the confined and the released--whether we can agree that there is a detention decision being made or not.

In examining the allocation of release and detention among Superior Court defendants, multivariate analysis revealed the following characteristics of defendants and their cases to be central:

1. whether the charges involved a class 3 felony;
2. the existence of outstanding warrants or detainers;
3. whether the defendant had a record of recent arrests (within the last 3 years);
4. whether the defendant reported earnings for the last year;
5. whether the defendant had a telephone;
6. whether the pretrial services staff recommended nonfinancial release;

Other factors constant, having outstanding warrants or detainers and/or having recent arrests added to the prospects of detention; having felony three charges, a verified local address, and having a telephone lowered the defendant's chances. These findings parallel those reported for the analysis of the bail decision: community ties, criminal charge and prior history measures played a role in differentiating the detained and released defendants.

However, the pretrial services recommendation to the commissioner (for nonfinancial versus financial bond) once again predominated: In regression terms, it accounted for roughly twice the variance in custody outcomes of all the other items of information taken together. Logit analysis produced a model of the release/detention decision that fit the data substantially better when the pretrial services recommendation was included. (Without the recommendation, a successful model could not be generated.) If a defendant was recommended for secured bond instead of nonfinancial release by pretrial services, the chances were great that--other factors notwithstanding--detention would result. (See Table A6.4.)

## THE PERFORMANCE OF DEFENDANTS DURING PRETRIAL RELEASE IN MARICOPA COUNTY

The Judicial Steering and Policy Committee in Superior Court was interested in examining the consequences of the pretrial release decisions occurring at initial appearance. As was noted earlier, Maricopa defendants were followed up for a period of 90 days from release to determine the extent of failure to appear in

court (FTAs) and rearrest for crimes committed during the pretrial period. A major goal was to discover factors predictive of defendant misconduct during pretrial release.

Earlier we noted that of all felony defendants securing release prior to adjudication in Maricopa County, 8 percent failed to appear in court for a required proceeding and 11 percent were rearrested for crimes occurring during the pretrial period.

At least four problems make statistical prediction of either version of pretrial misconduct difficult in Maricopa County (and elsewhere).

First, statistically, it is difficult to predict an extremely rare occurrence--and certainly "failures" occurring in less than one in ten cases of released defendants are rare.[58]

Second, it is difficult to examine the phenomena of interest when only about half of all defendants secure pretrial release. The large detention proportion in Maricopa makes this problem worse there than elsewhere. The resulting study can only analyze a limited or selective sample of defendants. Many of those detained may have been equally good risks, but since they were not released, we were unable to study them. We were only able to study those released and, thus, it is difficult to generalize about the risk characteristics of Maricopa defendants overall.

Third, to the extent that the system causes the detention of higher risk defendants generally--as opposed to randomly holding defendants regardless of their risk attributes--then the bias problem is accentuated. Presumably, the job is to predict which defendants among lower risk releases will perform like higher risk defendants, most of whom may have been screened out of the sample by detention.

Finally, there is the very practical problem of information. The success of statistical prediction is also tied to the availability and accuracy of descriptors of defendants' backgrounds, histories and cases that may be related to outcomes during pretrial release. Jurisdictions vary in the degree and variety of information available.

Predictors of Pretrial Flight

Given the limitations caused by the high rate of detention and the low rate of flight among those who do gain release, we would not expect our statistical efforts to produce strong results. Nevertheless, in the analysis of

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[58] For a good discussion of statistical prediction of future events in criminal justice, see S. Gottfredson and D. Gottfredson (1986). Note that, in actuality, we are talking about "post-diction," that is, trying to identify correlates of the phenomenon once it has already occurred as if we were predicting flight and crime from the vantage point of the bail/pretrial release decision.

FTAs, we were able to discover a model of several predictors that fit the data well and helped to distinguish among lower and higher (flight) risk defendants. (See Table A6.5.) They included the following:

1. Police see defendant as flight risk: the police arrest report indicates that the arresting officer believed the defendant posed a risk of flight. This item increased the likelihood that defendants would flee.
2. Living alone: increased the defendant's risk of flight.
3. Charges involving a person victim: when defendants were charged with crimes against the person, other factors held constant, they were less likely to fail to appear in court.
4. Defendant having telephone: lessened the prospects for subsequent flight from court.
5. Prior record of FTAs: a prior history of failing to appear in court added to the chances that a defendant would do so again during pretrial release, other factors taken into account.

Predictors of Pretrial Crime

The limitations described above did hamper discovery of predictors of rearrest of defendants during pretrial release. When taken together, three factors related to rearrest during pretrial release at the bivariate level, such as prior FTAs, having more than one suspect involved in the alleged offense and/or earning wages during the last year, however, could produce a satisfactory prediction. (See Table A6.6.)

Predictors of Misconduct Generally (Flight and/or Crime)

Because the decisionmakers might also have liked to consider defendant performance during pretrial release more generally as either flight or crime, we attempted to identify factors that could predict defendant failure during the pretrial release period. Multivariate analysis seeking to predict misconduct as generally defined, identified the following attributes as important (see Table A6.7):

1. Police view defendant as flight risk: the arresting officer's notation of the defendant as a potential flight risk was related to greater chances of subsequent failure.
2. Charges involving crimes against the person: lessened the chances of subsequent misconduct.

3. Living alone: made the defendant a poorer risk than otherwise, once other relevant factors had been controlled.

4. Robbery charges: when robbery charges were included among the defendant's current charges, the odds for failure increased, after taking other factors into account.

5. Prior history of FTAs: increased the chances for failure.

6. Police cite risk and defendant has prior FTAs (interaction): when both factors were present, they increased the prospects that a defendant will engage in misconduct.

7. Police cite risk and defendant lives alone (interaction): when both factors were present, they added to the probability of defendant failure.

## SUMMARY OF FINDINGS DESCRIBING PRETRIAL RELEASE DECISIONMAKING AND ITS OUTCOMES IN MARICOPA COUNTY

In this chapter, we have examined ways of looking at the Superior Court commissioners' decision task at initial appearance, we have attempted to discover factors most influential in producing those decisions and we have considered some of the critical outcomes of the decisions, such as release versus detention, and flight and pretrial crime.

Several findings seem especially important:

1. The bail/pretrial release decision could be conceptualized best either as a two step (nonfinancial versus financial; amount of financial bond) decision or, almost as usefully as a choice of simple amounts of bond. It did not appear to operate as a choice of least restrictive alternatives, as legal theory might suggest.

2. The pretrial services recommendation played a powerful role in influencing the commissioners' choices.

3. The pretrial services recommendation could not be adequately "explained" statistically by available characteristics of defendants or their cases; rather, it appears to some extent to be based on the subjective judgment of the recommenders. The recommendation was found not only to affect greatly choices between nonfinancial and secured bond options, but to play an important part in determining whether a defendant gained release. The recommendation was not found to influence commissioners' choices when, having decided that secured bond was appropriate, they selected particular amounts of secured bond.

4. When commissioners resorted to use of secured bond, the result was that the vast majority of defendants were detained, at least temporarily. When secured bond exceeded $500--which it usually did--detention (for longer than 48 hours) resulted in approximately 90 percent of the cases.

5. In the selection of particular amounts of secured bond, when all other factors were held constant, which commissioner was presiding at initial appearance had an important influence in the kinds of decisions defendants received.

6. An unusually large number of defendants were held before trial in Maricopa County (whether measured as detained for 24 hours or longer or as detention throughout the pretrial period).

7. Associated with the high rate of detention among Maricopa felony defendants were low rates of failure-to-appear and rearrest for crimes occurring during pretrial release. However, as we shall see in our discussion of Dade County, comparison with other jurisdictions suggested that similarly low rates could be achieved without such a frequent resort to pretrial detention. (See the discussion of the effectiveness of pretrial release practices in Chapter Nine below.)

8. Defendants who did achieve pretrial release were studied for a follow-up period of 90 days to learn the nature and extent of pretrial flight and crime. Because only just over half of defendants secured release and because of the low rates of failure among them, development of predictive factors associated with pretrial misconduct was constrained. A reasonably good prediction of flight (FTA) during pretrial release was derived. Prediction of rearrest for crimes during pretrial release was not as successful. A reasonable prediction of general misconduct (flight and/or crime) during pretrial release was obtained.

## Chapter Seven

# THE NATURE OF BAIL DECISIONMAKING: RELEASE AND DETENTION AMONG FELONY DEFENDANTS IN CIRCUIT COURT, DADE COUNTY

Initially, the Judicial Steering Committee in Dade County directed the research staff to examine bail and pretrial release practices for both misdemeanor and felony defendants. After discussion of the preliminary results at the first few meetings, the committee requested that we focus our attention on cases being processed as potentially bondable felonies.[59]

The path taken by felony cases was quite different from the one followed by misdemeanors. Dade County felony arrestees were booked at the central pretrial detention facility to await a bond hearing. The bond hearing, presided over by a County Court judge during the week and a Circuit Court judge on weekends, could be held very shortly after arrest, or as much as 12 hours later, depending on the timing of the arrest and the next scheduled court session. Theoretically, all bondable defendants were interviewed by pretrial services staff before the bond hearing; however, felony defendants had the opportunity to pay their bond as specified by a bond schedule, or to have the money posted by a friend, relative or in a number of cases, a bondsman.

Early in our study of the bond/release process in Dade County we discovered that pretrial release was determined at two early stages, rather than one as in Maricopa County. First, nearly one-fifth of all defendants gained pretrial release by posting bond via the bond schedule at the jail before the bond hearing. Second, the remaining defendants appeared before a judge--after a pretrial services interview--for a bond hearing.

## BOOKING STAGE RELEASE: THE IMPACT OF THE BOND SCHEDULE

Approximately 80 percent of felony defendants gained pretrial release within 90 days of booking in Dade County during the study period. However, nearly 20 percent secured release in less than one day by posting bond

[59] The following offenses listed under the Florida penal code are not bondable at the first judicial stage: attempt or solicitation for capital felony with a firearm (775.087), possession of bomb or explosive device (790.161), burglary or breaking and entering, armed (810.020, burglary with assault (810.020), forcible rape (794.021), kidnapping for ransom (805.020), kidnapping (787.01), murder in the first and second degree (782.040), rape (794.010), robbery using firearm/deadly weapon (812.130), sexual battery by threats (794.011), sexual battery on minor by adult (794.011), sexual battery on minor by minor (794.011), sex offenses (794.021).

immediately after booking using the bond schedule. Thus, roughly one in five felony defendants gaining release did so promptly as a result of the bond schedule.

Like traditional bond schedules used earlier in the twentieth century, the Dade County bond schedule ranks offenses according to their seriousness[60] and assigns an amount of bond that must be posted to permit a defendant's early release. Certainly, members of the judicial work committee were aware of the controversy surrounding the use of bond schedules.[61] Critics have argued that schedules discriminate against poor defendants by setting a fixed price on release according to the charged offense rather than taking into account individual factors that might demonstrate the potential risk a defendant posed. In other words, what on the surface appears equitable--setting bonds for similar offenses at fixed levels--merely means that defendants who could raise bail could obtain release while those who cannot, do not. Bond schedules thus produce release or detention largely on the basis of a defendant's financial assets (or lack thereof) rather than on the basis of criteria related to his or her propensity of flight or crime. Related to this criticism is the controversy surrounding the role of bondsmen who, because of this structural role for financing in release determinations, entered the process for profit.

Because of this well-known criticism of bond schedules, our investigation focused as a first step on the role played by the bond schedule. If fully 20 percent of all entering defendants were paying for their release before appearing before a judge and before being reviewed by pretrial services, a number of important questions had to be asked:

1. How did defendants gaining release by paying the bond required by the schedule differ from those who appeared at the bond hearing and had bond set and release determined through judicial channels?

2. How did these defendants "perform" during pretrial release, compared to the other defendants who underwent a more thorough and thoughtful review prior to a bond decision or pretrial release?

These questions are important because, if we found, for example, that only a defendant's (on hand) assets determined booking stage release, we might question both the fairness and effectiveness of the bond schedule. Fairness would be an issue because only those with financial resources were achieving release; effectiveness would be an issue because the availability of financial resources may not be a good determinant of a defendant's

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[60] This is done periodically by a committee of judges and is based mostly on the way offenses are graded under the criminal code--with some exceptions principally relating to local ordinances.

[61] For good examples of critical discussions in this area, see Beeley (1927), Foote (1954), A.B.A. (1968).

dependability.[62] (Consider the case of an alleged drug trafficker, for example, with plenty of assets but little intention of returning to court.)

If defendants released at the booking stage differed little in the character of their cases or their likelihood of misconduct during pretrial release from those released later, we could ask if it is more appropriate to have later releases released earlier or early releases released later. We will discuss the first question here and treat the second issue in a subsequent section in which the performance of Dade defendants is analyzed.

The Determinants of Release at the Booking Stage

The ranking of offenses incorporated into the bond schedule appears to begin by categorizing defendants according to their statutory grading (felonies 3, 2 or 1) and then subdivides those broad categories into subcategories judged to be worthy of lower or higher amounts of bond. The factors that differentiate among subcategories of bond appear to include various indices of the seriousness of the offense charged, such as whether the crime involved robbery or drug charges, whether force was used, whether a weapon was used.

When the bond schedule is used for obtaining release, the defendant must post amounts required for each of the charges--not just the most serious. The number of charges, by implication, is a factor in the schedule's ranking of the seriousness of charges and in the prospects for a defendant's release by posting bond at booking. (Under this system, it is possible for a defendant charged with several charges of lesser seriousness to have a higher bond to post than a defendant charged with one more serious charge.)

Multivariate analysis of the factors associated with whether defendants secured release as a result of the bond schedule produced the following interesting findings:

To some extent, gaining release at the booking stage was related to the seriousness of charges as might have been expected. This was expected in the sense that it was slightly more unlikely that defendants charged with offenses ranked as more serious by the schedule (thus having higher bonds) would obtain booking stage release. Other factors, however, appeared much more important in the explanation of who gained release and who did not: a defendant's financial resources, living arrangements and having a telephone were very influential. Those with

[62] In Part D. of this chapter, we present our predictive analyses of pretrial flight and crime among Dade felony defendants who gain release. No factors that could be construed as relating to a defendant's assets or economic status emerged as predictors of misconduct during pretrial release.

resources, those not living with close family or friends, and those having a telephone were clearly more successful.[63] See Table A7.1.

Determining Differences between Defendants Released at the Booking Stage and Defendants Released Later

The Dade County bail system did not release all defendants before trial. Some (20 percent) were released immediately as the result of the bond schedule mechanism and some (another 60 percent) gained release later after going through the bond hearing stage. Using multivariate analysis, we attempted to distinguish between the earlier and later releases. Table A7.2 shows that given the information we had at our disposal strong, clear differences were not found.

Because attributes differentiating defendants gaining release at the booking stage and defendants gaining release sometime later were not identified, we conclude that they did not appear to differ thematically from one another to a marked degree. Overall, therefore, of the defendants whom the system was going to release, whether a defendant gained release early or later occurred in large part randomly.

## DECISIONMAKING AT THE BOND HEARING STAGE

For the remaining 80 percent of entering felony cases we studied during 1984, pretrial release or detention was determined by a judge's bond decision at the bond hearing in Circuit Court.[64] To simplify our analysis of an estimated 1,772 cases reaching this major decision stage (on weekends between June and October during 1984), we once again discussed conceptualization of the judges' decision task with the Judicial Steering and Policy Committee that had been assembled by the presiding judge of Circuit Court and chaired by the criminal presiding judge. Like the Maricopa County judges and commissioners, the Dade County judges found it helpful to view the decision task as a two-part decision: the first part involving a choice between nonfinancial release and cash bond; the second involving selection of a form of nonfinancial release or, for financial defendants, a bond amount.

[63] Because a good measure of a defendant's immediate assets was not available in our data, we reasoned that the judges determination that a defendant should be afforded a public defender could be used as a stand-in measure. If a judge at a bond hearing determined that a defendant did not have the ability to pay for his/her own counsel, we reasoned that this could serve as a measure of the defendant's resources. It turned out to be the most important factor in explaining who gained release at the booking stage.

[64] Actually, the correct estimate is 79 percent, approximately 1 percent of defendants are permitted release through court administrative order prior to the bond hearing stage by pretrial services.

The Judge's Choice Between Nonfinancial and Financial Bond: the First Decision Component

Although we attempted to determine how judges' differentiated between candidates for nonfinancial release (of any form) and financial bond, statistical analyses were unable to detect strong systematic themes. (See Table A7.3.) To some extent, being charged with drug trafficking and other drug-related offenses, being charged with robbery, or being charged with first degree felonies, and having prior arrests for serious property offenses were associated with a higher probability of financial bond. Having a telephone decreased the odds of receiving financial bond.

There are several possible explanations for this rather surprising finding. First, perhaps we have not recorded important information concerning the defendant or his/her case, and as a result have not been able to detect its influence. Our major suspicion, however, is not that key information was missing from the various agency files and court records we examined, but instead that the pretrial services oral, in-court recommendation may have been playing a very important role. Because the oral recommendation was not documented, we were not able to record it with other data or to consider it in our analyses.

If we assume that there was a great concordance between pretrial services recommendations and judges' bond hearing decisions, we should have been better able to explain the judges' choice between financial and non-financial options statistically--if only that information had been available. Thus, because pretrial services recommendations were not noted (i.e., did not leave a "paper trail"), we were unable to assess their importance in fact, particularly after the effects of other factors have been taken into account.

Although this explanation is certainly possible, it would nevertheless be surprising if the pretrial services recommendations did not also rely on some criteria we had recorded and measured. Thus, it remains unusual that these factors have not explained the judges' choices better and raises the possibility that judges as a group apply criteria inconsistently in their assignment of financial versus nonfinancial bond at the bond hearing stage.[65]

As Table A7.3 shows, we also attempted to learn whether, holding other factors constant, the judge presiding at bond hearing made a difference in the likelihood that defendants would receive nonfinancial versus

[65] Or, to be fair, we could also infer that judges may be very consistently following the recommendations of pretrial services staff, but that the recommendations of the staff are not explained by reliance on consistent, measurable criteria. Without data, we cannot say. We can only report the overall result which is that the differentiation between use of nonfinancial and financial options at the bond decision cannot be well explained by the factors that were available to us in our research.

financial release. In fact, the presiding judge did make a statistically significant but practically inconsequential difference.

For Nonfinancial Defendants: Choosing between Pretrial Services and Other Nonfinancial Options

Approximately 69 percent of felony defendants reaching the bond hearing stage were assigned nonfinancial release of some sort. Roughly 70 percent of the nonfinancial decisions were assigned to pretrial services for supervision or routine notification. Judges had a number of nonfinancial pretrial release options to consider, and therefore we sought to determine the kinds of attributes of defendants or their cases that might have played important roles in the judges choices. At the time of the study, there were, in addition to ordinary pretrial services supervision, drug/alcohol referrals, a domestic abuse program and a Hispanic support/supervisory program available for nonfinancial defendants and not associated with the pretrial services program.[66] Our analyses identified several themes differentiating modestly among defendants to be assigned to pretrial services and defendants to be assigned the other nonfinancial alternatives by judges at the bond hearing. (See Table A7.4.) Being Hispanic, having drug or alcohol related problems and being charged with certain offenses increased the probability slightly that defendants would be assigned to the alternative programs.

The Near Total Dominance of the Bond Schedule on Judges' Bond Choices and "Alternate Bond"

Just less than one third (31 percent) of felony defendants were assigned cash bond at the bond hearing stage in Circuit Court. Although we noted above that we were not successful in establishing how these defendants differed from those given nonfinancial release, we next attempted to determine how judges chose among bond amounts in cases in which some form of nonfinancial release had been ruled out.

We began by asking how important the bond schedule was in influencing the judge's choice of bond amount at the bond hearing. Our finding is that in the cases for which nonfinancial release was not granted, the amount suggested by the bond schedule was nearly the exclusive governing factor. (See Table A7.5.) One secondary factor was also (but much less) important: if the defendant was charged with drug trafficking, cash bond was likely to be higher.

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66 In the period between the background study of bail/pretrial release practices and the development and implementation of guidelines, a number of these programs became organizationally affiliated with the pretrial services program.

As a result of our analysis and discussion of the results with the Judicial Steering and Policy Committee in Dade County, we soon found that the conceptualization of the bail task we had employed (Model 2 in Figure 6.1 above) really did not apply well, principally because the bond schedule was such a powerful influence on bond hearing decisionmaking. Before the bond hearing, 20 percent of entering felony defendants gained release on cash bond using the bond schedule. The bond hearing appeared largely as a decision to either stick with the bond dictated by the bond schedule (this was the case with about 45 percent of defendants) or to make an exception--based on a rationale supported by the pretrial services recommendation or other organization--and grant a nonfinancial release.

This finding was so powerful that there was no detectable effect based on the presiding judge, once these factors had been taken into consideration, because there was nothing (no variability in decisions) left to explain. (In other jurisdictions we found a great diversity in cash bond decisions among judges, after other factors have been taken into account.)

The centrality of the bond schedule in judges' decisions at the bond hearing was also reflected in another unusual practice, referred to as "alternate bond." Alternate bond was an amount of bond dictated by the bond schedule that was set as a sort of "backup" when a nonfinancial release option was selected; i.e., the apparent rationale was that should anything go wrong during the defendant's supervision by pretrial services, the defendant automatically had a financial bond requirement in effect. In some respects, then, alternate bond resembled what is referred to as "unsecured bond" in other jurisdictions. Unsecured bond is used in those locations to permit the release of defendants without requiring the posting of any financial security, but implying that, should the defendant violate any of the conditions of release, he or she would owe the specified amount of unsecured bond to the court (much as would a defaulting defendant who had a cash bond set).

This practice had another effect, however; it permitted defendants assigned to pretrial services for supervision during the pretrial period to "buy out" of that supervision. In essence, the defendant had the choice of either agreeing to the terms of supervision or to post the cash bond and avoid supervision.

The practice of alternate bond was unusual, but can probably be explained as one reason way judges felt more comfortable about using nonfinancial release more frequently during the days when pretrial services were being first developed in Dade County. In a sense, the judge was able to shift the responsibility for nonfinancial

release to the pretrial services agency, using alternate bond to say what the bond would have been, if he or she had not been persuaded to take a chance on pretrial services. This interpretation is further supported by the fact that the pretrial services program was run as part of the corrections department. Judges could assign nonfinancial release and feel that the defendant's behavior was now the responsibility of corrections, not of the Court.

## RELEASE OR DETENTION BEFORE TRIAL AT THE BOOKING AND BOND HEARING STAGES

Perhaps the most important result of the booking stage or bond hearing (for the defendant, the courts and the jail) was whether the defendant gained release or awaited proceedings in jail. Figure 7.1 depicts the stages at which Dade County felony defendants gained release from custody during the study period. (See also Figure 5.3.)

### Release within Forty-eight Hours of Booking

We examined the factors associated with release within 48 hours to determine the impact the bond schedule and the bond hearing had on the pretrial release or detention of defendants overall. Approximately two-thirds of defendants (66 percent) had secured release through one means or another by that time. We reasoned that although approximately one-fifth of defendants were still able to secure release at a later date, defendants released early in the process as products of early decisions[67] may be said to represent the system's "intentional" release decisions.

When taking many factors descriptive of defendants and their cases into account in multivariate analyses, several emerged which modestly explained the release or detention of defendants before trial within 48 hours. (See Table A7.6.)

First, factors related to the seriousness of a defendant's charges increased the likelihood that the defendant would not be released within two days. These included the seriousness ranking from the bond schedule and the presence of burglary and robbery charges. The assignment of a public defender reduced the likelihood of release within that period of time.[68] Records of recent arrests and prior convictions for property crimes and for

[67] For the purposes of this analysis, we consider the policy of permitting release through the bond schedule at booking a "decision."

[68] We said earlier that this variable may also be understood as a "stand-in" indicator of a defendant's lack of financial assets. Thus, the alternative interpretation is that after the effects of charge-related factors are controlled, lack of financial resources serves to increase the probability of detention.

misdemeanors were related to lower chances of release within 48 hours. A small but significant effect on a defendant's prospects for release was found when the judge sitting at the bond hearing was considered. (That is, the chances of release varied with the judge presiding.)

However, the analysis was not successful in identifying criteria that were strongly related to the prospects of release or detention at this stage. One interpretation of this finding may be that whether a defendant is released or detained at this stage was partly random.

Means of Release

Dade felony defendants gained release before adjudication through the means shown in Figure 7.2. We attempted to determine which criteria may have played a role in their use in multivariate analysis. We are unable to report statistically meaningful results in comparing means of release, except when examining nonfinancial versus financial release generally.

Financial versus Nonfinancial Release

Among released defendants, we attempted to determine whether there were important differences between those gaining release by posting cash and those released through nonfinancial means. Slight differences between the groups could be detected. (See Table A7.7.)

Defendants assigned a public defender, charged with drug-related offenses, and employed, had greater probabilities of release through cash bond. Having a public defender, having a verified local address, and not living with a close family member increased the odds of financial release. Having prior FTAs, being charged with a crime against a person or a crime involving stolen property increased the chances that the defendant was released on financial bond. Being black and having bond decided by Judge 41 also increased the odds that release would be financial, other factors held constant.

## THE PERFORMANCE OF DADE FELONY DEFENDANTS DURING PRETRIAL RELEASE

In Chapter Five, we reported that of the Dade County felony defendants gaining release before trial, approximately 11 percent failed to appear in court and 6 percent were rearrested for crimes committed during the pre-adjudicatory period. Of course, the Steering Committee discussed whether these rates of defendant misconduct

Figure 7.1 Pretrial release of felony defendants entering the criminal process in Dade County Circuit Court, by decision stages, summer 1984

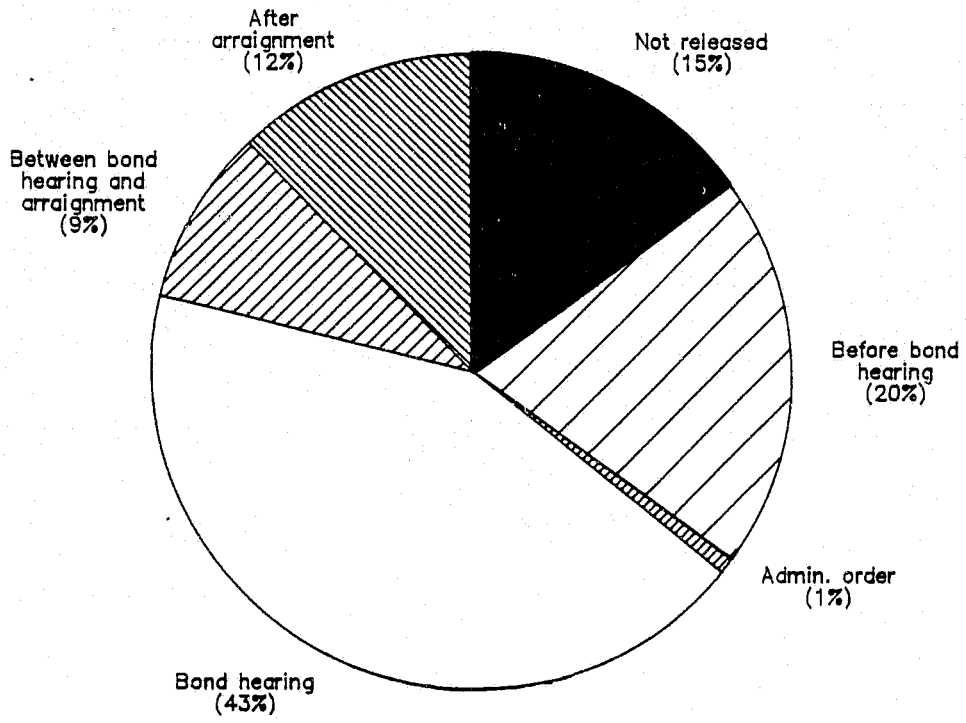
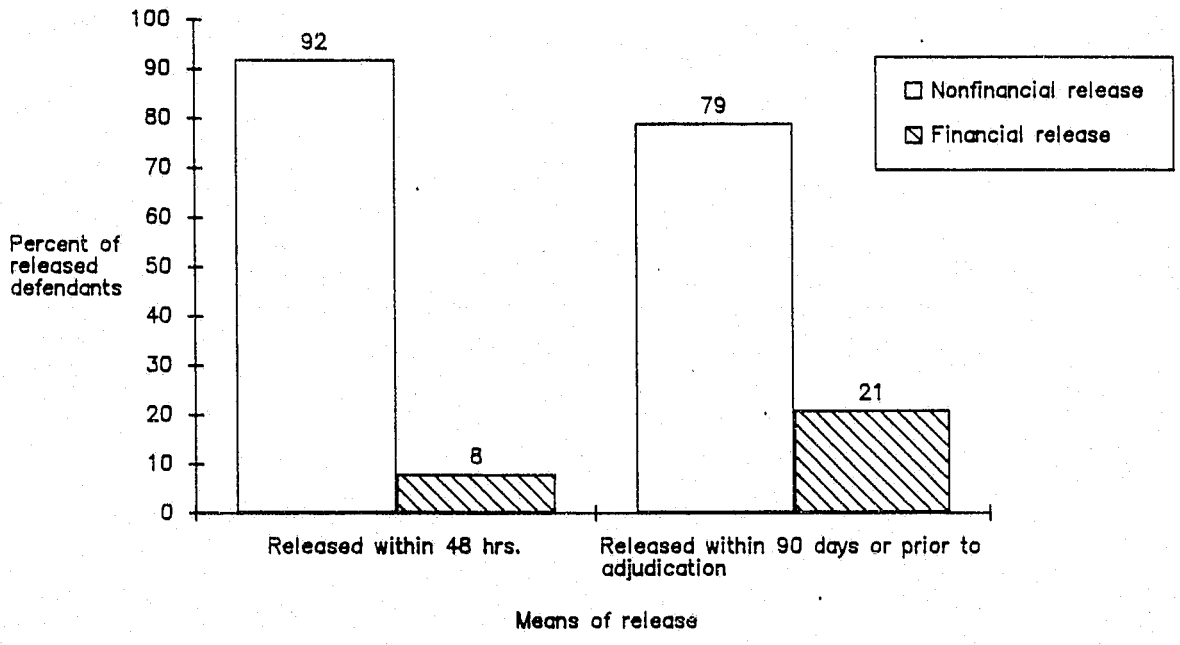



Figure 7.2 Means of release (nonfinancial vs. financial) of persons gaining release before trial in Dade County, April–October, 1984



should be viewed as favorable or unfavorable statistics (we will treat this question, the "effectiveness of pretrial release," in Chapter Nine) and asked us to develop predictors of flight and crime.

Prediction of Defendant Flight

Because of the unavailability of some defendant-related and other kinds of potentially relevant data in Dade County[69] and the relatively low rates of defendant misconduct, the multivariate analysis of failure to appear among defendants discovered only several weak predictors that helped distinguish among low and high (flight) risk defendants, after taking the effects of other factors into account. (See Table A7.8.)

Our best model of flight included the following factors:

1. Prior failures-to-appear (based on bench warrants and/or alias capiases): the greater the number of prior failures-to-appear, the higher the likelihood of flight.
2. Judge deciding bond: After other factors were controlled, the judge who decided bond slightly but significantly affected the probability of defendant flight.[70]
3. Felony 2: charges designated by statute as felony 2s added to the probability that a defendant would fail to appear in court.
4. Having a telephone: defendants having telephones showed a lower risk of flight, after other factors were controlled.

Note that, although charge-related factors were related to the probability of flight (whether they were felony 2s, which were largely theft-related), the general seriousness of charges was not a good predictor (it was not statistically related). In addition, the identity of the judge deciding bail (whether the judge was Judge 36 or not) made a difference in the probability that defendants would flee.

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[69] See the discussion of some of the obstacles to successful statistical prediction described in the context of Maricopa County in Chapter Six above. See also Table 3.1.

[70] The predictive analysis of failure to appear was conducted using the same method as analyses described earlier in this report. Bivariate analyses of a very large number of demographic, charge-related, prior history and system variables were conducted to identify relationships meeting a minimal statistical standard. Multiple regression was used next to help screen out independent variables having little explanatory power when controls were exercised. When a reasonably small number of candidate variables had been located in this manner, logit analysis was conducted to develop a model that fit the data well. In this analysis, a minimally adequate regression analysis was produced (the results described are from that analysis), but no significant logit model could be derived. We conclude that our predictive analysis of flight among Dade defendants yielded results that were very weak indeed.

Prediction of Pretrial Crime

For some reason, prediction of rearrest for crimes committed by defendants during pretrial release was somewhat more successful (based on logit results). Two criminal history measures figured most importantly in the model developed (see Table A7.9):

1. Arrests within the last three years: the greater the number of recent arrests, the higher the probability of rearrest during pretrial release, other factors constant.
2. Prior felony convictions: the presence of a felony record was related to increased odds of rearrest during release.

The general seriousness of the criminal charges (either measured by statutory grading or the bond schedule ranking) was not related to rearrest. Although these two factors alone generated a satisfactory statistical model of rearrest, a better model was constructed when knowledge of the bond judge's identity and of whether the defendant gained release before or after the bond hearing stage was taken into account (both factors decreasing the prospects of rearrest. (Early release and not having bail decided by judge 17 improved the prospects for no rearrests during pretrial release.

Prediction of Misconduct (Flight or Rearrest)

We could argue that the Court's concern at the early bond stages could be usefully thought of as a more generalized concern for the prospects of defendant misconduct, meaning the prospects for flight or crime. When we tried to predict simply whether a defendant would "fail" (either be rearrested or flee) during pretrial release, we were not able to develop a model that fit the data well (see Table A7.10):

## SUMMARY OF FINDINGS DESCRIBING BAIL/PRETRIAL RELEASE DECISIONMAKING AND ITS OUTCOMES IN DADE COUNTY

Summarized briefly, the multivariate analyses of data describing the progress of felony defendants entering the criminal process in Dade County during the summer of 1984 produced the following principal findings:

1. Pretrial release or detention of defendants occurred as the result of two principal stages in Dade County: the booking stage (at which defendants may post the bond specified by the schedule), and the bond hearing (at which defendants may be released under nonfinancial conditions or have financial bond set).

The bond schedule specified bond to be paid by the defendant at booking according to a ranking of offenses. (In the event that defendants were charged with multiple charges, each charge was ranked and assigned a bond amount.)

Although to some extent persons charged with seriously ranked offenses showed poorer chances of posting bond at the booking stage than persons charged with offenses ranked less seriously, the principal determinants of release at the booking stage were factors indicative of a defendant's financial assets or ability to afford bond and are not related to his/her probability of flight or pretrial crime.

2. Persons securing release before the bond hearing via the bond schedule at the booking stage differed very little from persons securing release at later stages.

3. At the bond hearing, analysis organized the judges' choices into two stages for study: in the first, the judge decided between the appropriateness of financial and nonfinancial options; in the second, the judge decided which nonfinancial options (pretrial services versus others) and financial amounts are appropriate.

In the first stage, roughly 69 percent of felony defendants were given nonfinancial options and 31 percent had secured bond set at the bond hearing.

Multivariate analysis was not able to explain well how judges distinguished between nonfinancial and financial bond decisions, although weak themes were detected. When other factors were controlled, the seriousness of charges (from the bond schedule ranking) did not explain the prospects of financial versus nonfinancial bond choices by the judges well.

We draw two conclusions:

a) Probably, the in-court, oral recommendation of staff of the pretrial services and other programs had great influence on the judges' choices at the bond hearing (since this was oral and not documented, we can only assume this).

b) The choice between financial and nonfinancial options by judges at bond hearing was to some extent inconsistent and unpredictable. We infer this because, since pretrial services recommendations would be based on criteria we did have available to examine, these criteria would be found in our analyses to explain the judge's choice statistically as well. They did so only in a very weak sense.

4. Of the defendants receiving nonfinancial decisions at the bond hearing, approximately 70 percent were assigned to pretrial services. In analyzing the judges' choices between pretrial services and other nonfinancial options, some patterns were found: defendants living in the Dade area, living with close family or friends, defendants having co-defendants in their cases, and black defendants had greater chances of assignment to pretrial services. Hispanic defendants, defendants having prior felony convictions, defendants charged with alcohol or drug related offenses had smaller likelihoods of nonfinancial release through pretrial services.

5. Approximately 31 percent of defendants reaching the bond hearing had (financial) bond set. Analysis of factors relied on by judges in selecting particular bond amounts revealed one major finding: the bond schedule ranking was the dominant factor in the selection of bond amounts. To a very secondary degree, whether or not the defendant's charges involved drug trafficking was influential in determining bond amount.

The dominance of the bond schedule in pretrial release decisionmaking in Dade County emerged powerfully. When we consider that it served as the vehicle for the release of 20 percent of defendants after booking and served as a virtual judge's guide for the bonds of financial defendants at the bond hearing (another 24 percent of all defendants) and for the "alternate bonds" for the remaining defendants, we are led to reconsider the conceptual model of the bail task in Dade County. Rather than the "two step" task we had agreed to analyze (consisting of the choice between nonfinancial and financial options, and then of choosing nonfinancial conditions or the amount of financial bond), a more forthright conceptualization is a model that uses the bond schedule as the presumptive guide. Judges appear to be asking the question of pretrial services, for example, "Why should I not assign the bond specified by the bond schedule in this case?"

6. Roughly two-thirds of felony defendants obtained release within 48 hours (81 percent were released within 90 days). Analysis at the post bond hearing stage (or within 48 hours of booking) showed some rather weak roles for several criteria determining release versus detention: release did depend on the general seriousness of charges, the presence of burglary or robbery charges. Having a history of prior arrests and prior convictions for property crimes as well as having been assigned a public defender were associated with lowered chances for release within that period. We believe that, in this context, it is more appropriate to regard the appointment of the public defender as a reflection of a defendant's financial status, rather than a factor somehow lowering the defendant's prospects for release.

7. However, to a large extent the differentiation between detained and released defendants was unexplainable in multivariate analysis. We conclude that this inconsistent use of pretrial detention is the product of several phenomena: a) the partly random effect of the bond schedule at the booking stage on the release of defendants; b) the partly random effect of the judge's choice between financial and nonfinancial options at the bond hearing; and c) the partly random effect of the bond schedule on release when applied to the judge's selection of bond amounts at the bond hearing.

8. Of all felony defendants gaining release before adjudication, 25 percent gained release by means of the bond schedule at booking, 60 percent by nonfinancial bond and 15 percent through financial bond after the bond hearing.

The vast majority of defendants having cash bond set at the bond hearing were detained, at least for the short term; 85 percent were not released within 48 hours.

As Figure 5.4 showed earlier, the level of bond set did not correspond directly in a monotonic fashion with the odds of pretrial detention in Dade County. Rather, bond set in any amount over $500 detained a majority longer than two days. Bonds of over $1,000 detained defendants in at least 9 of 10 cases for two days or more; higher bonds were, in effect, "overkill." Thus, in a vast majority of cases receiving financial bond at the bond hearing stage, the judge's resort to financial bond was tantamount to a detention decision--at least for the short term.

9. However, bond hearing defendants with bond set increased their probabilities of release considerably over time, from 15 percent within two days of booking to 52 percent within 90 days. The odds that bond defendants would secure release within 90 days was nearly unrelated to the amount of bond that had been set at the bond hearing.

For, example, 44 percent of defendants with bond set between $1,001 and $3,000 by the bond hearing judge secured release within 90 days; 65 percent of defendants with bonds over $10,000 did. Thus, particularly over the long run, bond amounts were not reliable yardsticks for determining detention.

10. Multivariate analyses sought to identify factors predictive of failure to appear and rearrest of defendants during pretrial release. These factors, which are modest in their power, are summarized in the text. (Predictive analyses, their strengths and limitations, are discussed in more depth in Chapter Nine.) The general seriousness of criminal charges was not a predictor of (was not systematically related to) flight or crime by defendants who gained pretrial release.

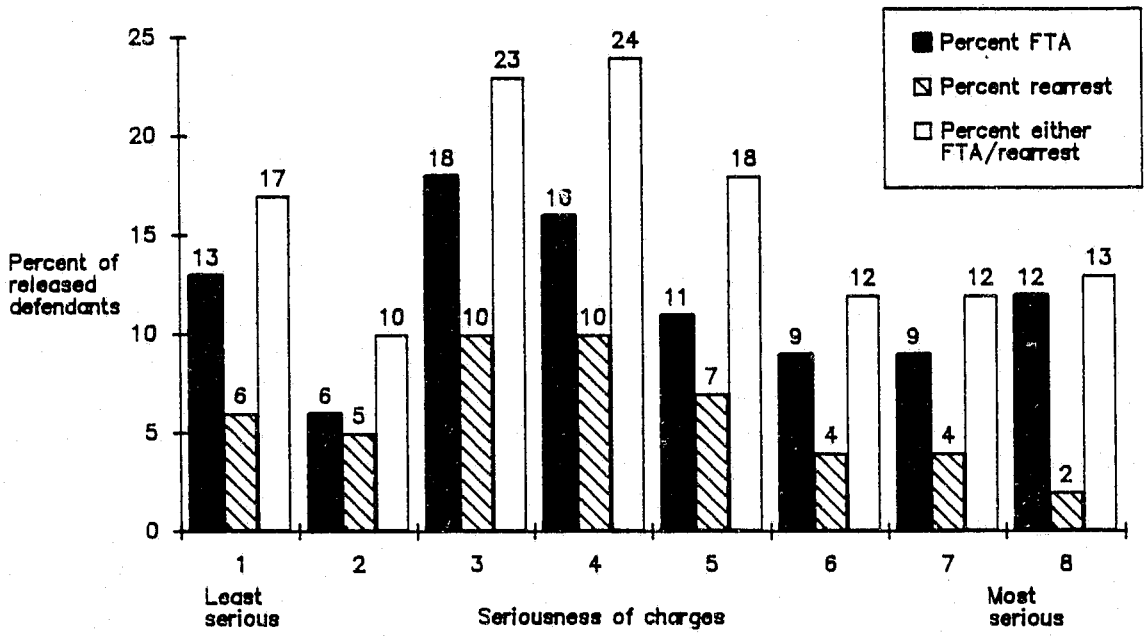
11. The means of release made a marginal difference in the prediction of rearrest: pretrial services and surety release showed slightly lower probabilities of rearrest than other means of release, after the effects of other factors had been taken into account.

In the prediction of failure-to-appear (FTA) and the prediction of misconduct generally (either failure to appear or rearrest) means of release did not appear to make a meaningful difference.

12. Bond decisions and their outcomes (detention v. release, FTA, rearrest) were affected somewhat by the identity of judge presiding at the bond hearing, after the effects of other factors were taken into account.

13. The seriousness of charges, for example as ranked by the bond schedule, was very influential in multivariate analysis of bond and release decisions, but was not statistically related to prediction of flight or pretrial crime. See Figure 7.3.

Figure 7.3 The relationship between the seriousness of defendants' charges (according to the bond schedule) and pretrial misconduct among released Dade County defendants, 1984




[Note: Chi-sq.s were not significant at p = .05.]

## Chapter Eight

# THE NATURE OF BAIL DECISIONMAKING: RELEASE AND DETENTION AMONG DEFENDANTS ENTERING BOSTON MUNICIPAL COURT

## INTRODUCTION: THE LIMITATIONS OF INFORMATION

Our work in Boston, which began by working with two separate Judicial Steering and Policy Committees (one in the Suffolk County Superior Court and one in the Boston Municipal Court), shifted its focus to concentrate centrally on bail/pretrial release decisionmaking in the Boston Municipal Court as the work progressed into more advanced stages.[71] The working committee of the "BMC" often was expanded into open meetings with all judges of the court, schedules permitting.

From the beginning, the discussions of research results and observation of bail practices in the Boston Municipal Court were marked by candor and skepticism. In the committee's direction to the research staff concerning which problems to investigate and in the judges' interpretations of the findings presented, consensus was not often achieved within the group. In nevertheless agreeing on the importance of the guidelines research, many judges expressed the view that--although they recognized many problems with the bail system in their court--there was little else the judges themselves could do to improve matters.

In the views of some of the judges, for example, the Boston Municipal Court was already releasing almost all its criminal defendants because of the pressures resulting from the overcrowded local detention facility, the Charles St. Jail. These judges noted (and our research later confirmed) that several other courts in the Boston area--including the Suffolk County Superior Court--were more responsible for contributing to the population of the Charles St. Jail than was the Municipal Court. Other judges expressed frustration with the poor quality of the information they often received at the initial bail stage (at BMC arraignment), but argued at the same time that any improvement in the information gathering procedures would require resources that were not then, nor would they

[71] Descriptive analyses and meetings to discuss descriptive findings were conducted in Superior Court during the first year and a half of the project's work in Boston. The project shifted its energies to concentrate on Municipal Court for two principal reasons: a) project resources could not support two independent guidelines development processes in the same system; b) the bulk of bail decisions were made at the arraignment stage in Municipal Court. This strategy recognized the importance of bail decisionmaking in Superior Court, however, especially in its bail review and initial bail determination functions. It was argued that, should guidelines development be successful in the "front-line" court (the Boston Municipal Court), extension of guidelines to the Superior Court would be a logical next step.

be available anytime soon. Certain of these judges also expressed the fear that the efforts required to collect better information--such as would be involved in a guidelines program--would also cause the proceedings to bog down and as a result contribute to the system's delay.

In addition to the periodic meetings that were held to discuss findings being generated by the research staff concerning various aspects of the pretrial release process, the staff submitted written questionnaires to the judges and interviewed most of them privately as well. In private interviews, many of the judges were critical of important aspects of the system, but were not hopeful that meaningful action could be undertaken successfully.

In informal questionnaires, the judges ranked the availability of information as a key problem in performing bail decisionmaking tasks. In fact, when the judges were asked to rank the items of information they considered to be most essential to have available at the bail determination, they ranked most highly the same items ranked by them under another question as the most often unavailable or unreliable. This theme of poor information was to become a fact of life with which the research staff would become closely familiar (and one that most heavily influenced the outcome of the guidelines research in Boston).

In our discussion of data collection (see Chapter Three above), we reported that to assemble information that was as complete as possible pertaining to the cases of the defendants we studied, we examined the files and records of eight agencies.[72] Obviously, our ability to study bail decisions, release and detention and their consequences, depended on the availability and quality of information. Table A3.1 contrasted the extent to which different kinds of information were unavailable in the Boston court system as compared with the Arizona and Florida courts involved in the study.73 Two prime examples were criminal history information and arrest report information describing the alleged crime causing the defendant's arrest. (Interestingly, the District Attorney had this at arraignment, but the judge did not).

We call attention to this issue, the availability and quality of information in the Boston court system, not only to explain the constraints imposed upon statistical analysis, but to underscore what may be an important, if painfully obvious finding. Just as the research was constrained by uneven information pertaining to defendants and

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[72] Those agencies included the following: the Clerk's Office for Municipal and Superior Courts, the probation offices for each court, the District Attorney's Office, and the Suffolk County Jail, the Office of the Commissioner of Probation and the Massachusetts Correctional Institute at Framingham.

[73] When information is not obtainable in more than about 15 percent of the cases, it's reliability may be open to question. Some items of information were missing in more than half of all cases.

their cases--and the research staff had the benefit of many months of search and the cooperation of each of the agencies--the judges making decisions at arraignment faced even greater difficulties in obtaining sound information systematically just a few short hours after the defendant's arrest.

Against this background, then, our examination of bail decisions in approximately 2,000 cases entering the Boston Municipal Court between April and October, 1984, centered on the following stages: a) release at the booking stage prior to the defendants appearance in court; b) bail decisionmaking in Municipal Court--including the influence of the assistant district attorney's recommendation; c) release or custody after 24 hours; and d) failure to appear in court and rearrest among released defendants.

## THE DETERMINANTS OF RELEASE OR CUSTODY AFTER POLICE BOOKING

Just under half of the Municipal Court defendants had secured release at the police station just after arrest and prior to appearing in court as a result of having bail set or ROR assigned by a commissioner.[74] Multivariate analysis was employed to discover factors most influential in determining whether a defendant would be released through the bail commissioner after booking or remain in custody until arraignment in Municipal Court the next day. (See Table A8.1.)

We were able to explain the different pre-arraignment custody outcomes (release or detention) very poorly, even considering all the information we had available. Given that we analyzed the data available to the commissioners and are unable to "predict" their decisions, it may be that defendants were freed or held in custody until court on a nearly random basis. Although one might argue that this finding is not particularly important because of the relatively minor hardship imposed by the short period of police station custody before court--between 12 and 15 hours--it is a puzzling finding because of its apparent influence at later stages.

[74] In Massachusetts, "commissioners" have a different meaning than in Maricopa County. Although they answer to a Chief Bail Commissioner for the state and that official reports to the Chief Justice of the Superior Court, they are not judicial officers in the sense of acting judges. Rather, they are part-time officials authorized to set and accept bail at the police station at the booking stage and retain a fee for each bail posted.

[75] We followed the data reduction, regression and logit procedures described in the earlier analyses and were unable to develop a model that fit the data well.

The Prosecutor's Recommendation Concerning Bail at Arraignment

In the Circuit Court in Dade County and in Superior Court in Maricopa County, the judge's (or commissioner's) bail decision at initial appearance had the benefit of a recommendation from pretrial services staff who had interviewed the defendant and reviewed his or her background. In the Boston Municipal Court, the Probation Department improvised a similar role by orally presenting available prior record and court attendance information to the judge at arraignment, except that a recommendation relating to the bail decision was not routinely made.

In observing the arraignment proceedings in the BMC, the research staff was struck by the active role played by the prosecutor in bail proceedings. In Dade County, the District Attorney's staff played a role in the bond hearing--but not usually an influential one. In Maricopa County, a representative of the District Attorney's office was not present for the initial bail determination. In the BMC, the prosecutor played a central role, which included reading to the judge information about the charges from the police arrest report (which, surprisingly, the judge did not have) and making a recommendation in particular cases for higher bail.

Because of the apparent importance of the prosecutor's role, we sought to learn the extent to which judges relied on or were influenced by the prosecutor's recommendation. To examine this question, we received the permission of the District Attorney to examine his files for our sample of defendants to see when the Assistant District Attorney on duty at BMC arraignments noted that a particular recommendation should be made.

One problem with this was that often the decision to make a particular recommendation was made on the spot and was not recorded. In discussion with the District Attorney's staff we learned that in important cases, written notes--however informal--would probably have been placed in the case file. In fact, recommendations were noted in 11 percent of the cases.

Nevertheless, we reasoned that the influence of the prosecutor's recommendation could fairly well be tested by comparing cases in which we found a written note with those in which none was found. Although we were interested in the assistant district attorney's recommendation ultimately to learn of its influence in judges' decisions, we were first interested in learning how it was derived, or what factors seemed to guide it.

In examining which factors were most influential in leading the prosecutor to make a recommendation regarding bail (nearly always for a higher bail), we found that available information did not explain the

recommendation well. Of the factors that were found to explain the presence or absence of a recommendation, those representing the seriousness of a defendant's charges were most prominent. See Table A8.2.

We conclude that the inability to explain statistically the presence of an assistant district attorney's recommendation may stem from difficulty in obtaining an accurate written summary of the recommendation and the reasons behind it (which we were informed by the District Attorney's staff might often have had more to do with prosecutorial strategy than bail risk), from the subjective nature of the assistant district attorney's recommendation, and from the differences likely to occur given different approaches individual assistant district attorneys might have taken.

Arraignment: the Judge's Choice between Financial and Nonfinancial Bail Options

With the concurrence of the participating judges at our BMC meetings, we followed the conceptual models of the bail task we had employed in Arizona and Florida earlier and first looked at the judge's decision at arraignment in the BMC as involving two stages: the screening of defendants into nonfinancial (ROR) versus financial options; and selection of particular amounts of cash for cash candidates and conditions of release for nonfinancial candidates. In the first decision component, about 70 percent of all defendants had personal recognizance set by BMC judges at arraignment, with the remaining 30 percent relegated to some amount of financial bail.

Our meetings and discussions with the BMC judges led us to approach our analyses somewhat differently in Boston than in the other jurisdictions. When we asked how bail decisions were made, we were frequently referred to the Massachusetts statute that outlines criteria judges should take into consideration. The implication was that the judges decided bail by relying on the instructions provided by law.

As a result, we thought it made sense to check that belief with the data we had available. To do this, we first attempted to translate the 17 criteria listed in the law[76] into attributes of defendants and their cases measured in our data. For example, we assessed the "nature and circumstances of the offense" by considering any and all

[76] Massachusetts criminal procedure law (C. 276 sec. 58) lists the following criteria to be taken into account by the bail judge: the nature and circumstances of the offense, the potential penalty, family ties, financial resources, employment record, history of mental illness, reputation, length of residence in the community, record of convictions, illegal drug distribution, present drug dependency, flight to avoid prosecution, use of alias or fraudulent i.d., prior failure to appear in court, on release at time of arrest for previous charge, on probation, parole or other release pending completion of sentence, on release pending sentencing or appeal.

information we had available describing the alleged offense, its seriousness, injury to victims, use of force, presence and use of weapons, etc. In fact, we employed 20 items of information descriptive of a defendant's charges to measure the importance of this criterion in the law.

There were some criteria--such as the defendant's "reputation" and whether a defendant was "on release pending sentencing or appeal--that we were unable to measure. Others we may have been unable to measure well or systematically for all defendants--such as the use of alias or fraudulent I.D. or a present drug dependency. Such information was simply not available or was available in small numbers of cases. In all, we selected 40 items of information to represent the 17 criteria suggested by the statute in our analysis of the judges' choice between nonfinancial and financial options. (See Table A8.3.) We found that knowledge of all of these factors failed to explain very well the variability in judges' choices between nonfinancial bail (ROR) and financial bail.

We conclude that knowledge of the criteria listed in the Massachusetts statute--roughly but generously measured--offered a rather poor prediction of how judges chose between nonfinancial and financial options.

Arraignment: The Judge's Selection of Cash Amounts in Financial Cases

Of the roughly 28 percent of defendants having financial bail set, more than half had bail set at $100 or less. Bail over $1,000 was exceedingly rare, occurring in 5 percent of all entering criminal cases. Low as the bail amounts in the BMC appeared to be, the use of cash bail by BMC judges was important because it was the vehicle by which detention of some defendants was obtained--whether temporarily, or in a small number of cases, throughout the pretrial period. When bail was set at $500 or less at arraignment, a majority (60 percent) of the cases secured immediate release. When bail was set over $500, a majority were not released within one day.

When examining the use of financial bail by the BMC judges at arraignment, we again sought to learn whether statutory or other criteria appeared to play influential roles in the judges' choice of specific bail amounts in cases in which financial bail was to be assigned. We were more successful in identifying criteria guiding this aspect of the judges' task. See Table A8.4. Several defendant/case attributes provided a modest explanation of the variability in selection of cash amounts.

The possible penalty associated with charges and several measures of the nature of the criminal charges appeared to account for the most influence among the factors representing the statutory criteria. In fact, the following charge-related measures were important: the overall seriousness of the most serious booking charge

(based on possible sentence); a record of prior arrests for serious personal crimes; whether the charges involved serious crimes against the person; whether the charges involved sales of drugs (illegal distribution); whether the charges involved an index offense; and whether the defendant had a record of substance abuse. When other factors were controlled, the race and gender of defendants did not appear to influence judges' choices.

We also found that two other factors made a significant though slight difference in the choice of cash bail amounts for BMC defendants, even after taking the effect of other factors into account: the presence of the assistant district attorney's recommendation and the identity of the particular judge presiding.

Although we were better able to "explain" the selection of cash amounts than the larger choice between nonfinancial and financial options, an important finding is that a large amount of the variability in judges' decisions was still not able to be explained by statutory or other factors. We conclude that to a large extent this was because decisions were not characterized by measurable patterns or themes and were inconsistent.

## RELEASE WITHIN 48 HOURS OF BOOKING

As we have noted previously, the major reason for examining bail decisions at the first judicial appearance is because of their practical result, the release or detention of defendants before trial. We reported that approximately 94 percent of all entering BMC defendants would gain release within 90 days or before the adjudication of their cases. This certainly represents a high rate of release among criminal defendants, but not unusually high when it is recalled that the BMC caseload substantially involved misdemeanor cases. While we may conclude that BMC defendants were seldom detained for long periods, a sizeable proportion of defendants were jailed at least briefly.[77] As Figure 5.4 showed in an earlier chapter, the majority of defendants having bail set at $500 or more by the Municipal Court judges were detained for some period longer than 24 hours, 9 out of 10 defendants with bails higher than $5,000 were held for some period.

We have already discussed the period spent in custody between arrest and arraignment of more than half of entering defendants. Interestingly, 97 percent of defendants who had been released prior to arraignment were continued on release as a result of the judge's bail decision at arraignment, though 3 percent were taken into

[77] The rate at which BMC defendants secured release over time is represented in Figure 5.3 above.

custody at that point. Of those held after booking until arraignment, 65 percent were released after bail and 35 percent remained confined.

We examined detention of defendants after 48 hours, reasoning that the judges' decisions at arraignment would have had the most direct impact of the defendants' custody status by this point. Roughly 85 percent of defendants had gained release by that time. Fifteen percent remained confined. When we considered all the items of information describing defendants and their cases in multivariate analysis, we could explain the release versus detention of defendants very poorly. (See Table A8.5.)

## PREDICTING THE PERFORMANCE OF BMC DEFENDANTS DURING PRETRIAL RELEASE

Like the judges in Miami and Phoenix, the Boston Municipal Court judges expressed an interest in learning of predictors of defendant flight ("default") or crime during pretrial release. Thus, the research staff attempted the same kinds of predictive analyses described above in the context of the Maricopa County and Dade County research. The judges were particularly interested in learning whether statistical analyses (not revered equally by all participating judges, to be sure) would point to defendant attributes that they did not routinely consider or give sufficient weight to in their bail determinations.

Presentation of the predictive results with the BMC judges was introduced with a discussion of the limitations and uses of statistical prediction. For example, while at least some skepticism was voiced by the BMC judges concerning the value of statistical prediction, the research staff reported the recent research showing the greater accuracy of statistical methods over subjective methods in predictive decisionmaking and explained the findings showing that statistical tools used in conjunction with the subjective judgment of decisionmakers can improve prediction over the level that would have been achieved by decisionmaker judgment alone.

As the obstacles to good statistical prediction in criminal justice applications were reviewed with the working committee (see the discussion of prediction in Maricopa County in Chapter Six), it was clear that two problems would be particularly difficult in Boston: the quantity and quality of information available describing defendants, their histories and their cases; and the availability of rearrest information in specific.

The measurement of defendant attendance in court (FTAs or "defaults" in Boston) and rearrests for crimes occurring during the pretrial period each presented special problems. First, the study of defaults was facilitated by

the fact that the Clerk's office kept reliable records of defaults and the warrants that were issued as a result. Information concerning the rearrest of released defendants, however, was quite difficult to obtain because of the manual system of storing and retrieving criminal history in Massachusetts.[78] In fact, we were only able to acquire such information with the special cooperation of the Commissioner of Probation who, still, could allow us only to check the records of a subsample of our BMC defendants. Because of the amount of labor required by the Commissioner's staff to retrieve the arrest histories of 2,000 defendants during their particular pretrial release periods, we were only able to gather follow-up information regarding arrest on 414 of approximately 2,0000 releases. (These cases were a percent random subsample of the unweighted released Boston defendants.)

The problem of sample bias, however, was not going to present quite the problem encountered in Maricopa County, for example, where only 55 percent of defendants gained release before trial. In the BMC, 94 percent gained release within the 90 day period and thus were at risk.

Prediction of Defendant Flight

As we had in the other jurisdictions studied, we followed the Boston defendants securing release after BMC arraignment for a period of 90 days or until their cases were adjudicated, whichever came first, to learn whether they absconded or were rearrested during the pretrial period. Default information was available for our entire sample (approximately 29 percent of BMC defendants defaulted).

The purpose of mulitivariate analysis was to identify factors predictive of flight when taking into account the effects of other factors. Three independent variables and two interactions contributed to a model that fit the data adequately (see Table A8.6):

1. Telephone: after taking the effects of the other variables into account, having a telephone reduced the likelihood a defendant would fail to appear in court.
2. Employment status: being unemployed appeared to increase the prospects of defaulting.
3. History of prior defaults: increased the prospects for flight, other factors held constant.

[78] At the time of our research the manual card catalogue system was being replaced by a computerized system, but only for new cases entering the system.

4. Telephone and prior defaults (interaction): after the effects of other factors are taken into account, not having a phone and having prior defaults added to the chances that defendants would default.

5. Unemployed and recent prior failures to appear: after the effects of other variables, being unemployed and having a prior history of defaults contributed to a higher probability of flight during pretrial release.

Prediction of Rearrest Among BMC Releases

Our follow-up of defendants for purposes of learning of rearrests for crimes alleged to have been committed during pretrial release was limited to the 414 case subsample of defendants who had to be specially checked through the records held by the Commissioner of Probation. As a result of the limited sample size, predictive analysis was more difficult. The variables included in one of our best models predicting rearrest included the following factors (see Table A8.7):

1. Outstanding bench warrants: increased the prospects of rearrests for crimes committed during pretrial release.

2. Female victim of crime: charges involving a female crime victim added to the likelihood of rearrest.

3. Indication of history of substance abuse: increased the likelihood of rearrest.

4. Prior misdemeanor convictions: added to the likelihood of rearrest.

5. Outstanding warrants and female crime victim: these two conditions together add to the likelihood of rearrest, after the effects of other factors have been taken into account.

6. Substance abuse and female crime victim: the presence of these two factors interact to add to the prospects of defendant rearrest.

Prediction of Defendant Misconduct Generally (Either Default or Rearrest)

Using the same 414 case subsample, we attempted to develop a model predictive of either rearrest or defaulting among defendants during pretrial release. (See Table A8.8.) Neither regression nor logit analysis produced a model that fit the data reasonably well.

## SUMMARY OF FINDINGS DESCRIBING BAIL/PRETRIAL RELEASE DECISIONMAKING AND ITS OUTCOMES IN THE BOSTON MUNICIPAL COURT

In this section we briefly summarize the key findings from the multivariate analyses of bail decisionmaking and pretrial release in the Boston Municipal Court.

1. A first and fundamental finding in our study of bail in the Boston Municipal Court was discovered in trying to assemble data descriptive of defendants moving into the system: important information describing defendants, their backgrounds, histories, and cases was often not available--at least in reliable form--in time for judges' decisions at arraignment in the BMC. Information-related difficulties (which translated into data related difficulties for the research staff) were obvious, both in terms of the needs of the bail/pretrial release task at the arraignment stage and in comparison to other court systems.

In its efforts over many months to reconstruct information concerning the BMC cases in the study from the records of the cooperating agencies, the research team encountered serious problems relating to the availability and quality of important information. A key problem, for example, involved the availability and reliability of prior criminal history information, though other kinds of information needs were also not consistently and rigorously met. Particularly in comparison with other jurisdictions studied, Boston judges--who of course did not have the luxury of time that the researchers had--appeared sometimes to make bail decisions in the absence of central information.

Given the difficulty the research staff encountered over months of data collection, it is unreasonable to expect that the Probation Department serving the Boston Municipal Court would routinely be able to provide full and accurate information to the presiding judge, given the short period of time between arrest and arraignment in Municipal Court in which this task must be accomplished. This fact of life in the Court was underscored in our interviews with the BMC judges and in their responses to questionnaires.

2. Under half of all entering defendants secured release at the booking stage as a result of the decision of the part-time bail commissioner located at the police station. Analysis of the booking stage bail decision was not able to detect thematic differences between the attributes of defendants held (or their cases) and of those released. Initial (bivariate) differences based on the race and sex of defendants did not stand up to further analysis, when other factors were taken into account.

The importance of this finding, that the awarding of detention versus release at the pre-arraignment stage is not well explained, is heightened when it is learned that detention at this stage had an apparent impact at subsequent decision stages.

3. Recommendations made by the assistant district attorney at the arraignment stage were recorded in about 11 percent of the cases examined. Overall consistent patterns in whether or not a recommendation was noted could not be found, indicating either difficulty in measuring the recommendation (which is often not recorded in the file but rather is only orally made) or inconsistency among prosecutorial staff in making the recommendations. The minor patterns that were noted seemed to relate to the seriousness of a defendants charges: recommendations were more likely, the more serious the charges.

This finding appears consistent with the discussions held with the prosecutor's staff concerning the purposes of their recommendations at arraignment. Often, they explained, the recommendation had more to do with prosecutorial strategy relating to the processing of the case, rather than estimates of the defendant's risk of flight or crime during pretrial release. The assistant district attorney's recommendation took on importance in later decisions, but was not found statistically to be related to risk of default or rearrest among released defendants.

4. Efforts to explain the judges' choices between nonfinancial (ROR) and financial bail options through multivariate analysis were not very successful. Forty items of information intended to reflect 17 criteria specified in the law as appropriate bail considerations were examined to determine the extent of their influence in the judges' decisionmaking. Our analysis revealed little influence. Overall, knowledge of the kinds of information mentioned as governing criteria in the Massachusetts statute was not very helpful in predicting bail outcomes when conceptualized as an initial choice between nonfinancial and financial bail options.

Specifically, only four of the statutory criteria appeared to play a role. These included the potential penalty, flight to avoid prosecution (measured as evidence of current bench warrants), the defendant's financial resources, and charges relating to illegal drug distribution. The race or gender of defendants did not appear to change their chances for nonfinancial release, once other factors were considered.

The district attorney's recommendation and custody before arraignment contributed to the prospects that judges would choose cash bail over ROR, after the effects of other factors had been taken into consideration. The identity of the presiding judge did not appear to make a notable difference.

Our tentative conclusion is that, overall, the Municipal Court's use of nonfinancial bail options was inconsistent or disparate when similar kinds of defendants were compared. This conclusion is tempered by the knowledge of difficulties found in gathering information.

5. When we analyzed the judges' choice of particular cash amounts for defendants who would not receive ROR, we found some patterns of modest strength: principally, the greater the possible penalty and the more serious the charges, the higher the likely bail.

The defendant's custody prior to arraignment did not make a difference in the choice of bail amounts after controls were exercised; however, the presence of a recommendation by the assistant district attorney and the identity of the judge presiding at arraignment did make differences in the levels of bail likely, after the effects of other factors were considered.

In general, however, the lack of ability to detect strong patterns governing the choice of bail amounts in financial cases reflects disparity or inconsistency in bail setting when similar defendants are compared.

6. Nearly 80 percent of defendants secured release shortly after arraignment in Municipal Court. Our analysis was not able to discover strong, thematic differences between those held and those released at this stage. Apparently the prospects of being confined for more than one day were unaffected by a recommendation by the assistant district attorney or the identity of judge presiding at arraignment. However, the fact that a defendant had been confined prior to arraignment had a notable effect on the prospects for further detention, even after the effects of other factors were taken into account.

7. Boston Municipal Court bail decisions generated a very high rate of pretrial release, roughly 94 percent within a 90 day period measured from the time of arrest. Associated with this rate of release were very high rates of failure-to-appear (FTAs or "defaults") and moderately high rearrest rates; nearly one-third of BMC defendants gaining release either had bench warrants issued for defaulting or were rearrested for crimes committed during the pretrial period. We should note that such rates are generally high among misdemeanor courts in the United States (and, in comparison with the two other court systems studied, the BMC is a predominantly misdemeanor-level court) and that most of the rearrests were not for serious crimes.

8. Predictive analysis was undertaken to identify factors associated with misconduct among released defendants. Development of models of FTA and rearrest separately were modestly successful; however, when the

criterion was the prediction of either rearrest or failure to appear we were unable to develop sufficient statistical models using regression or logit analyses.

9. Knowledge of the judge's choice of nonfinancial over financial bail at the arraignment stage did not prove to be a predictor of defendant defaulting and was only very slightly related to risk of rearrest. When we attempted to predict defendant misconduct more generally (as either flight or crime), whether the person had financial bail or ROR assigned to permit release made no significant difference in the likelihood of subsequent misconduct when other factors were taken into account.

## Chapter Nine

# ISSUES IN COMMON: QUESTIONS OF VISIBILITY, EQUITY, RATIONALITY AND EFFECTIVENESS IN THE THREE COURT SYSTEMS

In its investigative stages, the guidelines research in the Maricopa County, Dade County and Boston courts was descriptive and analytic. In its descriptive aspect, the research task involved a careful mapping of the progress of large samples of defendants through the criminal process in each location and study of the decisions that produced the release or detention of defendants and that were responsible for the performance of defendants given pretrial release. In its analytic aspect, the aim of the research was to digest the descriptive findings in working groups of judges and researchers and to evaluate the quality of the decisionmaking "job" performed by the courts.

Thus, through a mixture of data and discussion, interpretation and debate, the purpose of the research was to identify areas of pretrial release and detention decisionmaking that were troublesome--in their operation or effect--or that should be improved. The question was whether the undesirable side-effects of bail/pretrial release decisionmaking, such as crises of jail overcrowding, crimes and flight from court by released defendants, could be minimized by the development of a decisionmaking and policy resource, bail/pretrial release guidelines.

Although the challenges faced by each of the court systems in this area differed in character and scope, they can be usefully understood from the perspective of several issues they shared in common: issues relating to visibility, equity, rationality and effectiveness of bail/pretrial release decisionmaking. These issue-themes, which have been described elsewhere (e.g., Gottfredson, Wilkins and Hoffman, 1978; Gottfredson and Gottfredson, 1988; Goldkamp and Gottfredson, 1985) can serve as a useful evaluative framework for comparing the separate sites.

## THE VISIBILITY OF BAIL/PRETRIAL RELEASE DECISIONMAKING

One of the criticisms of traditional bail practices has been that through the discretionary manipulation of cash bail, judges have been able to bring about the detention or release of defendants before trial in a nearly *sub rosa* fashion. Thus, the considerations that have played a part in the decision to release or to detain remain mysterious or at least of very low visibility. As we will describe in the next chapter, the guidelines approach to decisionmaking assumes that there is value in developing a more explicit decisionmaking framework, one in which the goals of the decision task as well as the criteria that come into play in pursuing those goals are known and are

reviewable. Evaluation of the court's performance of bail/pretrial release functions is hardly possible without some explicit referents for framing the analysis.

The courts we studied varied in the ways their decisionmaking was governed by explicit themes. The commissioners' choices between secured bond and personal recognizance release in Maricopa County's Superior Court, for example, could, in one sense, be said to have been operating according to a highly predictable criterion, the recommendation of the pretrial services staff. In fact, using the language of regression, a very large proportion of the variance of their decision choices could be explained by that single piece of information.

However, what at first appears to be a highly visible form of decisionmaking turns out to be just the opposite upon further analysis, for--as we noted in Chapter Six--how that recommendation itself was arrived at was largely inexplicable. Whether our inability to "predict" pretrial services recommendations was due to a lack of reliance on explicit criteria by the staff or by a highly subjective (and varied) use of agreed upon criteria was difficult to determine. Yet, the result was that this important judicial determination which greatly affected defendants'chances for release or detention before trial was apparently based on goals and criteria that were not at all clear.

Characterizing the visibility of the pretrial release/detention decision in the Dade County court system is also problematic, despite the appearances given by the use of the highly explicit and visible bond schedule. In one sense, of course, we would certainly have to agree that a defendant entering the criminal process in Dade County during our study could know a great deal about his/her prospects of pretrial release. After all, merely by knowing his or her criminal charges, the defendant could determine right at booking what amount of money would be required to post bond according to the bond schedule.

Despite this impression, however, our analyses caused us to question how systematic the impact of the bond schedule on pretrial release actually was. First, release via the bond schedule at the booking stage was only partly explainable or predictable in a statistical sense. To the extent that this was true, we conclude that such release is often athematic or random in its occurrence.

Second, to the extent that our analyses did reveal some--albeit modest--knowable or predictable patterns governing the securing of release at this stage, issues other than the visibility of pretrial release determinations surface. More specifically, we found that the seriousness of the charges obviously affected defendants' chances for

booking stage release (obviously because the more serious the charges, the higher the bond the defendant had to raise), but also that, after the seriousness of the charges, the defendant's ability to pay, and other factors, such as having a telephone and his/her living arrangements also figured into the prospects for release or detention. We would argue, in fact, that the questions to be raised at the booking stage concerning the determination of release or detention do not involve visibility (the bond schedule is very explicit) as much as "rationality" (which, as we will discuss shortly, focuses on the relationship of the criteria employed in release decisions to the goals of the decision process).

The bond hearing in Circuit Court, however, also raised questions about the visibility of the pretrial release determinations. Empirical study of bond hearing decisions was unable to identify strong themes governing the judges' choices between nonfinancial and financial bond options. It would be normal to conclude as a result that these decisions were highly subjective and erratic, and, therefore, that the process was a very low visibility undertaking.

However, in-court observation gave us cause to reconsider that inference. Clearly, we had not been able to measure the most important determinant of the judges nonfinancial versus financial choice, the pretrial services staff's oral recommendation for nonfinancial release. We were not able to measure this because, at the time of the study, the recommendation was usually not written on any document. Because it was not recorded we were not able to determine its impact empirically--which was certainly great--nor were we able to determine how it was arrived at in the first place.

In this sense, like our analysis of the commissioners' choices in Superior Court in Maricopa County, we can both state that the judges' choices between nonfinancial and financial options at the bond hearing stage was governed by a knowable criterion, the pretrial services recommendation, and yet also not in a predictable pattern, principally because the pretrial services recommendation was not explicitly formulated.

In contrast to what we characterize as the low visibility release determinations at the booking stage and in the bond hearing choice between nonfinancial and financial options, the judges' choices of bond amounts at bond hearing (for defendants for whom nonfinancial options had been ruled out) were quite predictable. They were based nearly exclusively on the amounts posited by the bond schedule. Thus, if pretrial services personnel had not been able to convince the judge to release the defendant on nonfinancial terms, the bond schedule amount was the

preferred choice. In fact, in-court observation confirms this finding: before each decision, the bond schedule amount is announced to the judge (and courtroom) over a microphone and/or closed circuit television sound in a loud voice.

The determination of pretrial release or detention in Dade County, then, was partly based on concerns or criteria that were unknowable--of low visibility--and partly based on clear-cut themes linked to the bond schedule's ordering of criminal charges.

We have reported in Chapter Eight that our analyses of bail/pretrial release decisions for defendants entering the Boston Municipal Court process failed to reveal strong patterns or themes. This was true at the booking stage, at the BMC arraignment stage (especially in the choice between nonfinancial and financial options) and when release within forty-eight hours was examined. Although we were often told in our discussions and interviews that bail determinations were based on consideration of the criteria spelled out in the relevant Massachusetts statute, our analyses were not able to demonstrate this. When an effect was found, it was primarily related to the seriousness of the defendant's charges. It is very difficult to conclude, therefore, that bail/pretrial release decisionmaking in the Boston Municipal Court overall operated according to explicit, "visible" themes.

## THE EQUITY OF BAIL/PRETRIAL RELEASE DECISIONMAKING IN THE THREE COURTS

The conceptual ideal of "equitable treatment" of defendants at the pretrial stage is easier to describe than it is to measure in practice. Ideally, equitable decisionmaking would assign roughly comparable decisions to similar kinds of defendants. If the bail decision was not so often a subterranean detention decision (one camouflaged by the use of cash bail) but was more forthrightly decided (as was hoped for in the Federal Bail Reform Act of 1984, for example), this would more directly mean that similar defendants would face similar prospects of being detained before trial. The measurement of this concept empirically is somewhat more complicated, however.

The difficulty in assessing the "relative equity" of bail/pretrial release decisions stems from the lack of an agreed upon "yardstick" that can be employed to compare outcomes for "similar" defendants (see Goldkamp and Gottfredson, 1985). Of course, this is one of the major problems that development of decision guidelines for pretrial release seeks to address. Traditionally, bail has been governed mainly by the seriousness of the alleged offenses (e.g, bond schedules). Bail reformers of the 1960s argued, alternatively, that considerations of defendants'

community ties was the more appropriate standard. In the next chapter, we will discuss the ways in which the decision guidelines that were developed in this study offer a different answer to the "yardstick" question. At this point, we might summarize briefly by stating that some standard related to the purposes of the bail/pretrial release decision (whether the traditional charge measure, the bail reform criteria, or some other) should be seen to organize decisions that are made.

Thus, analysis of equity-related problems in the practices of the three court systems we studied ought to include two elements: the determination that decisions or release and detention have followed some noticeable, overall pattern and that the nature of the pattern found is an arguably appropriate one, given the decision goals.

Consideration of the first element is closely related to the visibility question discussed above. If no patterns are found in statistical analysis, or if only very weak patterns are detected, the decisions can be characterized as being both of low visibility and as inequitable. Stated another way, to the extent that decisions are inconsistent or athematic, they cannot be treating comparable defendants in roughly similar ways. When sentencing or paroling practices were discussed in the past, such "unwarranted variation" was referred to as "disparity" or inconsistent treatment of similar categories of offenders.

Using the language of multiple regression, to the extent that variance in choices cannot be explained by appropriate factors, we may conclude that choices are disparate, are characterized by "unwarranted variation" (Gottfredson et al., 1978) or, in short, are randomly produced. Or, using the framework of logit analysis, inequitable or inconsistent treatment of similar defendants can be inferred from the inability to construct models of the decision/outcome that fit the data well (that meet minimum statistical standards).

In reviewing the analyses of decisions in each of the court systems, as a general rule we can state that bail/pretrial release decisionmaking rarely was strongly explained by measurable factors of any kind. Even when some patterns were found more modestly to explain decisions, to a substantial extent the variability in bail choices had no explanation other than "unwarranted variation." From this,we conclude that disparity characterizes the treatment of defendants at the first judicial stage.

We can, however, point to two notable exceptions. In Superior Court in Maricopa County, the nonfinancial versus financial choices were very strongly predictable: they were heavily related to the recommendations of the pretrial services staff who interviewed defendants prior to initial appearance. In Dade County, the judges' selection

of bail amounts for defendants not being assigned nonfinancial options corresponded very closely with what the booking stage bond schedule suggested. Assessment of the implications of these exceptions, however, falls into the second element of the discussion of equity at bail and pretrial release, the extent to which the governing criteria or patterns when found are appropriate, given the aims of the bail task.

In the instance of the Superior Court commissioners in Maricopa County, we are forced to draw our inferences based on the multivariate analysis of the recommendations made by the pretrial services staff. Recall that we found that these recommendations were to some extent predicted by a number of community ties-, charge- and criminal history-related factors that, one could argue, were standards reasonably related to defendants' risk of flight or crime (if not strongly statistically, at least on an intuitive level). But recall also that the magnitude of the relationship was quite modest. To a more notable extent, we concluded that we were unable to discover the themes that brought about the pretrial services recommendations that so influenced the commissioners' choices.

In the example of Circuit Court in Dade County, we also noted a role for the recommendation of the pretrial services staff--except that, because it was oral, we were not able to measure it for use in our analyses. But the finding that financial bail choices by bond hearing judges were heavily tied to the bond schedule presents a clearer question in our consideration of the equity of practices there. Certainly, we may at least say that among defendants who have not been awarded nonfinancial release options, similar defendants (at least based on the charge criterion) were treated similarly. We would next need to ask whether the traditional charge criterion is the appropriate yardstick to measure the consistency of decisions.

The long-standing debate has juxtaposed two different interpretations of this custom. Those favoring the reliance on criminal charges as the backbone of bail considerations tend to argue that more seriously charged defendants, because they face more onerous penalties, present greater risks of flight and crime to the court (see, e.g., Mitchell, 1969). But others, particularly proponents of bail reform, have argued that the seriousness of the defendant's charges bear little statistical relationship to probable flight or crime during a period of pretrial release and that detention becomes a matter not of weighing criteria reflecting the goals of the bail decision (the concerns of flight and crime) but rather a question of the defendant's ability to afford given amounts of bail. (In our discussion of the development of guidelines in the next chapter, another interpretation of the traditional criminal charge standard at bail is described.)

# THE EFFECTIVENESS OF PRETRIAL RELEASE IN THE THREE COURTS AND THE UTILITY OF PREDICTIVE CLASSIFICATIONS

## Comparing the Effectiveness of Pretrial Release

In the previous chapters, we reported the failure-to-appear (FTA) rates, the rearrest rates and the general "failure" rates for defendants released in each of the cities studied. In addition, we reported the results of analyses that sought to identify combinations of variables (descriptive of defendants, their cases or histories) that could predict defendant outcomes during pretrial release. We return to the analysis of defendant "outcomes" in this section as its relates to the theme of evaluating the relative effectiveness of pretrial release in each of the courts.

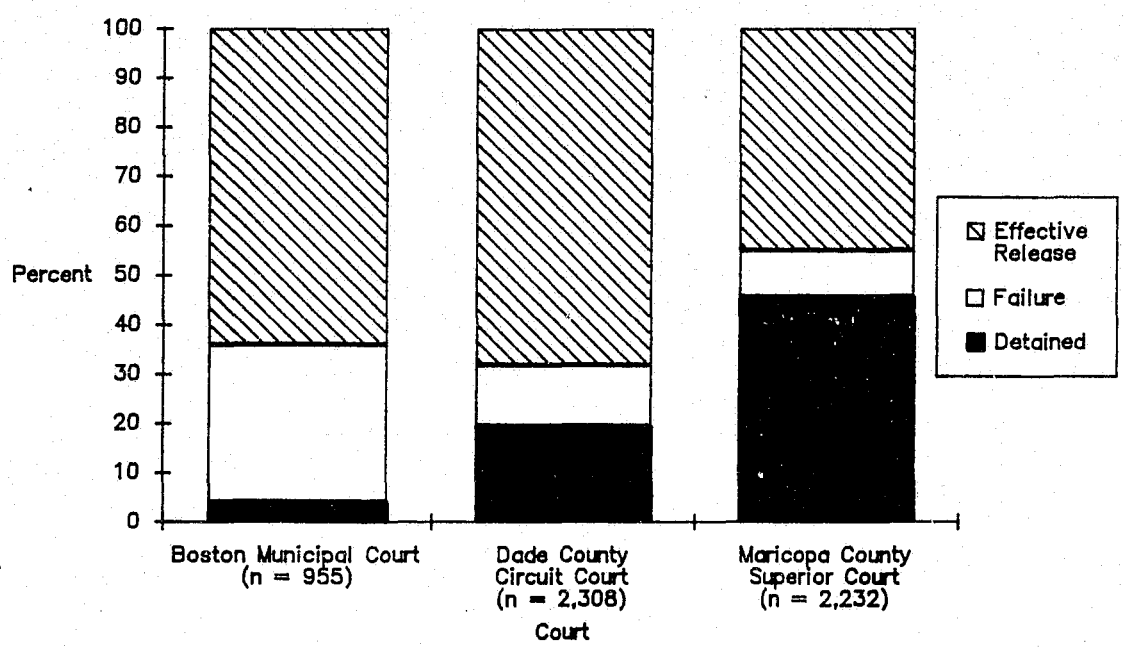
Although usually poorly defined, the concept of effectiveness lies at the heart of public policy related to bail and pretrial release. While some critics of the system argue that bail practices chaotically permit the release of criminals who either abscond or prey upon the public by committing additional crimes during pretrial release, others are contending that bail practices have the opposite effect: they needlessly confine defendants who could safely be released and thereby generate jail overcrowding. Both of these kinds of issues are related to the effectiveness of pretrial release. Ineffective bail practices contribute both to crime and flight among released defendants and to jail overcrowding from inappropriate uses of pretrial detention.

Although both kinds of concerns are often debated, reasonable measures of the system's effectiveness in doing the bail/pretrial release job are seldom employed. In discussing defendant performance during release, rates of FTAs and rearrests are employed. When jail overcrowding is the concern, levels of the jail population are reported. Although fitting for some purposes, such measures may be highly misleading. We employ a measure that attempts to link together the two sides of the "effectiveness" coin, release and detention.

To illustrate, we can first consider the defendant performance statistics recorded in each of the sites in Table 9.1.

This table summarizes the percent of released defendants engaging in "misconduct," variously measured, in each of the sites. Using this commonly reported measure, it would appear, for example, that Maricopa County produces the lowest FTA rates, Dade County produces the lowest rearrest rates, and Dade County produces the lowest general "failure" rates. (Roughly the same is shown when just defendants charged with Part I index offenses are examined.)

Figure 9.1 Comparison of effective pretrial release in Boston Municipal Court, Dade County Circuit Court and Maricopa County Superior Court, (failure)




The problem, of course, is that we have learned that these jurisdictions placed different proportions of their defendant populations at risk. Maricopa, with the lowest FTA rate, released only 55 percent of its defendants within a 90 day period, while Dade County released 80 percent and Boston 94 percent. Surely, these measures do not reflect the overall effectiveness of practices well, because they do not link the performance rates with release or detention rates.

Figure 9.1 illustrates the simple measure of effective pretrial release we have constructed to better ground performance rates in the context of release rates. Each column in Figure 9.1 represents 100 percent of the defendants entering the criminal process in each system. Each column is divided into three parts: the bottom-most section (black) represents the percentage of defendants detained (and therefore ineligible to engage in misconduct); the middle segment (white) represents the proportion of defendants released but engaging in some form of misconduct; the top portion of each column (striped) represents the percentage of all defendants achieving release and not engaging in misconduct.

Table 9.1 Defendant performance summary: percentage of released defendants failing to appear, rearrested for new crimes, or both, by court

| Defendant Performance | Court System | | |
|---|---|---|---|
| | BMC | Dade Cty. | Maricopa Cty. |
| All released defendants | | | |
| FTA | 21 | 11 | 8 |
| Rearrest | 14 | 6 | 11 |
| Serious rearrest | 1 | 2 | 3 |
| Failure (FTA or rearrest) | 38 | 15 | 17 |
| Index-offense defendants only | | | |
| FTA | 25 | 11 | 7 |
| Rearrest | 10 | 6 | 10 |
| Failure | 30 | 16 | 16 |

Using this schematic, we can define effective pretrial release as that share of the defendant cohort entering the process in a court system which is released without pretrial misconduct. Or, stated another way, effectiveness of a court's pretrial release practices is reduced for two reasons: a) to the extent that defendants are detained, and b) to the extent that defendants are "erroneously" released (they are released but fail to appear or are rearrested).

Figures 9.1 through 9.3 (see also Figures A9.1 through A9.3 describing the effectiveness of release when only the most serious charges in each court are considered), then, throw into question the inferences concerning the effectiveness of practices drawn from consideration of simple defendant performance rates. Far from having the most effective pretrial release practices from the perspective of FTAs, seen in this light, Maricopa County appears rather to be the least effective. The Boston Municipal Court produced the largest percentage of "rearrest-free" release when compared to the other jurisdictions. However, when we combine flight and rearrest into one measure of effectiveness ("failure"), Dade County boasts the greatest effectiveness.

Figure 9.2 Comparison of effective pretrial release in Boston Municipal Court, Dade County Circuit Court and Maricopa County Superior Court, (FTA)

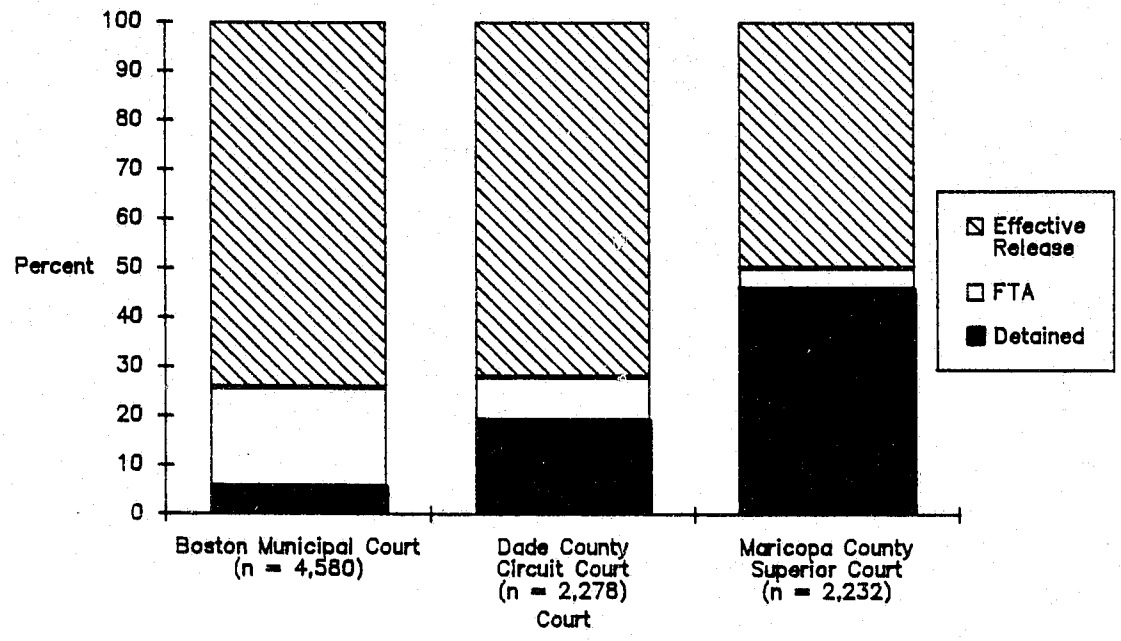
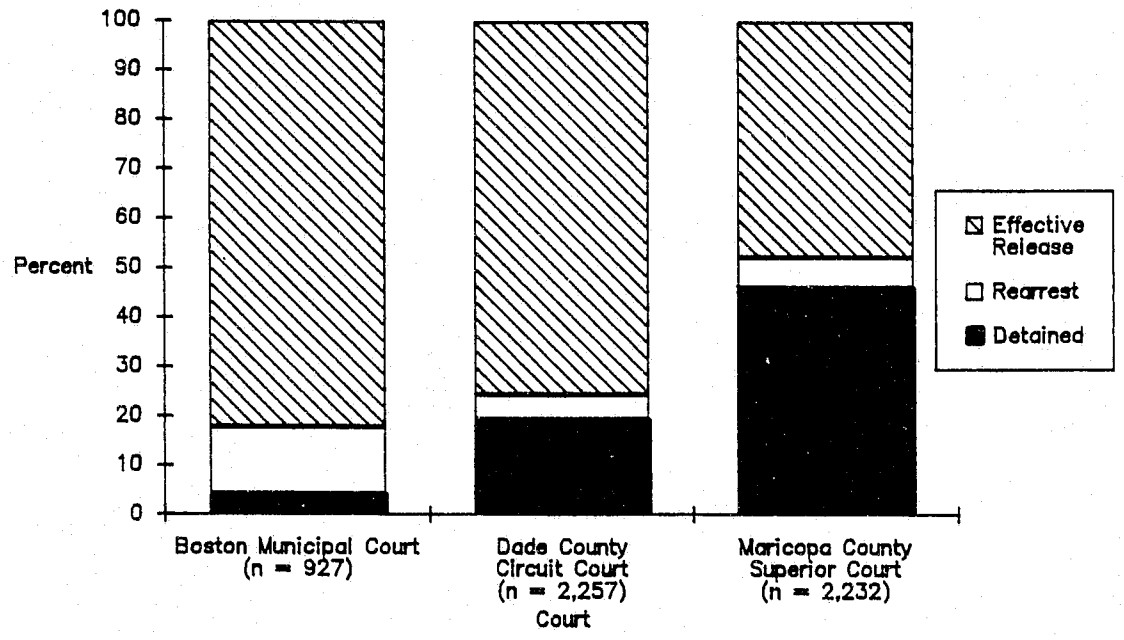



Figure 9.3 Comparison of effective pretrial release in Boston Municipal Court, Dade County Circuit Court and Maricopa County Superior Court, (rearrest)



Not only does this measure norm defendant performance to a jurisdiction's release practices, it permits an analysis of the source of ineffectiveness or effectiveness. For example, despite low rates of defendant misconduct during release, Maricopa County's low effectiveness rating derived from its extensive use of pretrial detention. In contrast, the Boston Municipal Court practices generated very little detention, but a rather large amount of "erroneous" release. The overall effectiveness of the Dade County release practices stemmed from a use of detention roughly one-half that of Maricopa County and an "erroneous" release rate about one-fourth that associated with the practices of the Boston Municipal Court.

Within the context of the guidelines research, this measure of effectiveness is useful because it can help target areas needing improvement, which prospective guidelines might be designed to address. For example, the reason for the higher rate of detention in Maricopa County Superior Court could be explored and guidelines development could be oriented to assure the appropriateness of detention. In Boston, the focus might shift to improving the performance of released defendants, given their high rates of failure. Though pretrial release might be viewed as effective in a more balanced fashion in Dade County, the guidelines development process might be geared toward minimizing the use of detention while maintaining suitably low failure rates.

The Development of Predictive Classifications Relating to Risk of Defendants Misconduct

Critical debate about the bail/pretrial release function has often centered on questions about prediction. Early advocates of bail reform, for example, in part based their argument that judges should consider a defendant's community ties on their belief that the judges' traditional criterion at bail, the seriousness of the charges, was not a good predictor of defendant risk (see, e.g., Schaeffer, 1970) and that the community-ties measure offered a better standard (Vera Institute of Justice, 1972). Opponents of preventive detention laws--such as the District of Columbia's code and the Federal Bail Reform Act of 1984--have argued that prediction at the bail stage was not accurate enough to warrant detention decisions based on anticipated future conduct of defendants and that error associated with such prediction would generate a very large amount of erroneous pretrial detention (e.g., Angel et al., 1971). The United States Supreme Court quite recently stated that judges' ability to make predictions in deciding detention did not need to meet statistical standards (see, e.g., Schall; Salerno).

In response to questions asked by each of the judicial working committees, however, our approach employed statistical prediction, first, as an analytic tool, and, ultimately, as a dimension in decision guidelines--

again based on the directions given by the courts in development of the decision guidelines. Theoretically, predictive analysis of bail/release outcomes was conducted for two principal reasons. First, the bail/pretrial decision is and always has been essentially a predictive decision in which the judge seeks to weigh the likelihood that a defendant, if released, would flee or commit additional crimes and then selects a bail option that matches that risk. Normally he or she does so in a rather subjective fashion and with little guidance. If this is true, then it makes sense to evaluate the predictive capacities of courts as they make these predictions. Second, research has demonstrated that, however imperfect, choices resulting from statistical prediction will out-perform choices made on the basis of strictly subjective ("clinical") decisionmaking every time. (See Meehl, 1954; Monahan, 1981; Gottfredson and Gottfredson, 1986.) Thus, although decisionnmaking based on statistical prediction may not reach the "no-error" ideal, it does more often produce "correct" results than subjective choices. In employing statistical prediction first as an analytic tool and later as one dimension in the guidelines, we recognize that a combination of the two kinds of decisionmaking--statistical and subjective--probably produces the most reasonable decisionmaking overall (Dawes, 1979).

In Chapters Six through Eight above, we reported some results of multivariate modeling designed to produce predictions of defendant performance: failure to appear in court, rearrest, or both kinds of misconduct. At a later stage, we discussed the utility and appropriateness of statistical prediction as a feature of a prescriptive guidelines system. At the descriptive/developmental stage of the research, however, our aims were illustrative, designed to respond to the judges' questions: How would statistical models of defendant performance help us in making decisions about defendants? Compared to what a statistical approach might say, how do our decisions look?

We noted earlier that our ability to predict defendant performance during pretrial release was constrained by at least three obstacles: sample bias (to the extent that defendants were not released from jail before trial in a jurisdiction, their performance cannot be systematically studied), lack of information or data (some potentially relevant data describing defendants and/or their cases were not available in each of the sites), and the rarity of the outcomes being predicted (statistical prediction is most difficult when the phenomena under study are infrequent, such as pretrial flight and crime). In each of the sites we attempted to model failure to appear (FTA), rearrest, and then failure generally construed (either flight or crime).

Beyond reporting variables that, when taken together, can "predict" or model defendant performance during pretrial release, the purpose for developing predictive classifications was to identify criteria that, when weighted according to the models, could classify defendants into groups characterized by differing probabilities of misconduct. The most satisfactory models derived for the classification of defendants based on flight and crime concerns (taken together) for each site are summarized in Table 9.2.[79] Although the models differ somewhat--between Maricopa County and the other two sites--each was based on weightings of charge-related, ties-related, and prior history-related variables.

By assigning points based on the weights of each of the variables included in the models,[80] each defendant can be assigned a "score" according to a probability of misconduct. A classification of defendants is produced by selecting cutoff scores so that several categories of defendants can be distinguished based on differing probabilities of flight or crime during pretrial release. The groupings of defendants based on these scores and the probabilities of misconduct associated with them are displayed in Table 9.3.[81] (Examples of how defendants would be grouped on the basis of these predictive classifications are described in the next chapter.)

The principal use for classifications based on the probable risk of flight and crime groups of defendants might pose is to provide a tool for the evaluation of current decision practices and for improving future practices. In the next chapter, which describes the development of decision guidelines, we will discuss the applicability of predictive classifications for improving future decisions. The use of these classifications for evaluation of current decisionmaking is illustrated here and in the next section.

Perhaps the simplest way in which the predictive classifications are helpful in the evaluation of current practices is in providing a characterization of the risk attributes of the defendant caseload in each jurisdiction. Using the Boston Municipal Court classification, for example, we have seen from Table 9.3 above that only about 6 percent of entering defendants fell within the highest risk grouping (Group 4), in which three in every five defendants could be expected to fail to appear in court or be rearrested for crimes occurring during pretrial release.

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[79] In each of the sites, multivariate analyses proceeded in the same fashion (see note 52 above). Burgess models performed better than logit derived models in both Dade County and the Boston Municipal Court. A model was not viewed as acceptable until the resulting classification was validated--using the split half procedure. See Appendix D for a summary of the validation of the predictive classifications derived in each of the sites.

[80] The "points" derived from the Maricopa logit formula are divided by a constant and rounded as shown in Table 11.1.

[81] Of course, classifications based on just failure to appear or just rearrest could also be (and were) developed. For the sake of brevity we use only the classification based on risk of flight and/or rearrest in this discussion.

Table 9.2 Predictive classification models for misconduct during pretrial release, by site

| Maricopa County Superior Court | | Weight |
|---|---|---|
| Prior failures to appear | | |
| One | 1 x | .541 |
| Two or more | 2 x | .273 |
| Police: risk of flight | | 1.013 |
| Person victim | | - .514 |
| Defendant lives alone | | .548 |
| Charges involve robbery | | .675 |
| Police: risk of flight and FTAs | | |
| With one prior FTA | 1 x | .122 |
| With two or more prior FTAs | 2 x | .267 |
| Police: risk of flight and lives alone | | .415 |
| Constant | | .012 |
| **Dade County Circuit Court** | | |
| Lives with spouse or child | | 1.000 |
| Has telephone | | 2.000 |
| Property charges only | | 2.000 |
| Any robbery charges | | -2.000 |
| Any drugs charges | | -1.000 |
| Prior arrests within past 3 years | | |
| One | | -1.000 |
| Two or more | | -2.000 |
| Prior failures to appear | | |
| One misdemeanor or one felony FTA | | -1.000 |
| One or more felony and misdemeanor | | -2.000 |
| Two misdemeanor or two felony FTAs | | -2.000 |
| One or more prior felony convictions | | -2.000 |
| Two or more prior arrests on drug charges | | -2.000 |
| **Boston Municipal Court** | | |
| Lives with spouse or child | | 1.000 |
| Has telephone | | 2.000 |
| Property charges only | | 2.000 |
| Any robbery charges | | -2.000 |
| Any drug charges | | -1.000 |
| Prior arrests within past 3 years | | |
| One | | -1.000 |
| Two or more | | -2.000 |
| Prior failures to appear | | |
| One | | -1.000 |
| Two or more | | -2.000 |
| One or more prior felony convictions | | -2.000 |
| Two or more prior arrests on drug charges | | -2.000 |

Table 9.3 Classification of defendants according to probability of misconduct (rearrest and/or flight), 1984, by site

| Risk group | Misconduct points | Number | Percent | Percent released | Percent misconduct |
|---|---|---|---|---|---|
| Maricopa County Superior Court | | | | | |
| Total | ------ | 2,232 | 100 | 54 | 17[a] |
| 1 | 1 to 34 | 322 | 14 | 59 | 7 |
| 2 | 35 to 67 | 1,130 | 51 | 61 | 15 |
| 3 | 68 to 107 | 565 | 25 | 43 | 20 |
| 4 | 107 to 224 | 215 | 10 | 35 | 53 |
| Dade County Circuit Court | | | | | |
| Total | ------ | 2,308 | 100 | 81 | 15[a] |
| 1 | 5 to 7 | 442 | 19 | 95 | 6 |
| 2 | 2 to 4 | 855 | 37 | 88 | 12 |
| 3 | -2 to 1 | 654 | 28 | 76 | 23 |
| 4 | -9 to -3 | 356 | 15 | 57 | 30 |
| Boston Municipal Court | | | | | |
| Total | ------ | 4,580 | 100 | 94 | 33[b] |
| 1 | 5 to 7 | 779 | 17 | 99 | 16 |
| 2 | 1 to 4 | 2,415 | 53 | 95 | 34 |
| 3 | -4 to 0 | 1,123 | 24 | 92 | 39 |
| 4 | -10 to -5 | 262 | 6 | 82 | 54 |

[a]Of released and at risk defendants.
[b]These numbers are derived from a special subsample of cases (n = 414) which when weighted total 955, with 40 cases missing.

In Maricopa County, 10 percent were classifiable as highest risk. In Dade County, 15 percent of entering defendants fell into the highest risk category.

A second way in which the predictive classifications may provide a useful framework for assessing current practices is in characterizing the risk attributes of defendants held in the local jail facility. Figure 9.4 classifies the populations of pretrial detainees held in the jails of each of the jurisdictions according to their respective four-part risk (flight/crime) rankings.[82]

In Maricopa County, nearly one fourth (22 percent) half of the detained population falls into the highest risk category, but fully 13 percent are characterized as reasonably low risk. About one-fifth of the defendants held in the Dade County jail facilities were classifiable in the highest risk category, but, even in Dade County, roughly 30 percent of detainees fell within the lowest two risk groupings. In the Boston jail, just under half of detainees were classified within the two lowest risk groups.

In trying to determine the extent to which portions of the pretrial jail populations might be released as part of strategies to reduce crowding, the risk classifications can provide a rough tool for pinpointing categories of defendants for whom on-release options might be productively considered. Although risk attributes would not be the only criteria considered in weighing alternatives to incarceration, they certainly would provide a useful source of information. Even relatively small percentages of defendants falling within lower risk groupings can translate into large actual numbers of defendants in the larger jails.

Statistically derived classification schemes can also be helpful in assessing the "rationality" of bail/pretrial release decisionmaking, which is discussed in the next section.

## THE RATIONALITY OF BAIL/PRETRIAL RELEASE DECISIONMAKING IN THE THREE COURT SYSTEMS

Another important analytic theme central to the guidelines research concerns the "rationality" of bail/pretrial release decisionmaking. As we have explained earlier (Gottfredson and Gottfredson, 1980; Goldkamp and Gottfredson, 1985; Goldkamp, 1987), by a decision's rationality, we do not mean to imply that the goal is to combat "irrationality." Rather we are viewing the task as evaluating the extent to which the criteria seen to guide the

[82] See Table A9.4. For discussion of the jail samples studied in each of the sites, see Chapter Two above. See Appendix B for standard error tables surrounding the estimates based on each of the samples.

decisionmaking process relate to its legitimate goals. In fact, this approach assumes the more discretionary a decision is and the greater the room for unguided decisionmaker subjectivity, the greater the need for evaluation of the way the decision is made and its results.

More specifically, if we assume the goals of the bail/pretrial release decision involve minimizing defendant flight from court (FTAs) and crime committed by released defendants, then the criteria relied on by judges ought to bear a relationship to those goals. (Of course, it can be argued, given the imperfect state of decisionmakers' predictive skills in criminal justice settings, whether the relationship between decision criteria and decision goals should exhibit a strong statistical relationship or merely an intuitive relationship.[83]) Optimally, to be characterized as "rational"--within our meaning of the term--a strong statistical relationship should be found between the predictors of judges' choices at bail and the outcomes of flight and crime.

In Table 9.5 the relationships between the variables predicting bail decisions as a group in each of the sites and flight and crime are summarized, using the measure of multiple correlation (multiple r) for comparative purposes. In general, we find relationships that range from weak to slight.84

Given that earlier we found that bail/pretrial release decisions in each of the sites could only be poorly explained statistically and that the poor predictors of bail decisions can predict defendant performance only rather poorly, we conclude that bail/pretrial release decisionmaking was not "rational," in the sense that in each of the sites it did not appear to optimize bail/pretrial release choices based on the most appropriate use of available information.

Using the predictive classification systems we described above, we can also evaluate bail/decisionmaking in a somewhat different fashion to shed light on the rationality question. In this analysis we assume that to be considered "rational" bail/pretrial release decisions ought to operate strongly in line with the risk attributes of entering defendants. For example, at a simple level, we would expect persons rated as lower risks--either based on risk "points" or on the grouped risk classifications--to receive OR or lower bond amounts generally and be less often detained than their higher risk counterparts.

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[83] Certainly, the Supreme Court has not adopted the view that predictive decisionmaking should be evaluated on a statistical basis. See, e.g., Schall; Salerno; Barefoot.

[84] We are seeking to gauge the rationality of judicial decisions by determining the predictive power of the criteria we have inferred as guiding those decisions. Although we can study all decisions made, we can only evaluate the statistical relationship with defendant performance using defendants who gained release. In Boston, only 4 percent did not gain release within 90 days; in Dade County, 20 percent did not; in Maricopa County, 45 percent did not.

Table 9.5 Testing key predictors of bail decisions as predictors of defendant performance during pretrial release, by site

| Key predictors of bail decisions[a] | Dependent variables: possible outcomes<br>Failure to appear | Rearrest | Failure |
|---|---|---|---|
| | Independent variables from prediction of outcomes: | | |
| Site: Dade County Circuit Court | | | |
| Nonfinancial v. financial bail | | | |
| Drug trafficking<br>Prior arrests for serious property offense<br>Has a telephone<br>Robbery charge | Has a telephone<br>Prior arrests for serious property offense<br>Robbery charge<br>Drug trafficking | Prior arrests for serious property offense<br>Robbery charge<br>Drug trafficking<br>Has a telephone | Prior arrests for serious property offense<br>Has a telephone<br>Drug trafficking<br>Robbery charge |
| Cases = 1,818<br>$r^2$ = .10 | Cases = 1,856<br>Multiple r = .14<br>$r^2$ = .02 p=.000 | Cases = 1,856<br>Multiple r = .16<br>$r^2$ = .02 p=.000 | Cases = 1,856<br>Multiple r = .15<br>$r^2$ = .02 . p=.000 |
| Cash bail amount | | | |
| Seriousness of charge based on bail schedule<br>Drug trafficking<br>Prior felony conviction<br>Prior weapons conviction | Prior weapons conviction<br>Prior felony conviction<br>Seriousness of charge based on bail schedule<br>Drug trafficking | Prior felony conviction<br>Prior weapons conviction<br>Seriousness of charge based on bail schedule<br>Drug trafficking | Prior weapons conviction<br>Prior felony conviction<br>Seriousness of charge based on bail schedule<br>Drug trafficking |
| Cases = 554<br>$r^2$ = .82 | Cases = 1,856<br>Multiple r = .10<br>$r^2$ = .009 p=.002 | Cases = 1,856<br>Multiple r = .17<br>$r^2$ = .03 p=.000 | Cases = 1,856<br>Multiple r = .14<br>$r^2$ = .02 p=.000 |
| Site: Maricopa County Superior Court | | | |
| Nonfinancial v. financial bail | | | |
| Outstanding warrants<br>Length of residence<br>Recent prior arrests<br>Police: risk of flight<br>$r^2$ = .25<br>Nonfinancial release recommended | Police: risk of flight<br>Outstanding warrants<br>Length of residence<br>Recent prior arrests<br>Multiple r = .26<br>$r^2$ = .07 p=.000<br>Nonfinancial release recommended | Recent prior arrests<br>Outstanding warrants<br>Police: risk of flight<br>Length of residence<br>Multiple r = .10<br>$r^2$ = .01 p=.015<br>Nonfinancial release recommended | Police: risk of flight<br>Outstanding warrants<br>Recent prior arrests<br>Length of residence<br>Multiple r = .17<br>$r^2$ = .03 p=.000<br>Nonfinancial release recommended |
| Cases = 2,232<br>$r^2$ = .90 | Cases = 1,200<br>Multiple r = .27<br>$r^2$ = .07 p=.000 | Cases = 1,200<br>Multiple r = .11<br>$r^2$ = .01 p=.012 | Cases = 1,200<br>Multiple r = .18<br>$r^2$ = .03 p=.000 |
| Key predictors of bail decisions[a] | Failure to appear | Rearrest | Failure |
| Cash bail amount | | | |
| Severity of most serious charge<br>Sexual assault<br>Robbery charge<br>Police: risk of flight<br>$r^2$ = .59<br>Nonfinancial release recommended | Police: risk of flight<br>Severity of most serious charge<br>Sexual assault<br>Multiple r = .26<br>$r^2$ = .07 p=.000<br>Nonfinancial release recommended<br>Multiple r = .27<br>$r^2$ = .07 p=.000<br>Robbery charge | Robbery charge<br>Sexual assault<br>Police: risk of flight<br>Severity of most serious charge<br>Multiple r = .11<br>$r^2$ = .01 p=.009<br>Nonfinancial release recommended | Police: risk of flight<br>Robbery charge<br>Sexual assault<br>Severity of most serious charge<br>Multiple r = .17<br>$r^2$ = .03 p=.000<br>Nonfinancial release recommended |
| Cases = 1,296<br>$r^2$ = .59 | Cases = 1,200<br>Multiple r = .27<br>$r^2$ = .07 p=.000 | Cases = 1,200<br>Multiple r = .12<br>$r^2$ = .02 p=.002 | Cases = 1,200<br>Multiple r = .19<br>$r^2$ = .04 p=.000 |

Table 9.5 Testing key predictors of bail decisions as predictors of defendant performance during pretrial release, by site (cont'd.)

| Key predictors of bail decisions[a] | Dependent variables: possible outcomes<br>Failure to appear | Rearrest | Failure |
|---|---|---|---|
| | Independent variables from prediction of outcomes: | | |
| Site: Boston Municipal Court | | | |
| Nonfinancial v. financial | | | |
| Severity of most serious charge<br>Recent prior arrests<br>Selling drugs, most serious charge<br>Prior pretrial release | Prior pretrial release<br>Selling drugs, most serious charge<br>Severity of most serious charge<br>Recent prior arrests | Recent prior arrests<br>Prior pretrial release<br>Selling drugs, most serious charge<br>Severity of most serious charge | Selling drugs, most serious charge<br>Recent prior arrests |
| Cases = 4,580<br>$r^2$ = .10 | Cases = 4,318<br>Multiple r = .03<br>$r^2$ =.0009 p=.442 | Cases = 915<br>Multiple r = .22<br>$r^2$ = .05 p=.000 | Cases = 915<br>Multiple r = .06<br>$r^2$ =.003 p=.222 |
| Cash bail amount | | | |
| Severity of most serious charge<br>Serious personal offense<br>Selling drugs, most serious charge<br>Serious personal offense | Serious personal offense<br>Selling drugs, most serious charge<br>Severity of most serious charge<br>Prior arrests, serious personal offense | Serious personal offense<br>Prior arrests, serious personal offense<br>Severity of most serious chargety<br>Selling drugs, most serious charge | Selling drugs, most serious oharge<br>Prior arrests, serious personal offense<br>Seriqus personal offense<br>Severity of most serious charge |
| Cases = 1,293<br>$r^2$ = .18 | Cases = 4,318<br>Multiple r = .06<br>$r^2$ = .004 p=.004 | Cases = 915<br>Multiple r = .07<br>$r^2$ = .005 p=.331 | Cases = 915<br>Multiple r = .07<br>$r^2$ = .006 p=.277 |

[a]Independent variables from multivariate analysis of judges decisions.

Figures 9.5a-9.5c exhibit the relationship between judges' decisions and the risk classification of defendants, for example. Moderate, nearly monotonic relationships were found in the expected directions in each of the sites when the assignment of nonfinancial versus financial choices are compared (the lower the risk the greater the use of nonfinancial bail). Similar relationships do not appear when the assignment of financial bail/bond is examined among defendants not receiving OR. A somewhat less direct but moderate overall relationship is found when the use of release versus detention of defendants is compared within 48 hours of booking.

If we wished to compare the jurisdictions on the basis of the strength of the relationships shown between their decisionmaking and risk attributes of defendants, it would be difficult to single out an exemplary site. Table 9.6 summarizes these relationships using Pearson's r and employing both the risk points (ungrouped risk ratings) and risk classifications. When looking at the choice between nonfinancial and financial options in each site, the correlations were slight, but slightly stronger in Maricopa County. In examining the selection of cash bail amounts, the correlations between judges' choices and risk attributes were weak in each location. When we examined the use of detention as an immediate impact of the bail/pretrial release decision, some differences in the slight to moderate relationships were found: the relationship between detention (more than 48 hours) and risk was strongest in Dade County ($r = .35$).

In summary, keeping the limitations of our data in mind, our analysis of the relative "rationality" of decisionmaking in the study sites might best be concluded by reporting that bail/pretrial release decisionmaking was not strongly related to the risk of flight or crime posed by defendants appearing before the court, rather the simple correlations varied from slight to moderate at best. If by "rational," we mean that decisions should be not only logically but empirically related to risk attributes of defendants, the evidence is not strongly supportive.

Having pointed out the weakness of the empirical relationships between the criteria apparently guiding the judges' bail choices in each of the sites and the outcomes of concern (forms of pretrial misconduct), we ought to acknowledge the nearly similar weakness of the statistical relationships between empirically derived criteria and misconduct. Table A9.7 compares the strength of the correlations between the decisionmaker and statistically derived criteria and pretrial misconduct. Generally, the statistically derived criteria are slightly to noticeably better.

Table 9.6 Relationship between bail decisions, case outcomes, defendant performance and risk scoring, by court system, 1984: Pearson's r

| Decisions, outcomes, and performance with risk scores | Court system: Boston Municipal r[a] | p | Dade County Circuit r | p | Maricopa County Superior r | p |
|---|---|---|---|---|---|---|
| Released before first appearance | | | | | | |
| Ungrouped scores | .24 | < .00 | .24 | < .00 | n/a | n/a |
| Grouped scores | -.24 | < .00 | -.24 | < .00 | n/a | n/a |
| Bail decision | | | | | | |
| Ungrouped scores | -.24 | < .00 | -.21 | < .00 | .29 | < .00 |
| Grouped scores | .23 | < .00 | .20 | < .00 | .29 | < .00 |
| Log bail/bond (ROR as $0) | | | | | | |
| Ungrouped scores | -.25 | < .00 | -.20 | .04 | .31 | < .00 |
| Grouped scores | .24 | < .00 | .30 | .03 | .31 | < .00 |
| Log financial bail/bond | | | | | | |
| Ungrouped scores | -.15 | < .00 | .12 | .01 | .13 | < .00 |
| Grouped scores | .14 | < .00 | -.17 | .03 | .12 | < .00 |
| Released within 48 hours | | | | | | |
| Ungrouped scores | .27 | < .00 | .35 | < .00 | -.27 | < .00 |
| Grouped scores | -.26 | < .00 | -.35 | < .00 | -.28 | < .00 |
| Released within 90 days or prior to adjudication | | | | | | |
| Ungrouped scores | .16 | < .00 | .32 | < .00 | -.17 | < .00 |
| Grouped scores | -.15 | < .00 | -.31 | < .00 | -.17 | < .00 |
| Days in jail | | | | | | |
| Ungrouped scores | -.16 | < .00 | -.30 | .09 | .20 | < .00 |
| Grouped scores | .15 | < .00 | .28 | .08 | .20 | < .00 |
| Cases dropped or dismissed within 90 days | | | | | | |
| Ungrouped | .01 | .19 | -.04 | .05 | -.44 | < .00 |
| Grouped | -.02 | .12 | .03 | .06 | -.43 | < .00 |
| Cases disposed within 90 days | | | | | | |
| Ungrouped | .01 | .21 | -.08 | < .00 | -.26 | < .00 |
| Grouped | -.04 | < .00 | .08 | < .00 | -.24 | < .00 |
| Of released, failures to appear within 90 days | | | | | | |
| Ungrouped | -.08 | < .00 | -.16 | < .00 | .33 | < .00 |
| Grouped | .11 | < .00 | .17 | < .00 | .27 | < .00 |
| Of released, rearrests within 90 days | | | | | | |
| Ungrouped | -.24 | < .00 | -.16 | < .00 | .13 | < .00 |
| Grouped | .24 | < .00 | .16 | < .00 | .10 | < .00 |
| Of released, rearrests for serious personal offenses within 90 days | | | | | | |
| Ungrouped | -.06 | .03 | -.10 | < .00 | .04 | .09 |
| Grouped | .07 | .02 | .11 | < .00 | .03 | .17 |
| Of released, failures to appear or rearrests within 90 days (failure) | | | | | | |
| Ungrouped | -.13 | < .00 | -.20 | < .00 | .26 | < .00 |
| Grouped | .19 | < .00 | .21 | < .00 | .21 | < .00 |

[a]In interpreting Pearson's r, it should be remembered that in Dade and Boston, lower risk scores (ungrouped) point to higher risk (grouped), while in Maricopa, lower risk scores (ungrouped) indicate low risk (grouped). As a result, relationships between ungrouped risk scores and decision or performance variables that are negative in Dade or Boston should be interpreted as "positive" in a logical sense.

Figure 9.4 Classification according to risk of persons detained in jail facilities, by site, fall 1985

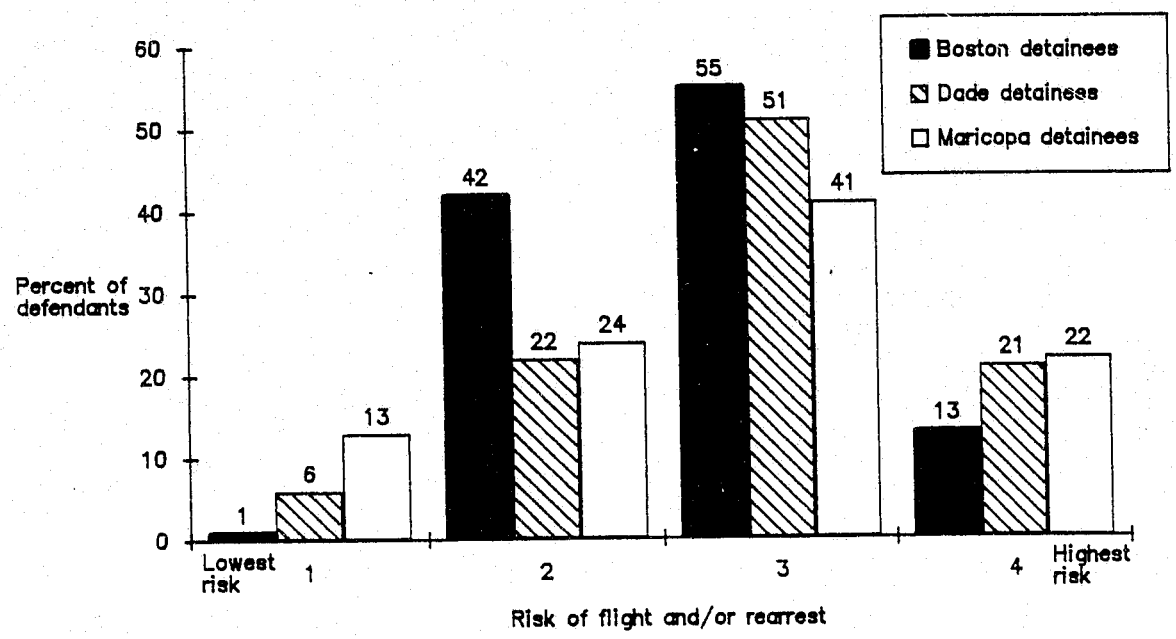
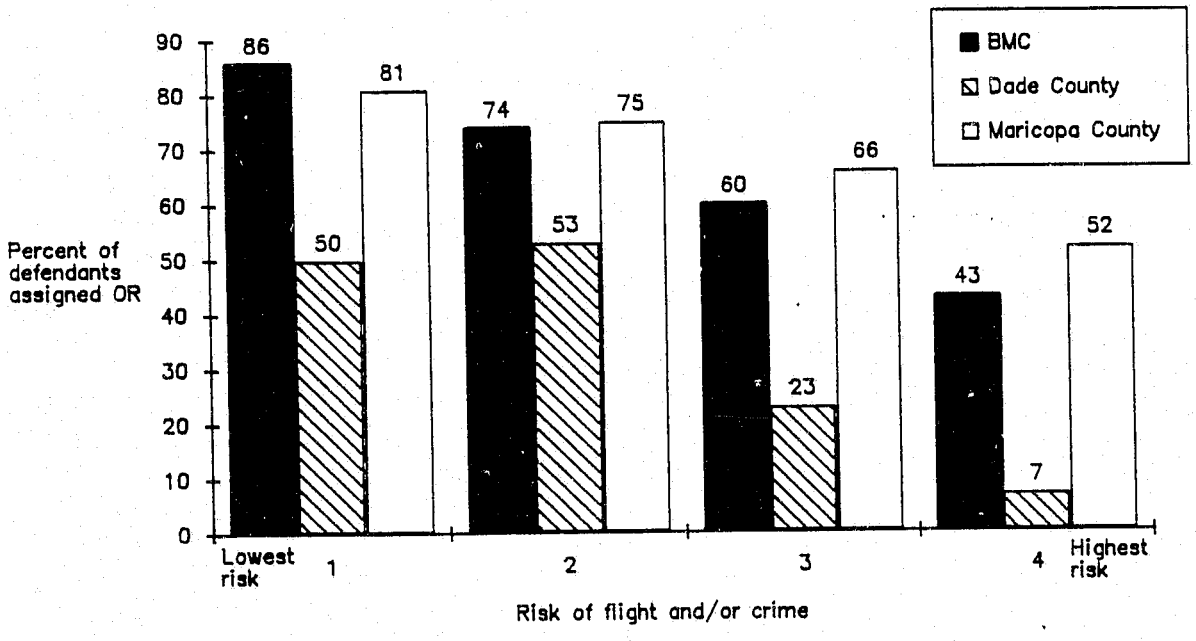
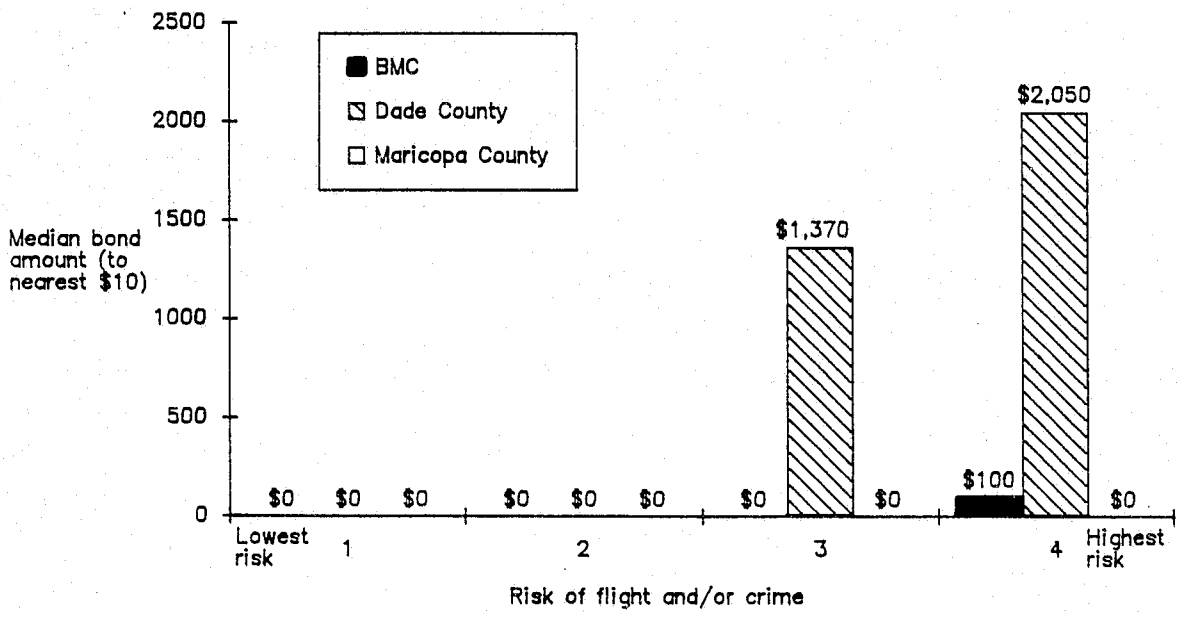



Figure 9.5a The relationship between judges' choice of nonfinancial decision and defendant risk of flight and/or crime, by site



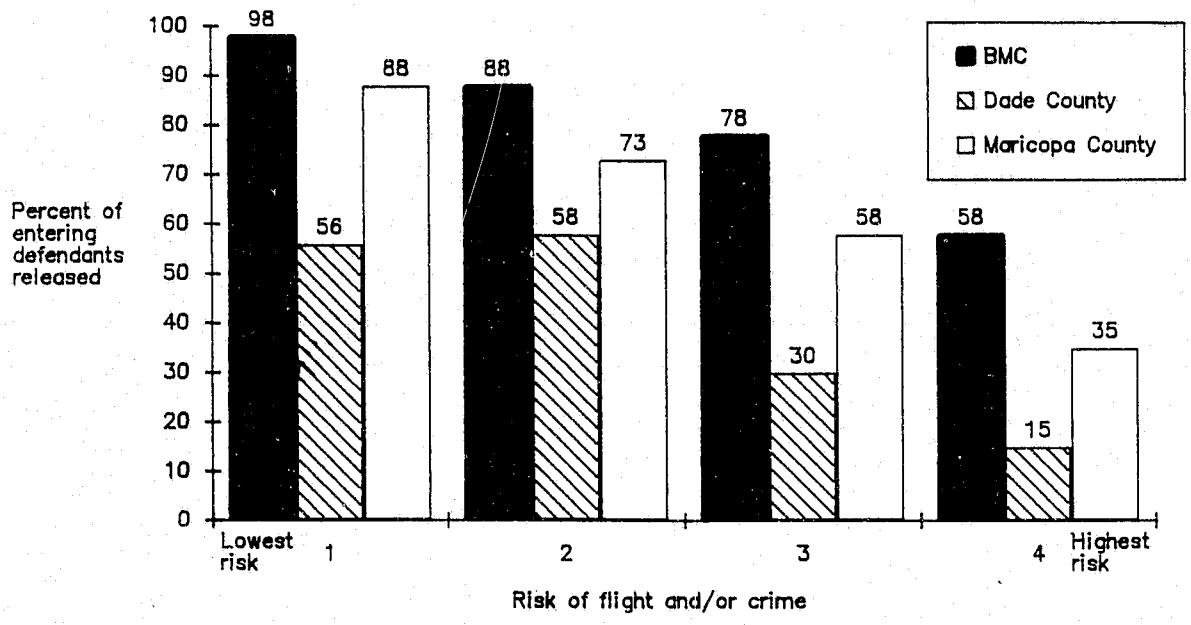

[Note: BMC: r = .23, p = .00;
Dade County: r = .20, p = .00;
Maricopa County: r = .29, p = .00.]

Figure 9.5b The relationship between judges' assignment of financial bond and defendant risk of flight and/or crime, by site




[Note: Nonfinancial options are coded as $0 in this analysis.]

Figure 9.5c The relationship between release within 48 hrs. of arrest and defendant risk of flight and/or crime, by site




[Note: BMC: $r = -.25$, $p = .00$;
Dade County: $r = -.35$, $p = .00$;
Maricopa County: $r = -.28$, $p = .00$.]

## Chapter Ten

# PREPARING FOR CONSTRUCTION OF DECISION GUIDELINES FOR BAIL/PRETRIAL RELEASE: CONSIDERATION OF ALTERNATIVE DECISIONMAKING MODELS

### Introduction

In each court, our descriptive research and group discussions led to the next, more difficult step of trying to devise decision guidelines helpful in establishing an overall policy and as a day-to-day decisionmaking tool. Defining the task in general terms was simple: the goal was to devise a decisionmaking aid that would incorporate the particular court's policy aims, that would bring together key pieces of information relating to defendants and to their cases, and that would point to preferred decisions for usual kinds of cases. Arriving at a specific product for each of the three court systems, however, meant addressing a number of important policy and practical questions.

This next stage in our process was indeed difficult because it asked--without having the courts' prior commitment to adopt a final product (sight unseen)--not only what such guidelines should look like (given the diverse policy goals) but also what kind of an impact they might be expected to have. Thus, as the task for the working committees shifted from examination, interpretation and critique of findings relating to past bail practices to development of a tool for shaping future practices, the debate became more involved. A great deal more was at stake in deciding how to shape future policy than was risked in discussing the strengths and weaknesses of court practices of the past.

In each site, before actual construction of decision guidelines could begin, the judicial working committees first had to agree on the theoretical model of guidelines that would be most suitable to their needs. In this chapter, we summarize the process of consideration of alternative models that occurred in each site and illustrate some of the kinds of guidelines models that were reviewed by the courts.

### Models of Decision Guidelines for Bail and Pretrial Release

Perhaps predictably, as the research turned to the development of decision guidelines, judges within each of the working committees rather directly requested that the research staff "show" them what the best version of decision guidelines might look like. (For example, they asked to see the guidelines that had been developed and implemented in the Philadelphia courts.) Because we believed that to be helpful the guidelines should be seen to

address the specific needs of each of the courts, we resisted the temptation to make a recommendation regarding the kind of model that might be most suitable and, rather, proceeded to illustrate the kinds of models that courts might find helpful.

In our discussions, we reviewed the kinds of questions that were raised in the descriptive research stage in the context of "decisionmaking." That is, in deciding upon the substance of guidelines that would be influential in future proceedings, questions relating to the goals of the bail/pretrial release decision, the information to be relied on in meeting those goals and the decision options available to act on the information in light of the goals were the kinds--among others--that had to be addressed (see Gottfredson, 1987).

Depending on how the judges viewed the decisionmaking task and how they viewed questions relating to goals, information and decision alternatives, a variety of decision guidelines could be conceived. The form the guidelines might ultimately take could depend not only on how importantly these kinds of questions were viewed by the courts, but also on the weight to be given to particular themes (such as crowding or flight, for example) and on the level of change being sought. For example, a court system like Boston might wish to develop guidelines closely linked to current practices, but stressing the improvement of information involved in the bail decision. Another jurisdiction, like Maricopa County, might wish to pursue more dramatic changes in decisionmaking, so that the use of pretrial detention is reduced.

From a practical perspective, two dimensions were central in decision guidelines the courts considered: a conceptualization of the nature of the decision task (similar to the discussion presented above in Chapters Six through Eight); and the descriptive versus prescriptive thrust of the guidelines.

The first dimension, selection of a conceptualization of the bail/pretrial release decision task, was important if judges were to be comfortable intuitively with the guidelines tool. (That is, if the decision task were presented in a fashion alien to the day to day decisionmaker, judges would be unlikely to employ them in the intended fashion.) The second dimension was important because of the value that judges may or may not place on the fashion in which bail operated in current practice. The guidelines could be made to be rooted squarely in past traditions--to the extent that these could be uncovered by empirical analysis--or they could be devised on a purely normative basis, based mostly on judges' visions of how bail ought to operate in an ideal world.

In this chapter we discuss five examples (not an exhaustive listing) of decision guidelines that were considered by the judicial working committees. They include 1) guidelines viewing bail as a two stage decision (descriptive and prescriptive versions); 2) guidelines viewing the decision as a direct detention versus release choice; 3) guidelines based solely on the actuarial classification of defendants according to risk (of flight or crime or both); 4) guidelines based on detention and risk; and 5) guidelines based on risk and the seriousness of the criminal charges (the Philadelphia model).

## A TWO-STEP APPROACH: CHOOSING BETWEEN NONFINANCIAL AND FINANCIAL BAIL AND THEN SELECTING THE APPROPRIATE CONDITIONS/AMOUNT

Under this model--which we tested earlier during the descriptive phase as model 2 in Figure 6.1 above--the judge's task at the first judicial stage was viewed as involving two levels of choices. First, the judge determines whether financial or nonfinancial bail is appropriate, Second, the judge sets the conditions of (nonfinancial) release or selects an amount of bail. During our discussion of descriptive findings, judges in each of the locations had expressed some comfort with this conceptualization of the bail/pretrial release decision task. However, even given preference for this model, there remained the determination of a relatively descriptive or relatively prescriptive orientation.

### A "Descriptive" Two-Step Model

One version of guidelines based on this model of the task would seek to formalize the traditional practices studied by employing criteria that best explained how judges' choices were usually being made in the particular court. That is, to the extent certain variables "explained" judges' decisions in the past, the decision guidelines would be shaped so that they would guide judges' choices in the future. Thus, depending on our success in identifying "predictors" of judges' recent decisions, defendants would be scored and placed into groups each having a presumptive bail decision assigned to it.

To illustrate how this kind of two-stage guidelines model might work, we turn to our analysis of commissioners' decisions at initial appearance in Superior Court in Maricopa County. From our analysis of the commissioners' choices between nonfinancial and secured forms of bond, several characteristics appeared to be

central.[85] Using these characteristics and weighting them to reflect their influence in the commissioners' decisions,[86] we can place defendants in two categories, one (Part I) in which defendants in the recent past nearly always received OR and one (Part II) in which they almost never did. See Figure 10.1.

The pretrial services staff would classify each defendant first as a "Part I" kind of defendant--destined to receive some nonfinancial form of release--or as a "Part II" kind of defendant--destined to have financial bond assigned by scoring the defendant on the criteria listed in Table 10.1. That is, the pretrial services staff would interview each defendant to focus on the following kinds of information which would be used to place them within a suggested decision category: whether there were outstanding warrants, how long each had resided in the area, the record of arrests within the last three years and the seriousness of the charges (using a special scale), and whether the police believed the defendant might flee.

Figure 10.1 Hypothetical two-part guidelines: a) nonfinancial versus secured options; b) amount of secured bond

Part I
Choosing Nonfinancial Versus Secured

| Nonfinancial 1 | Nonfinancial 2 | Nonfinancial 3 | Nonfinancial 4 | Secured 5 | Secured 6 |
|---|---|---|---|---|---|
| Standard Conditions | | Special Conditions | | Go to Part II | |

Part II
Choosing Amount of Secured Bond

| 1 | 2 | 3 | 4 | 5 | 6 |
|---|---|---|---|---|---|
| $1 to $1,000 | $1,001 to $1,500 | $1,501 to $2,500 | $2,501 to $4,000 | $4,001 to $7,500 | $7,501 to $15,000 |

Guidelines Category (please check):

___Nonfinancial - Standard Conditions

(List:_____)

___Nonfinancial - Special Conditions

___Third party custody

___Supervision

___Other (_____)

___Secured Range ($_____to_____)

Commissioner's Decision:_____

If Exception, give reason:_____

_____

_____

_____

_____

_____

Commissioner_____

[85] We exclude the role of the recommendation of the pretrial services staff here for the purposes of illustration. Earlier, we pointed out that it was the most important "predictor" of commissioners' choices between nonfinancial and financial release.

[86] Parameter estimates from logit analysis were divided by a constant and rounded to form "points" for scoring defendants.

Table 10.1 Scoring of defendants on Part I factors under Model III (nonfinancial v. financial options), Maricopa County

| Factor | Part I points | Example's score |
|---|---|---|
| Outstanding warrants | | |
| No | 0 | |
| Yes | 7 | 7 |
| Least serious charge | | |
| No | 0 | 0 |
| Yes | -7 | |
| Weapons charges | | |
| None | 0 | |
| One or more | 4 | 4 |
| Defendant lives alone | | |
| No | 0 | |
| Yes | 4 | 4 |
| Wages reported | | |
| No | 0 | 0 |
| Yes | -2 | |
| Length of residence | | |
| 0 to 3 months | 0 | 0 |
| 4 to 12 months | -7 | |
| 12 or more months | -13 | |
| Prior arrests in last three years | | |
| No | 0 | |
| Yes | 5 | 5 |
| Police: defendant might flee | | |
| No | 0 | |
| Yes | 3 | 3 |
| Add points | 18 | 18 |

| Decision groupings | Part I points | Number of defendants | Percent of defendants | Percent with ROR |
|---|---|---|---|---|
| 1 | lowest to 3 | 510 | 22.9 | 73.9 |
| 2 | 4 to 6 | 280 | 12.5 | 62.2 |
| 3 | 7 | 310 | 13.9 | 45.9 |
| 4 | 8 to 11 | 425 | 19.0 | 31.4 |
| 5 | 12 to 15 | 334 | 15.0 | 13.0 |
| 6 | 16 to highest | 373 | 16.7 | 9.1 |
| Total | ---------- | 2,232 | 100.0 | |

Example Defendant

Total Part I points 41

Classification Group 6 - GO TO PART II

Depending on defendants' ratings on these items, the pretrial services staff could determine whether the suggested decision would fall into the nonfinancial category. If so, the points earned would further differentiate for the commissioner employing this version of guidelines whether the defendant should be released under normal ("standard") conditions of release, or whether more restrictive but still nonfinancial conditions ought to apply. If the defendant's ratings placed him out of the nonfinancial categories, the staff member would turn to a second rating to determine the appropriate range of cash bond that ought to be assigned.

Table 10.1 classifies the following example of a defendant to illustrate the use of this version of guidelines derived for Maricopa County:

> The defendant is charged with a burglary (second degree). He was in the process of committing the burglary when the police arrived at the scene. The defendant fired two shots from a pistol at the officers without hitting them before being apprehended. The defendant has an outstanding warrant for his arrest on charges in another Arizona county. He has been arrested twice in the past three years and has one felony conviction for which he spent one year in prison. He is currently unemployed, lives alone and does not yet have a telephone installed. The police have expressed the opinion that he might flee if released before trial.

Table 10.1 shows how pretrial services staff would have rated this defendant under such a "descriptive" system. First, we see that he would have earned 41 points. Second, in looking at the array of all Maricopa felony defendants studied, we learn that this score places him in Part I group 6 in which defendants in the past seldom received nonfinancial decisions at initial appearance. Figure 10.1 posits that defendants in groups 5 or 6 under Part I of the descriptive guidelines should have secured bond be set under financial (Part II) guidelines.

Classification of defendants under the Part II guidelines for secured or financial bond is based on a another scoring system derived from the empirical analysis of the commissioners' choices of different bond amounts. The criteria on which defendants are scored in this section of the descriptive guidelines include the seriousness of the charges, whether a victim of sexual violence was involved in the charges, whether a robbery charge was included, whether the police indicated a risk of flight, whether a weapon was allegedly involved, and whether the crime involved an alcohol or drug-related offense.

Table 10.2 demonstrates how Maricopa felony defendants in the study would have been distributed among Part II categories of suggested secured bond amounts. Using the evaluation scheme outlined in Table 10.2, the defendant in our example rates a total of 61 points, placing him in the second highest bond group, for which the average bond has been close to $6,850 in the recent past. Given this classification of the defendant by the pretrial services staff, the commissioner's job would be to decide whether an amount within the range suggested by the guidelines would be appropriate or whether an exceptional decision would be required and then follow the procedures discussed in the previous example.

In each of the sites, this two-step, descriptively based model of guidelines was developed and discussed with the judicial working committees. Should any of the courts have chosen to further develop and then to adopt this version of guidelines, it was argued that several advantages over current practices might be expected. First, this conceptualization would structure bail/release decisions as nearly as possible in line with current practices. And, even though it would not prescribe decisions that would be very different than those now seen, it would contribute other enhancements to the decision process. For example, it would make the criteria guiding bail decisions explicit, readily apparent to judges and pretrial services staff. This would lead to a more systematic collection of information and to more consistency among bail/pretrial decisions. In enhancing consistency, the framework based on explicit criteria would contribute more equitable decisions in the court as a whole.

Discussion of this version of guidelines pointed to several disadvantages as well, however. First, although the explicit decision framework would add visibility and consistency to the bail process and reduce the extent to which similar defendants are treated dissimilarly, it would not change decisionmaking practices--at least not very much. Thus, if the Court felt that particular issues needed to be addressed in guidelines--such as a reduction of flight among released defendants or rearrests--a version based on modeling current practices would not necessarily have the desired impact. The guidelines would be aimed rather at preserving and reorganizing the status quo.

Another problem was practical: to the extent that our analyses of the nonfinancial versus financial decisions were not able to identify systematic criteria influencing the judges' choices, or at least were not able to locate strong themes--and this was true of each of the sites--our descriptive guidelines models would be based on relatively weak criteria. One implication of this is that the guidelines would treat these criteria as dominant criteria.

Table 10.2 Scoring of defendants on Part II factors under Model III (amount of secured bond)

| Factor | Part II points | Example's score |
|---|---|---|
| Seriousness of charge | | |
| 0 | 0 | |
| 1 | 1 | |
| 2 | 2 | 2 |
| 3 | 2.5 | |
| 4 | 3 | |
| 5 | 4 | |
| 6 | 5 | |
| Charges: sexual assault | | |
| No | 0 | 0 |
| Yes | 10 | |
| Charges: robbery | | |
| No | 0 | 0 |
| Yes | 8 | |
| Charges: weapons | | |
| No | 0 | |
| Yes | 4 | 4 |
| Charges: alcohol or drug related | | |
| No | 0 | 0 |
| Yes | -3 | |
| Number of charges | | |
| 1 | 6 | 6 |
| 2 | 7 | |
| 3 | 10 | |
| 4 | 13 | |
| 5 or more | 25 | |
| Police: defendant might flee | | |
| No | 0 | |
| Yes | 3 | 3 |
| Add points | 46 | 46 |

| Decision groupings | Part II (bond points) | Number of defendants | Percent of defendants |
|---|---|---|---|
| 1 | 43 to 48 | 179 | 8.0 |
| 2 | 49 to 53 | 1,060 | 47.5 |
| 3 | 54 to 57 | 554 | 24.8 |
| 4 | 58 to 60 | 181 | 8.1 |
| 5 | 61 to 67 | 198 | 8.9 |
| 6 | 68 to highest | 60 | 2.7 |
| Total | ---------- | 2,232 | 100.0 |

| | Median secured bond amount | Interquartile range | Range |
|---|---|---|---|
| 1 | $ 700 | $ 245 to 1,519 | 1,274 |
| 2 | 1,375 | 564 to 2,240 | 1,676 |
| 3 | 2,050 | 1,028 to 3,299 | 2,271 |
| 4 | 3,425 | 1,380 to 9,492 | 8,112 |
| 5 | 6,850 | 2,741 to 12,338 | 9,597 |
| 6 | 20,750 | 8,229 to 33,004 | 24,775 |
| Total | 2,055 | | |

Example defendant

Total Part II points 61

Classification Group 5

As a result, having weak but detectable criteria institutionalized as the henceforth guiding criteria, it would be difficult to claim that the guidelines were "descriptive" in the sense that they reflected traditional practice.

Modifying the Descriptive Two-Step Approach

Although the two stage model just described would have the advantages of explicitness, consistency and ease of application, the decision guidelines would be based on a description of current practices. And, thus, they would not dramatically change the Court's overall approach--for example, to the use of pretrial detention. In addition, it is unlikely that either the choices of nonfinancial versus secured bond options (Part I) or the selection of particular amounts of secured bond (Part II) would be more related to prediction of flight or crime than they were in the recent past.

Thus, a possible alternative model of guidelines would modify the decisions suggested within particular guidelines categories (under either Part I or Part II) using data relating to detention, flight, crime, etc. For example, perhaps the guidelines falling within the lowest secured bond group in Part II could be moved to the "special conditions" category under Part I. Or, perhaps suggested bond amounts within Part II categories should be lowered to reduce the use of detention in the expectation that, perhaps supplemented by special conditions of reporting or supervision, flight and rearrest rates will not be increased.

Figure 10.2 shows the data pertaining to each of the categories of Part I and Part II guidelines that could prove helpful in taking the prescriptive approach. Figure 10.3 uses the information to suggest changes that might be considered in revising the descriptive approach to arrive at prescriptive guidelines.

A second means of modifying this model of guidelines based on a description of court practices might be more normative in emphasis, through discussion and debate of how bail/pretrial release decisions ought to occur. The Steering Committee might decide, for example, that specific criteria ought to be made central in bail decisions--whether or not research identified them as playing an active role currently--and that guidelines ought to be developed based on them. The court would then decide which criteria should be important and how they should be weighted relative to one another.

Our difficulty in modeling bail decisions in the Boston Municipal Court, for example, suggested that the strictly descriptive approach might not be viable. In an exercise designed to develop a modified version of bail guidelines, we asked the Boston judges to assign weights (from 1 to 17 points) to each of the 17 criteria listed in the

Figure 10.2 Hypothetical two-part guidelines: a) nonfinancial versus secured options; b) amount of secured bond

**Part I**
**Choosing Nonfinancial Versus Secured**

| | Nonfinancial 1 | Nonfinancial 2 | Nonfinancial 3 | Nonfinancial 4 | Secured 5 | Secured 6 |
|---|---|---|---|---|---|---|
| N | 510 | 280 | 310 | 425 | 334 | 373 |
| %OR | 74 | 62 | 46 | 31 | 13 | 9 |
| %det. | 23 | 35 | 49 | 64 | 81 | 85 |
| %FTA | 4 | 8 | 5 | 8 | 14 | 19 |
| %rear | 10 | 12 | 10 | 12 | 14 | 13 |
| %fail | 13 | 19 | 14 | 19 | 22 | 28 |

**Part II**
**Choosing Amount of Secured Bond**

| | 1 | 2 | 3 | 4 | 5 | 6 |
|---|---|---|---|---|---|---|
| N | 179 | 1,060 | 554 | 181 | 198 | 60 |
| Med$ | $685 | $1,370 | $2,055 | $3,425 | $6,849 | $13,814 |
| %det. | 32 | 48 | 61 | 65 | 80 | 82 |
| %FTA | 2 | 6 | 11 | 14 | 11 | 5 |
| %rear | 11 | 11 | 10 | 13 | 9 | 24 |
| %fail | 13 | 16 | 19 | 21 | 17 | 29 |

Guidelines Category (please check):

____Nonfinancial - Standard Conditions

(List:_____)

____Nonfinancial - Special Conditions

____Third party custody

____Supervision

____Other (_____)

____Secured Range ($_____to_____)

Commissioner's Decision:_____

If Exception, give reason:_____

_____

_____

_____

_____

_____

Commissioner_____

---

Figure 10.3 Hypothetical two-part guidelines: a) nonfinancial versus secured options; b) amount of secured bond

**Part I**
**Choosing Nonfinancial Versus Secured**

| Nonfinancial 1 | Nonfinancial 2 | Nonfinancial 3 | Nonfinancial 4 | Secured 5 | Secured 6 |
|---|---|---|---|---|---|
| Standard Conditions | | Special Conditions | | Go to Part II | |

**Part II**
**Choosing Amount of Secured Bond**

| 1 | 2 | 3 | 4 | 5 | 6 |
|---|---|---|---|---|---|
| $1 to $800 | $801 to $1,200 | $1,300 to $2,000 | $2,500 to $3,500 | $3,501 to $5,000 | $8,000 to $15,000 |

Guidelines Category (please check):

____Nonfinancial - Standard Conditions

(List:_____)

____Nonfinancial - Special Conditions

____Third party custody

____Supervision

____Other (_____)

____Secured Range ($_____to_____)

Commissioner's Decision:_____

If Exception, give reason:_____

_____

_____

_____

_____

_____

Commissioner_____

Massachusetts statutes as those that should be considered at bail based on how important these items should be in bail decisions generally.

The average scores assigned by the judges are summarized in Table 10.3. For example, a glance at the judges' ratings shows that the "nature and circumstances of the offense" was rated as the most important factor in making the bail decision. The defendant's financial resources were rated as the least important. (In fact, the most important item was given 17 times the weight of the least important item.) Thus, rather than basing guidelines on what the research has shown (or not shown), a court could devise an approach using statutory or other criteria. The overall scores received by defendants would place them in certain classes which had certain presumptive bail decisions tied to them, such as ROR, ROR with special reporting conditions, financial bail, etc.

## GUIDELINES FOR PRETRIAL DETENTION

Judges may not agree with the description of their task at the bail stage as in effect involving a direct, explicit choice between custody and release of particular defendants. But, wishing to be candid and accountable for their decisions, judges might argue that guidelines should be fashioned not for a "bail" decision, but rather for a "detention" decision--using the rationale employed by Congress, for example, in enacting the Federal preventive detention law in 1984.[87] Findings from our research are consistent with this conceptualization of bail practices (that beneath the vagueness of bail decisions lies a *sub rosa* detention decision) For example, in all of the sites, when bail is set at any amount over $500, a majority of defendants will not be released within 24 hours. It may be reasonable, therefore, to consider anything over $500 to be tantamount to a detention decision.

Thus, forthright "detention" decision guidelines might be structured to place the defendant within a category of release or detention. For defendants falling within presumptive release categories, the guidelines might further designate appropriate conditions of release. Like the two-step guidelines described above, detention guidelines might be developed empirically, from analyses describing the use of pretrial detention in each of the sites, or might be crafted by normative modifications of the empirical model according to knowledge of decision outcomes as they were recorded in the recent past.

[87] If this model were selected by the judges, of course, an interesting question would present itself, if the decision were to be viewed as a "detention" decision, to what extent would "detention hearings" and other procedures need to be added into the process along with the guidelines.

Table 10.3 Scoring of defendants on Part I factors under Model III (nonfinancial v. financial options), Boston Municipal Court

| Statutory criteria | Weight | Defendant score |
|---|---|---|
| Nature and circumstances of offense | 17 | 1 (least serious)<br>17 (most serious) |
| Prior failure to appear | 15 | 0 (none)<br>10 (one)<br>15 (two or more) |
| Record of convictions | 15 | 0 (none)<br>5 (one, not serious)<br>10 (one or more, serious) |
| On probation, parole, or other release pending completion of sentence | 11 | 0 (none)<br>11 (yes) |
| On release pending sentence or appeal | 10 | 0 (none)<br>10 (yes) |
| Flight to avoid prosecution | 9 | 0 (no)<br>9 (yes) |
| One release for previous charge at time of arrest | 8 | 0 (no)<br>8 (yes) |
| Use of alias or fraudulent I.D. | 7 | 0 (no)<br>7 (yes) |
| Present drug dependency | 7 | 0 (no)<br>7 (yes) |
| Employment record | 6 | 0 (stable)<br>6 (not) |
| Length of residence in community | 5 | 0 (2 years or more)<br>2 (more than 1 year)<br>5 (less than 1 year) |
| Family ties | 4 | 0 (close, verified)<br>4 (no close ties) |
| Potential penalty | 4 | 0 (5 years or less)<br>2 (6 to 10 years)<br>4 (more than 10 years) |
| History of mental illness | 4 | 0 (none)<br>4 (yes) |
| Illegal drug distribution | 4 | 0 (none)<br>4 (yes, alleged) |
| Reputation | 1 | 0 (reasonably good)<br>1 (not good) |
| Financial resources | 1 | 0 (no resources)<br>1 (has resources) |

Descriptive Detention Guidelines

Once again, knowledge of the attributes of defendants and their cases associated with their release or detention before adjudication would allow us to classify defendants into categories with different probabilities of detention. See Figure 10.4, version I.

Each of the categories would designate whether defendants with like characteristics would be released or detained. If detained, defendants would be scheduled for appropriate reviews and hearings as required by law and placed on expedited calendars, for example. If designated for release, it would next be determined under what conditions, if any.

Prescriptive (Preventive?) Detention Guidelines

Descriptive detention guidelines could be designed so that roughly the same level of pretrial detention would result as has been occurring in the jurisdiction. However, using the kind of information presented above in Figure 10.2 to illustrate the example of Superior Court in Maricopa County, guidelines for detention could be modified to effect a lower rate of detention, moving, say, from the 45 percent usually held throughout the pretrial period to 30 percent of the felony defendants (version II in Figure 10.4).

For example, some defendants who would be detained in group 4 (version I) seem to have shown reasonably low rates of failure to appear and of rearrest when released in the past. Thus, this category could be modified to be moved to a release category, for whom special or restrictive conditions of release would be set (such as supervision, calling in, etc.). In addition, some of the defendants usually falling within group 5 would be identified as now being suitable for release under special conditions.

## ACTUARIAL GUIDELINES BASED ON THE DEFENDANT'S RISK OF FLIGHT, REARREST OR BOTH

In our discussions of models of decision guidelines each court might find useful, we also considered guidelines based purely on empirical risk--either solely on a defendant's risk of flight, or risk of crime, or both, if desired. This version of decision guidelines would posit release conditions and assign bond or detention according to the classifications we described above in Chapter Nine and would resemble actuarial tables like those insurance companies employ to determine driver premiums.

For example, actuarial guidelines based on assessment of defendants' risk of flight and/or rearrest could be formulated for Boston Municipal Court defendants. By evaluating defendants according to criteria outlined in Chapter Nine, the probation staff would focus particularly on the kinds of information outlined in the discussion of prediction of default and/or rearrest above and would classify defendants into one of four groups according to their relative risk of flight and/or rearrest for which decisions would be suggested by the guidelines. See Figure 10.5.

Actuarial guidelines would therefore place each defendant in a risk class and suggest that in most cases defendants would be treated as if they shared the risk attributes of a particular class. The court might decide that such guidelines could be based only on risk of flight or only on risk of rearrest, or could decide that both concerns were appropriately considered.

These guidelines would not mirror current decision practices because, as we have seen, in each of the locations, factors predictive of judges' decisions have not been shown to be strongly related to factors predictive of flight or crime by defendants during pretrial release. In addition, although the empirically derived risk classifications would represent an improvement--from a statistical point of view--over the current intuitive approaches taken by judges, they would still represent only marginal improvement and would still be far from ideal. Thus, the decision to employ guidelines totally governed by useful though imperfect risk-related criteria would represent a notable departure from present practice for any of the courts.

## PRETRIAL DETENTION GUIDELINES BASED ON DEFENDANT RISK

Figure 10.6 illustrates how concerns for directly structuring the use of pretrial detention as a result of bail decisions <u>and</u> for orienting decisions to be more related to risk might be combined in a fourth version of decision guidelines.

Goals in this approach would involve both addressing the use of pretrial detention more explicitly and aligning the use of detention and release of defendants more closely with the risks of flight and crime they pose. In this fashion, not only can the use of detention be carefully monitored, but conditions of release responsive to the risks posed by defendants who will be released before trial can be implemented in a systematic fashion. Of course, because of the frank nature of the detention decision and the importance of a risk classification, a court choosing this model of decision guidelines would certainly be embarking on a path of dramatic change.

Figure 10.4 Hypothetical guidelines based on release/detention

Probability of Detention

| | 1 | 2 | 3 | 4 | 5 |
|---|---|---|---|---|---|
| Version I | Released (Standard Conditions) | Released (Standard Conditions) | Released (Special Conditions) | Detained | Detained |

Current rate of Detention (45%)

| Version I | 1 | 2 | 3 | 4 | 5 |
|---|---|---|---|---|---|
| N | 652 | 342 | 171 | 184 | 883 |
| % ROR | 78 | 59 | 42 | 30 | 7 |
| Med $ | $1,650 | $1,500 | $1,775 | $1,650 | $2,054 |
| % FTA | 21 | 36 | 53 | 63 | 87 |
| % Rearrest | 4 | 9 | 4 | 6 | 17 |
| % Failure | 12 | 9 | 9 | 12 | 13 |
| | 15 | 17 | 12 | 16 | 25 |

Current rate of Detention (45%)

| | 1 | 2 | 3 | 4 | 5 |
|---|---|---|---|---|---|
| Version II | Released (Standard Conditions) | Released (Standard Conditions) | Released (Special Conditions) | Released (Special Conditions) | Detained |

Modified rate of Detention (30%)

---

Figure 10.5 Bail guidelines based on risk of flight and/or crime for the Boston Municipal Court

| | | Expected failure | Suggested decision |
|---|---|---|---|
| Risk of Misconduct | I Lowest | 1 in 6 | ROR |
| | II Medium low | 1 in 3 | ROR/Standard Conditions |
| | III Medium | 1 in 2 | ROR/Special Conditions (Inc. Bail $1 to $500) |
| | IV Highest | 3 in 5 | Restrictive Conditions (Inc. Bail $501 to $5,000) Detention |

Figure 10.6 Hypothetical release/detention guidelines based on risk of failure

Probability of Detention

Low ⟷ High

| Risk of Failure | Certain Release | Release | Release/ Detention | Certain Detention |
|---|---|---|---|---|
| Low 1 | Released (Standard Conditions) | Released (Standard Conditions) | Released (Standard Conditions) | Detained |
| 2 | Released (Standard Conditions) | Released (Standard Conditions) | Released (Special Conditions) | Detained |
| 3 High | Released (Standard Conditions) | Released (Special Conditions) | Detained | Detained |

## GUIDELINES BASED ON RISK AND THE SERIOUSNESS OF THE CHARGE

A final example of how decision guidelines could be formulated to assist decisionmaking at the bail stage would employ a risk dimension and a dimension representing the relative seriousness of defendants' charges. See Figure 10.7. This is the most traditional kind of guidelines format (see discussion of the Federal parole guidelines, for example, in Gottfredson et al., 1978) and was the approach taken by the judges in the Philadelphia courts in the original experiment. Despite the fact that this model of decision guidelines was the last presented for discussion to the judicial working committees, it is the version unanimously selected for further refinement in each of the sites. The rationale--and the variations--employed by the courts in their selection of the risk/charge seriousness model of decision guidelines for bail\pretrial release--are interesting.

In each of the courts, the notion that day-to-day decisions could be improved by making available information ranking defendants according to their relative likelihood of flight from court or of crime during pretrial release was appealing. Yet, in none of the courts was there expressed a great affinity for "statistics" or a wish to base decision guidelines solely on risk. The selection of the charge seriousness dimension for inclusion within the guidelines in large part was viewed as logically and intuitively counterbalancing the risk dimension.

Figure 10.7 Detention guidelines based on offense seriousness and risk of failure

Seriousness of Charged Offense: Low ← → High

| Risk of Failure (Low → High) | 1 | 2 | 3 | 4 | 5 | 6 | 7 |
|---|---|---|---|---|---|---|---|
| 1 | Nonfinancial (Standard Conditions) | Nonfinancial (Standard Conditions) | Nonfinancial (Standard Conditions) | Nonfinancial (Standard Conditions) | Nonfinancial (Standard Conditions) | $1,001 to $1,500 | $ 2,001 to $ 3,000 |
| 2 | Nonfinancial (Standard Conditions) | Nonfinancial (Standard Conditions) | Nonfinancial (Standard Conditions) | Nonfinancial (Special Conditions) | $1 to $1,000 | $1,501 to $2,000 | $ 2,001 to $ 3,000 |
| 3 | Nonfinancial (Standard Conditions) | Nonfinancial (Standard Conditions) | Nonfinancial (Special Conditions) | $1 to $1,000 | $1,001 to $1,500 | $2,001 to $3,000 | $ 3,001 to $10,000 |

Nonfinancial — Financial

That is not to suggest that choice of an offense seriousness dimension was not without debate. Over the last two decades, part of the criticism of bail practices focused on the nearly exclusive reliance by judges on the seriousness of defendants charges in setting bail. Critics argued that, since the task of the bail decision did not involve punishment (which might more appropriately be seen to guide sentencing decisions), it was not an appropriate bail concern (or, at least, it should not be the sole concern). (See Foote, 1954.) In addition, reliance on defendants' charges has been viewed in the critical literature as contributing to inequity--such as represented by the use of traditional bond schedules--because release was tied to the defendant's ability to afford given amounts of bail. Moreover, recent research (including this research) has not shown charge seriousness to be a good predictor of defendant misconduct during pretrial release.

However, the argument was made in each of the courts that, despite being a very poor yardstick of likely flight or crime, the severity of a defendant's charges might still serve a useful purpose in deciding bail/release by acting as an assessment of the potential "costs" of mistakes that could be made by judges who would otherwise be making their decisions based on the risk ranking of defendants according to the proposed bail/pretrial release guidelines. For example, while the guidelines risk classification alone might suggest that "numbers runners" all be

detained (because they have a very high probability of repeating their crimes), the low charge severity rating might suggest that such defendants represent a low potential cost to the court system, that a "mistake" made by the judge in releasing this kind of defendant would not result in a major harm to society, to victims, witnesses or the integrity of court processes. In fact, given the seriously overcrowded jails in most jurisdictions, the severity rating's low cost assessment might strongly suggest that the courts avoid detaining such "nuisance-level" defendants.

Or, to cite another illustration of the value of juxtaposing cost (charge severity) to risk, risk alone might indicate that an alleged rapist could be depended on (was classified as so low risk) to return to court and not to repeat the crime during the pretrial period. The severity rating of the alleged offense, however, might suggest that--risk aside--the potential cost of a "mistake" in releasing such a defendant (or releasing such a defendant without sufficient restraints) could be very costly, given the possible harm to a victim that might result. Thus, the use of a charge severity ranking in these instances would suggest that the Court, as well as the public, would have more to lose in the event of a misjudgment in the latter case than the former.

Chapter Eleven

# THE CONSTRUCTION OF BAIL/PRETRIAL RELEASE DECISION GUIDELINES IN MARICOPA COUNTY, DADE COUNTY AND BOSTON

## STRUCTURING THE GUIDELINES: OPERATIONALIZING DECISIONMAKING POLICY BY DEFINING THE DIMENSIONS OF THE DECISION MATRIX

Although it is true that the general model of decision guidelines chosen by each of the judiciaries for further development was the same--essentially a decision matrix defined by a charge seriousness and defendant risk dimension--the processes leading to these selections were independent and were shaped by the local concerns of each of the courts. In this section, we briefly describe the special rationales that shaped the choice of a decision guidelines format for pretrial release in each location.

### Designing the Risk and Seriousness Classifications in the Maricopa County Guidelines: the Role of Police Opinion, a Special Focus on Defendant Danger and on Injury to the Victim

Once the leadership of the Superior Court felt comfortable in opting for a seriousness-risk format for its pretrial release guidelines, it faced several important policy decisions concerning the specific form various components of the guidelines would take.

For example, although the court leadership had indicated a preference for a risk classification incorporating risk of crime (defendant rearrest) and risk of failure-to-appear (FTA) taken together as "risk of misconduct", two risk classifications had been developed and presented to the judges. (Two were presented because neither was clearly more powerful statistically and each had different themes.) The items forming the alternative risk scales to be used by pretrial services staff in classifying defendants for the guidelines are shown in Table 11.1. The principal difference between the two models was that in one pretrial services would consider whether the police have indicated in the arrest paperwork whether they believed the defendant might flee, while in the other the question would be more factual, asking instead whether the police indicated that the defendant had been arrested with evidence of the crime in his/her possession. (Defendants with such indications--that they might flee or that they had evidence in their possession, depending on the model--would be ranked as higher risk.)

Because some members of the working committee suspected that, if given the chance, police officers would describe most defendants as likely to flee, the risk model employing this item was seriously debated. There was a

Table 11.1 Scoring of defendants on risk factors under pretrial release guidelines, Maricopa County Superior Court

| Factor | Weight | Points[a] |
|---|---|---|
| Prior failures to appear | | |
| None | | 0 |
| One | 1x.541 | 36 |
| Two or more | 2x.273 | 40[b] |
| Police: risk of flight | | |
| No | | 0 |
| Yes | 1.013 | 67 |
| Charges involve property only | | |
| No | | 0 |
| Yes | .514[c] | 34 |
| Defendant lives alone | | |
| No | | 0 |
| Yes | .548 | 37 |
| Charges involve robbery | | |
| No | | 0 |
| Yes | .675 | 45 |
| Police: risk of flight and FTAs | | |
| No | | 0 |
| With one prior FTA | 1x.122 | 8 |
| With two or more prior FTAs | 2x.267 | 17[d] |
| Police: risk of flight and lives alone | | |
| No | | 0 |
| Yes | .415 | 28 |
| Add Point | .012 | 1 |

| Risk group | Bond points | Number of defendants | Percent of defendants |
|---|---|---|---|
| 1 | 1 to 34 | 322 | 14.4 |
| 2 | 35 to 67 | 1,130 | 50.6 |
| 3 | 68 to 107 | 565 | 25.3 |
| 4 | 108 and over | 215 | 9.6 |
| Total | ---------- | 2,232 | 100.0 |

[a]Points are calculated by dividing the weight by a constant, .015, and rounding.
[b]By agreement, the value for 2 or more failures-to-appear was doubled and rounded to 40 points to enhance its negative impact.
[c]To keep the points all positive, rather than subtracting 34 points for crimes against the person (associated with lower risk), 34 positive points were given for the appropriate category: charges involving no crimes against the person.
[d]This value was de-emphasized slightly (by half) when it was learned that the police measure was based in large part on a record check of the first FTA measure.

feeling among one or two commissioners, for example, that the police almost always reported that the defendant might flee in their arrest paperwork. Upon consulting the data, the research staff was able to report that, to the contrary, police had noted a concern for defendant flight in only about 25 percent of the defendant cohort studied. There was also some feeling among the commissioners that, once the police became aware of the weight that would be given to their comments in scoring defendants for the guidelines, they might manipulate the information in the hope of increasing defendants' risk rankings (thus lowering the chances of pretrial release). After considering the two models and the questions being raised, the judicial leadership opted for the model including the police comments reflecting their belief defendants might flee. The leadership argued that the prospects of success of the guidelines system would only be enhanced if other parties, such as the police, could see that their cooperation was considered important by the Superior Court.

Beyond their agreement with the general rationale for its inclusion in the pretrial release guidelines, the judges had other policy related questions to decide regarding the charge seriousness dimension. The first, seemingly simple problem was to select a definition of "charge seriousness." Should defendants' charges be ranked according the felony/misdemeanor grading outlined in Arizona's criminal code? Should all charges be ranked cumulatively, or should just the most serious charge be employed as for the purposes of classifying a defendant?

Finally, a two-part seriousness approach was decided upon which resulted in six groupings of charge seriousness. First, the severity of defendants' charges would be ranked according to a seriousness classification based on empirical analysis of how commissioners differentiated among criminal charges (in contrast to how the state penal code might have classified the charges).[88] Second, a checklist of "special severity factors" would adjust the initial ranking of charges upward in instances involving weapons use, injury to victims or repeated counts of especially serious offenses. See Figure 11.1.

The commissioner-based part of the severity ranking was decided upon partly so that the decision guidelines would incorporate a measure reflecting the practices of the decisionmakers who would be the ultimate consumers and partly so that as consumers they would feel intuitively at home in employing the guidelines. The

[88] The analysis simply subdivided defendants charges into their smallest generic groups and, assuming a minimum number of cases existed for the analysis, determined the proportions awarded ROR (personal recognizance release). The reasoning was that a) commissioners were very influenced by the seriousness of defendants' charges in making their choices between nonfinancial and financial options--though this influence was not measurable merely through the penal code ranking, and b) charge categories more often assigned ROR were viewed by commissioners' as less serious.

**PRETRIAL SERVICES AGENCY**

State of Arizona vs. _____ Defendant

Court: _____

Date: _____

Attorney Appointment
☐ PD
☐ PVT
☐ NE

| | (Enter) |
|---|---|
| Risk Group | |
| Severity Level Before Factors | |

Special Severity Factors Considered (check)

| | | |
|---|---|---|
| Not applicable | | No change |
| Weapon used | | Add 1 level |
| Injury to victim | | Add 1 level |
| Serious counts: 2 or more at 5 or higher | | Add 1 level |

| | (Enter) |
|---|---|
| Final Severity Level | |

GUIDELINES CLASSIFICATION

least serious ← Charge severity → most serious

Probability of failure: lowest ↑ highest

| | 1 | 2 | 3 | 4 | 5 | 6 |
|---|---|---|---|---|---|---|
| 1 | OR/ Standard Conditions | OR/ Standard Conditions | OR/ Standard Conditions | OR/ Standard Conditions | OR/Special Conditions to $685 | $1,507 to $5,850 |
| 2 | OR/ Standard Conditions | OR/ Standard Conditions | OR/ Standard Conditions | OR/Special Conditions | $685 to $1,507 | $4,110 to $8,220 |
| 3 | OR/ Standard Conditions | OR/ Standard Conditions | OR/Special Conditions to $685 | $685 to $1,507 | $1,507 to $2,740 | $6,850 to $13,700 |
| 4 | OR/ Special Conditions | OR/Special Conditions to $685 | $685 to $1,507 | $1,507 to $3,425 | $2,740 to $6,850 | $10,960 to $20,550 |

Figure 11.1 Guidelines classification for Maricopa Caounty Superior Court

second part of the severity classification of defendants' charges was to highlight the Court's public concern for victims of serious crimes, weapons use and for cases in which a number of very serious charges were involved. In fact, because the commissioner based ranking also reflected the commissioners' individual level concerns for precisely these kinds of dimensions of defendants' criminal charges, the severity scale sharply weighted defendants alleged to have used weapons, to have injured a victim or to be charged with repetitive counts of serious charges in a more restrictive direction. The severity dimension represented a "double whammy" where these kinds of charges were concerned.

Reconciling Bail/Pretrial Release Guidelines with the Traditional Bond Schedule in Dade County

In Dade County, the judicial working committee probably felt comfortable with a charge seriousness dimension in the proposed guidelines because of the long tradition of relying on a bond schedule ("standard bond") at the system's earliest processing stages. Although their comfort was not as great with a risk dimension, two factors may have contributed to their acceptance of it. First, the judicial leadership felt determined to learn whether a more

objective system for effecting pretrial release could reduce the pressures of jail overcrowding which were continually at the crisis stage. Secondly, the Circuit and County Court were accustomed to transferring the "risks" of their bond decisions to the pretrial services agency itself.

This interesting practice was demonstrated by the way in which ROR unsupervised was usually decided: although it is true that outright ROR would occasionally be assigned, more often the sitting judge would assign the defendant to "PTS" (Pretrial Services) or to the responsibility of that agency as a form of nonfinancial pretrial release . In fact, assignment to "PTS" was usually preceded in court by the judge's asking of the pretrial services staff member if the agency "wanted" a particular defendant. The implication was that, once transferred to pretrial services, a defendant on pretrial release was not the Court's responsibility. Thus, the Court could view the guidelines as a more objective system for pretrial services to employ in deciding whether or not to "take" defendants entering the criminal process.

Not surprisingly, then, the adoption and shape of the risk and seriousness dimensions was determined largely by the concerns and responsibilities of the leadership of the pretrial services agency. The four group risk classification that was adopted for the guidelines is depicted in Figure 11.2. The design of a charge seriousness dimension was guided by the need to answer questions similar to those addressed by the Court in Maricopa County.

In attempting to resolve the first question regarding the organization of the seriousness dimension, the developmental process in Dade County could not avoid coming to grips with the strong traditional role of the bond schedule. Our research had revealed that roughly 20 percent of entering felony defendants secured release by posting the amounts of bond specified by the court bond schedule immediately at the booking stage. Our research had also revealed that judges were very often influenced by the bond schedule in selecting bond amounts at the bond hearing stage. We also knew that the bond schedule was based primarily on the statutory ranking of offenses in the Florida penal code but was also modified occasionally by the Court's bond schedule committee. As a result, and unlike our experience in Philadelphia, Maricopa County and Boston, there would be no "individualized" measure of charge seriousness we would discover through empirical analysis of judges' decisions.

Because the guidelines system would not replace or abolish use of the bond schedule--when this prospect was discussed by the working committee, it was dismissed with a roll of the judges' eyes--it seemed important to have the guidelines seriousness dimension linked conceptually to the ranking of charges employed by the standard

bond schedule. Thus, it was decided to use the ranking of offenses (and all offenses were ranked, not just the single most serious) implicit in the bond schedule. Because under then existing court practices, all of a defendant's criminal charges were classified and assigned a dollar bond by the standard bond schedule, the guidelines for Circuit and County Court treated the defendants' bond schedule bond (the total dollars designated by the schedule) as tantamount to the assignment of seriousness "points." The reasoning is that the Court's bond schedule (which considered only the seriousness of charges) was really a seriousness scoring device.

The Dade County guidelines, then, used the bond schedule "score" (amount of dollars) as the means for classifying defendants within one of eight severity groupings: bond schedule bond falling between $1 and $1,000 placed a defendant's charges within the least seriously ranked group,; bond schedule bond higher that $7,500 placed a defendant in group 8 with the most seriously charged defendants. (Note that although the ranking of offenses was therefore borrowed directly from the bond schedule, the presumption that defendants would be required to post a designated amount of bond was not.) See Figure 11.2.

An advantage to this system, of course, was that--since the bond schedule bond amount was known and recorded right at the booking stage--pretrial services staff had to do no severity classification of its own. Rather, the staff member selected a severity ranking based on the bond schedule amount. A potential disadvantage was the fact that all of the defendants' charges would figure into the classification of severity, not just the most serious--for this was the practice employed by the Court's bond schedule. The problem with this practice was that, defendants charged with a gamut of charges of lesser seriousness might end up ranked more seriously than defendants charged with a single but rather serious felony offense.

Flight, Crime and Crowding in the Boston Municipal Court Guidelines

As the research described various aspects of bail decisionmaking and the use of pretrial release and detention in Boston, there was a great deal of discussion of the meaning of the findings among the judges of the Boston Municipal Court. There seemed to be little doubt in the Court that something had to be done about crowding at the Charles St. Jail, for example; but there seemed also to be a growing feeling (growing with presentation of findings showing that BMC judges caused the release of about 94 percent of incoming defendants) that the BMC was not responsible. Certainly, there seemed to be some dismay expressed by the BMC judges when reviewing the findings showing that roughly 1 in 3 of the released defendants either failed to appear in court as

required or were rearrested for new crimes allegedly committed during their periods of pretrial release. However, the judges expressed reservations about implementing a system that might even slightly affect the low rate of pretrial detention--given the crowded jail facilities. The judges complained about the poor quality of information available at the arraignment stage, but seemed to believe that little could be done to change the situation.

Against this background, the development and discussion of decision guidelines seemed marked by uncertainty and indecision. In contrast to the ambivalence shown by the committee of judges itself, the Court's Chief Justice argued that the Boston Municipal Court needed to try to improve its bail practices and requested that guidelines be developed for eventual implementation by the Court. In a letter to the research staff, the Chief Justice requested that the design of the guidelines reflect a number of concerns, such as the seriousness of the defendants' charges and the risk they pose of defaulting and/or being rearrested. In addition, he requested that the following factors be taken into account: a) a defendant's ties; b) the safety of victims or witnesses; and c) the impact of guidelines on the jail population. In response to his request, the staff proceeded to draft the guidelines shown in Figure 11.3.

Like the Arizona model, the Boston version employed a judge-based measure of charge seriousness that was derived from study of the judges' assignment of ROR. The severity classification resulted in only four offense rankings--in contrast with six in Maricopa County and eight in Dade County--because of the large number of offense specific categories in which the large majority of defendants received ROR. (Remember that, in comparison with the other two court systems, the Boston Municipal Court processed a large number of misdemeanor defendants, most of whom gained ROR at arraignment.)

The development of a defendant risk dimension, which included factors relating to community ties, injury to the victim and other concerns raised by the Court's leader, faced a number of obstacles: first, potentially relevant information was sometimes not available in Boston Court data, and, in contrast with court appearance data, rearrest data were difficult to come by[89] (see our discussions in earlier chapters). The model of risk ultimately chosen (and validated on the Boston data) was the simple model originally developed for the Florida pretrial release guidelines.

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[89] The bench warrant information was kept very accurately in manual records by the Boston Municipal Court Clerk's office; however, arrest data were kept in manual files in the state offices of the Commissioner of Probation. Because of the labor involved in manually checking the records of 2,000 defendants, we were required to gather this information for a small subsample (414 cases) instead. This meant that the modeling of risk of flight and/or crime could occur using only the small sample, thus limiting the power of the statistical solutions.

Figure 11.2 Pretrial services worksheet for Dade County Circuit Court

CORRECTIONS & REHABILITATION DEPARTMENT
METROPOLITAN DADE COUNTY, FLORIDA
PRETRIAL SERVICES

# UNIFORM BOND STANDARDS: CLASSIFICATION

DATE _____

DEFENDANT'S NAME _____ JAIL # _____

## STEP 1

Risk Group Classification

| IF ANSWER IS "NO", ENTER 0 IN BOX<br>IF ANSWER IS "YES", ENTER NUMERICAL VALUE | | Value | Column N | Column P |
|---|---|---|---|---|
| | | | the Proper Column Below | |
| Ties: | Lives with spouse and/or child | 1 | | |
| | Has a telephone | 2 | | |
| Charges: | Property charge | 2 | | |
| | Drug-related charges | 1 | | |
| | Robbery charges | 2 | | |
| Prior History: | Not arrested within 3 yrs. | 1 | | |
| | One arrest | 1 | | |
| | Two or more | 2 | | |
| | Prior arrests: drug charges (two or more) | 2 | | |
| | Has one or more prior felony convictions | 2 | | |
| | No prior FTAs | 1 | | |
| | 1 prior FTA | 1 | | |
| | 2 or more FTAs | 2 | | |
| TOTAL POINTS | | | | |
| | | | N Total | P Total |

## STEP 2

Complete only if N total is larger or equal to the P tot

Enter and find difference

| | |
|---|---|
| N | |
| P | |
| | |

Complete only if P total is larger than N total

Enter and find difference

| | |
|---|---|
| P | |
| N | |
| | |

## STEP 3

| RISK GROUP | POINTS |
|---|---|
| I | 5 or more |
| II | 2 to 4 |
| III | 1 to −2 |
| IV | −3 or less |

Circle Risk Group.
Enter on Judge's Form.

## STEP 4

Charge Severity Classification

| Bond Schedule | Severity Ranking |
|---|---|
| $ 1 - 1,000 | 1 |
| 1,001 - 1,500 | 2 |
| 1,501 - 2,000 | 3 |
| 2,001 - 3,000 | 4 |
| 3,001 - 4,000 | 5 |
| 4,001 - 5,000 | 6 |
| 5,001 - 7,500 | 7 |
| 7,501 or higher | 8 |

Total defendant's bond and circle Severity Ranking. Enter Ranking on Judge's Form.

## STEP 5

Additional Information

_____

_____

_____

_____

_____

_____

_____

_____

PRETRIAL SERVICES OFFICER _____

NAME

134 01-112
PRINTING/MEFPO DADE/GSA/MAT-MGT

Figure 11.3 Pretrial release guidelines for Boston Municipal Court

SECTION I: GUIDELINES DECISION MATRIX

Least Serious ← Charge Severity → Most Serious

Probability of failure: Lower ↑ ↓ Higher

| | 1 | 2 | 3 | 4 |
|---|---|---|---|---|
| 1 | ROR | ROR | ROR | $100 to 300 B |
| 2 | ROR | ROR/ Conditions | ROR/ Conditions B D | $250 to 450 D B |
| 3 | ROR/ Conditions | ROR/ Conditions | ROR/ Conditions to $200 B D | $300 to 600 D B |
| 4 | ROR/ Conditions | ROR/ Conditions to $200 B | $300 to 600 B | $500 to 1,000 B |

Key

B = higher than average probability of bind over

D = higher than average dropout rate

SECTION II: GUIDELINES SUMMARY

Classification: Severity Level _____ Risk Group _____

Suggested Decision: Nonfinancial (ROR) Yes___ No___

Financial $_____ to _____ Specify Conditions (if yes): _____

Unusual Circumstances (check): Not applicable: ___ Applicable:___

Specify: _____

SECTION III: JUDGES DECISION

Nonfinancial (ROR) Yes___ No___ Conditions: _____

Financial $_____

Departs from guidelines: No_____ Yes_____

(If yes note reasons)

- ☐ The nature and circumstances of the offense charged.
- ☐ The potential penalty the defendant faces.
- ☐ The defendant's family ties.
- ☐ The defendant's financial resources and employement record.
- ☐ The defendant's history of mental illness.
- ☐ The defendant's reputation and length of residence in the community.
- ☐ The defendant's record of convictions.
- ☐ The defendant's present drug dependancy or his record for illegal drug distribution.
- ☐ The defendant's record of flight to avoid prosecution.
- ☐ The defendant's fraudulent use of an alias or false identification.
- ☐ The defendant's failure to appear at a court proceeding to answer an offense.
- ☐ The defendant's status of being on bail pending adjudication of a prior charge.
- ☐ The defendant's status of being on probation, parole, or other release pending completion of sentence for any conviction.
- ☐ The defendant's status of being on release pending sentence on appeal for any conviction.

Other: _____

Judge _____ Date _____

## SHAPING FUTURE PRACTICE: ESTABLISHING THE GUIDELINES RANGES

### The Process of Drafting Presumptive Decision Ranges for Bail and Pretrial Release

By designating that two dimensions would govern the formulation of guidelines, the individual courts had made important policy decisions regarding future bail practices: first, that bail/pretrial release decisions would be guided by concerns for defendant dangerousness as well as likelihood of flight; second, that the seriousness of charges and the relative risk of flight and rearrest would be the overall themes organizing judges' daily bail decisions; and, third, that the information required to classify defendants according to these two dimensions was the information to be given the highest priority in bail/pretrial release decisionmaking. Given the diversity of views expressed by judges on each of these matters, the choice by each of the courts of these defining dimensions represented important steps toward clarification of bail/pretrial release policy. Thus far, therefore, the courts had said that defendants would be classified into categories defined by severity of charges and relative risk for the purposes of bail/pretrial release decisions. Thus, in Maricopa County, 24 "classes" of defendants were defined by dimensions shaping the decision grid; in Dade County, 32 classes and in Boston 16 classes of defendants were produced.

The next major step in constructing the decision guidelines was to put substance into the overall structure suggested by the courts' choices of guidelines dimensions by determining the ranges of decisions to be suggested for each category of defendants. Thus, the court policy represented by the goals and themes inherent in the dimensions of the guidelines would be put into action by, in a sense, announcing that defendants with X charge characteristics and Y risk attributes would usually be assigned Z conditions of release.

Designation of the presumptive decisions to be suggested for each of the categories of defendants, however, also involved important policy decisions by the courts involved. The way the presumptive decision ranges would be specified would depend on the reasons the courts had decided to become involved in the guidelines research in the first place. It was in the establishment of the ranges ultimately designated by the courts that each court would be making progress (or not) toward realization of their original goals.

For example, having decided on the governing dimensions and the information needed to support those dimensions operationally, one of the courts could have decided that important accomplishments had already been realized: goals for bail had been clarified, information to be employed by judges in pursuing those goals had been

specified, and a fair classification of defendants in light of these goals had been devised. In many courts in the United States, these steps would, in themselves, represent a major policy advance away from the totally discretionary bail systems of the past. A court satisfied with guidelines development for these purposes might then devise suggested decision ranges based on what defendants in each of the classes usually have received as decisions in the recent past. This could be determined through simple empirical analysis. Other courts might start at this point--having acknowledged the advances in policy and clarification of goals and information--and devise presumptive decisions that would bring about a degree of change in decision practices among judges that would be intended to accomplish certain goals, such as the reduction of pretrial detention or of defendant flight.

In each of the courts, the research task then turned to postulating decision ranges and estimating their likely impact: Most simply stated, the courts wanted to know if decision ranges could be established that could reduce the use of pretrial detention without increasing misconduct of defendants during pretrial release. Superior Court in Maricopa County and Circuit Court in Dade County were under a great deal of pressure to consider the likely impact of guidelines on detention and public safety. (In fact, the presiding criminal judge in Dade County stated that guidelines would not be considered if there was a chance that they would add to the use of pretrial detention.) In Boston, assuming that it would be difficult to expect to reduce the already extremely low rate of detention (only 6 percent of defendants were being detained), the question was more whether the extremely high rate of flight and rearrest among defendants (occurring in one-third of all released defendants) could be lowered noticeably without adversely affecting the jail population.

Beginning with Descriptive Data

Once the dimensions structuring the decision grids had been agreed upon, the next task was for the research staff to draft suggested decision ranges for the guidelines for review and revision by the judicial working committees. The drafting process, which was a policy making exercise informed by descriptive data, began by examining defendants within each of the categories formed by the charge seriousness and defendant risk dimensions according to the decisions made in the past, the courts' use of detention, and the performance of each category of defendants during pretrial release. (These kinds of data have been simply summarized in Tables A11.2a, A11.2b, and A11.2c.)

Using these data, a first version of decision zones could be produced that generally reflects what the Court's past practices have been. For example, we could adopt the rule that the guidelines will suggest decisions that have been designated because they represent the "average" past range of decision made for defendants with attributes in given categories. Or, we could say that categories of defendants showing ROR assigned in a majority of past decisions should have ROR suggested as the presumptive decision for future decisions under the guidelines. Referring to the data for Maricopa County for example (Table A11.2a), we found that defendants in categories or "cells" 1, 3, 4, 7, 8, 9, and 19 had ROR assigned a majority of the time.

In cells having nonfinancial release assigned in a minority of instances, we could designate the median bail or bond amount--or perhaps the interquartile range or values of the 50 percent of cases surrounding the median bond amount--as the preferred decision for like cases in the future.

Modifying the Suggested Decisions Based on the Policy Dimensions

Using this approach as a point of departure to anchor the suggested decisions within categories of the guidelines within the context of recent practices, suggested decisions or decision ranges (of bond) could have been developed for all defendant categories with the result that the bail/pretrial guidelines will be based on an averaged picture of a court's past practices. Even if this "descriptive" version of decision guidelines were the express goal of a particular court, this first draft method would encounter some limitations that would have to be corrected by policy decisions.

For example, certain categories of defendants would turn out to be relatively rare. (Only 6 Maricopa defendants of roughly 2,000 fell into category 1, for example.) Thus, basing decision ranges on an average of past decisions could prove unreliable over the long run. Further, the averaged past decisions method could also produce guidelines that would be illogical given a court's choice of policy dimensions. For example, given that categories are defined by rankings of seriousness and risk, it would be illogical to posit ROR as the presumptive decision for future defendants falling into categories 1 and 3 in Maricopa County, while suggesting a financial bond amount for category 2 defendants.

In fact, selection by the courts of the explicit policy orientations represented by the charge seriousness and risk dimensions of the guidelines preordained conflict with a purely averaged or "status quo" approach to decision guidelines--at least to the extent that these dimensions did not govern past decisionmaking implicitly. That is, by

choosing the severity and risk emphases, the courts had determined that the restrictiveness of decisions suggested by the guidelines ought to correspond with the relative severity of the charges and relative risk posed by the defendant. Thus, formulation of suggested decision ranges became a little more complex with the requirement that presumptive decision ranges be made to vary with the two dimensions conjointly.

Considering these policy requirements, the research staff then proceeded away from the strictly averaged approach and began again by choosing key matrix categories as points of reference. So, for example, a first point of reference in the development of the Maricopa guidelines might be cell 1, because according to the logic of the guidelines dimensions this category included defendants with the lowest severity and lowest risk rankings. A look at the data suggested that an appropriate suggested decision would be the least restrictive available, nonfinancial release (it had been assigned in the past virtually 100 percent of the time). (See Table A11.2a.)

A second key point of reference might be the cell at the other extreme of both dimensions, cell 24 representing the most seriously charged and highest risk defendants. The median bond assigned by Superior Court commissioners in the past for defendants with attributes placing them within this category was $9,042. If the research staff employed the interquartile range around the median,for example, as its method of designating a range for future decisions within the guidelines, the data show that the 25th percentile case had bond set at $2,055 and the 75th percentile case had bond set at $21,920. With suggested decisions for these two categories--theoretically the least and most serious extremes--thus posited, the research staff could then turn to other key cells that ought to serve as points of reference, such as cell 19, and cell 6, and perhaps cell 10 and 16, the guiding principle being that the restrictiveness of suggested decisions correspond with both relative severity and risk rankings. This was the procedure followed in beginning to draft the "suggested decisions" (the presumptive bail/pretrial release decisions) that would provide the central substance of the decision guidelines in each of the sites.

Consideration of Other Policy Goals: Equity

Once such a draft had been completed by the research staff, other policy goals of the court working groups also had to be taken into consideration. In each of the courts, for example, the judges had expressed a desire to bring about more equitable decisionmaking. If the notion of equity for the purposes of bail can be translated as somehow assuring that like defendants be treated to more similar decisions than previously, then guidelines ranges should also reflect a concern for consistency. In some categories, then, basing the range on the middle 50 percent of

amounts from past decisions would have the effect of centering future decisions toward the value of the former median case within each category. In some instances in which former decisions were extremely disparate, however, the middle-50-percent approach might not accomplish this goal. In a sense, having a suggested decision range varying from $2,000 to $22,000, as in the example of Maricopa's cell 24 just described, might be little better than having no range at all. In this kind of situation, it was argued, the participating court might wish to establish a range more closely centered around the median value of $9,000.

Further Adjustments Based on the Court's Use of Pretrial Detention and Defendant Performance During Release

To this point, the drafting process had considered mainly past decisions in light of the policy dimensions that the courts had selected to serve as the overall structure of the guidelines. However, data describing a court's past use of pretrial detention and the performance of defendants who gained pretrial release were also considered important in suggesting modifications to the suggested decisions within each guidelines category. For example, it would be illogical to discover that past decisions had detained lower risk and lower severity defendants more often that their higher severity and higher risk counterparts. Thus, part of the drafting process took such anomalies into consideration and "corrected" suggested decisions in order to align the likely use of pretrial detention with the seriousness and risk dimensions, where detention patterns differed from decisionmaking patterns in past cases.

Similarly, in each of the sites, the research staff identified categories of defendants in which failures-to-appear and rearrests were seldom recorded, but in which detention was often employed. These categories then became candidates for establishing presumptive decisions that would be clearly less restrictive than in the past--to encourage greater pretrial release in the lower risk categories. Or, the opposite was also encountered; categories of defendants generally showing low rates of detention in the past but having undesirably high rates of flight and crime associated with them became candidates for presumptive decisions of a more restrictive sort.

Questions about the Kinds of Decision Choices Suggested by the Guidelines

So far, we have summarized the guidelines construction process as if the decision options to be employed were limited to nonfinancial release (ROR) or financial bail or bond in some amount. The use of cash bond, however, has long been criticized on a number of grounds. Although we will not review them in detail here (but see Beeley, 1927; Foote, 1954; Goldfarb, 1967; Thomas, 1976; Goldkamp, 1979; Goldkamp and Gottfredson, 1985), they

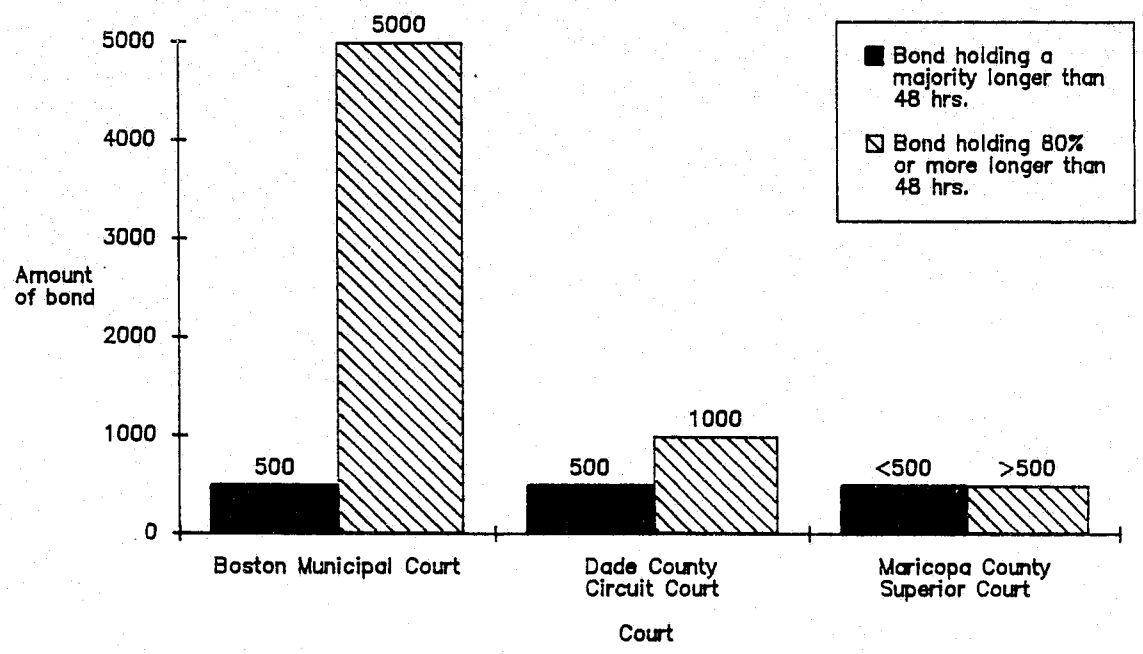
have included concerns that a cash-based bail system discriminates against the poor, that the use of cash camouflages a *sub rosa* system of preventive detention, and that it has invited corruption (through the resort to profit-oriented bondsmen in brokering the release process). Another criticism of the use of financial options at bail is that cash fails adequately to serve as a condition of release likely to minimize either propensity toward flight or threat of additional crime by released defendants.

It was interesting that in each of the jurisdictions none of the judges working on the development of guidelines expressed satisfaction with cash bail as the currency of the bail/pretrial release decision. Discussion in each of the judicial working committees questioned the judges' routine reliance on cash bond. Each court agreed that a range of decision options was needed, but saw some difficulty in thinking that guidelines could merely eliminate the use of cash bond.

As a result of these kinds of concerns about the centrality of financial bail or bond in the pretrial release practices of the study sites, the guidelines development process sought to surface more directly the implications of the judges use of cash bail and to devise additional release conditions that did not involve financial assets but responded more practically to the goals of the bail process. First, the empirical analysis had shown that in each of the sites, certain amounts of bond seemed to serve to define boundaries between release and detention. When bonds amounts were set over $500 in each site, the bail decision was tantamount to a decision to hold the defendant in jail. See Figure 11.4. Thus, in adjusting suggested ranges of bonds in the construction of the guidelines, the research staff and court could be made aware of the implications of amounts of bond for the likely use of pretrial detention that would result.

Secondly, the guidelines in each of the locations sought to make use of an additional category of suggested decision option for middle-risk, middle severity cases, an option not leading to detention but providing more restrictive conditions on the release of these categories of defendants. For lack of a better term, the guidelines in each of the locations posited that specified categories of defendants be assigned "special conditions of release," as opposed to standard conditions (ROR with agreement to refrain from crime and to attend court) or and financial conditions (amounts of bond). To a certain extent, particularly in Dade County, these kinds of conditions already existed; however, to a degree they would also have to be developed for the first time, particularly in Maricopa County.

Figure 11.4 The levels of bond causing the detention of defendants, by court




These kinds of concerns guided the drafting and redrafting of the suggested decisions for each category of defendants in the guidelines and for each of the court systems. Based on input from the judicial working committees, the draft guidelines were revised until it appeared that they met the policy concerns the courts had articulated. See Figures 11.5 through 11.7 for examples of the final product.

Figure 11.5 Pretrial release guidelines for Maricopa County Superior Court

# PRETRIAL SERVICES AGENCY

State of Arizona vs. _____ Defendant

Court: _____

Date: _____

**Attorney Appointment**
- ☐ PD
- ☐ PVT
- ☐ NE

| | (Enter) |
|---|---|
| Risk Group | |
| Severity Level Before Factors | |

Special Severity Factors Considered (check)

| | | |
|---|---|---|
| Not applicable | | No change |
| Weapon used | | Add 1 level |
| Injury to victim | | Add 1 level |
| Serious counts: 2 or more at 5 or higher | | Add 1 level |

| | (Enter) |
|---|---|
| Final Severity Level | |

## GUIDELINES CLASSIFICATION

least serious ← Charge severity → most serious

Probability of failure: lowest ↑ ↓ highest

| | 1 | 2 | 3 | 4 | 5 | 6 |
|---|---|---|---|---|---|---|
| 1 | OR/ Standard Conditions | OR/ Standard Conditions | OR/ Standard Conditions | OR/ Standard Conditions | OR/Special Conditions to $685 | $1,507 to $6,850 |
| 2 | OR/ Standard Conditions | OR/ Standard Conditions | OR/ Standard Conditions | OR/Special Conditions | $685 to $1,507 | $4,110 to $8,220 |
| 3 | OR/ Standard Conditions | OR/ Standard Conditions | OR/Special Conditions to $685 | $685 to $1,507 | $1,507 to $2,740 | $6,850 to $13,700 |
| 4 | OR/ Special Conditions | OR/Special Conditions to $685 | $685 to $1,507 | $1,507 to $3,425 | $2,740 to $6,850 | $10,960 to $20,550 |

## UNUSUAL CIRCUMSTANCES: PRETRIAL SERVICES

_____

_____

_____

## SPECIAL CONDITIONS: PRETRIAL SERVICES

| | |
|---|---|
| PTS - supervision | |
| Third party | |
| Other (specify) | |

THIRD PARTY

name/relationship

## OTHER CONDITIONS AND RESTRICTIONS

- ☐ The defendant is not to return to the scene of the alleged crime.
- ☐ The defendant is not to initiate contact of any nature with the alleged victim(s) and/or witnesses, including arresting officers.
- ☐ The defendant is not to possess any weapons.
- ☐ The defendant is not to drink alcoholic beverages and drive, or drive without a valid driver's license.
- ☐ The defendant is to continue to reside at the present address.
- ☐ The defendant is to contact the probation/parole officer _____
- ☐ The defendant is to reside with _____ at _____
- ☐ Other _____

## COMMISSIONER'S DECISION

| | |
|---|---|
| Nonfinancial/standard conditions | |
| Nonfinancial/special conditions | |
| Secured bond (amount) | |

**GUIDELINES FOLLOWED:** YES ☐ NO ☐ NA ☐

If no, indicate reason:

- ☐ Defendent nonbondable-Murder 1/Felony while on release
- ☐ Defendant has Probation/Parole Hold
- ☐ Defendant serving other sentence
- ☐ Fugitive of Justice
- ☐ Other: _____

_____

_____

399-157 10-86

ORIGINAL - Court File CANARY - Pretrial Services

Figure 11.6 Pretrial release guidelines for Dade County Circuit Court

CORRECTIONS & REHABILITATION DEPARTMENT
METROPOLITAN DADE COUNTY, FLORIDA
PRETRIAL SERVICES

UNIFORM BOND STANDARDS - DADE COUNTY CIRCUIT COURT

DATE _____

DEFENDANT'S NAME _____ JAIL # _____

SECTION A: SUGGESTED DECISION

Least Serious ← Severity ranking → Most Serious

| Relative Risk (Lowest → Highest) | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 |
|---|---|---|---|---|---|---|---|---|
| I | PTS/ Nonfinancial | PTS/ Nonfinancial | PTS/ Nonfinancial B D | PTS/ Nonfinancial | PTS/ Nonfinancial | PTS/ Nonfinancial | PTS/ Nonfinancial D | 500 to 2,000 |
| II | PTS/ Nonfinancial | PTS/ Nonfinancial B D | PTS/ Nonfinancial B | PTS/ Nonfinancial B | PTS/ Nonfinancial | PTS Special | PTS Special | 1,500 to 3,000 |
| III | PTS Special D | PTS Special D | PTS Special B X | PTS Special B X | PTS Special B | PTS Special to 500 B | PTS Special to 1,000 | 2,500 to 5,000 |
| IV | PTS Special B D | PTS Special D | PTS Special to 750 | PTS Special to 1,500 | 1,500 to 3,500 | 2,500 to 4,500 | 3,000 to 5,000 | 6,000 to 11,000 |

NOTE: X = higher risk B = higher than average probability of bind down
D = higher than average dropout rate

SECTION B: UNUSUAL CIRCUMSTANCES

_____
_____
_____
_____

SECTION C: SUGGESTED SPECIAL CONDITIONS

_____
_____
_____
_____

SECTION D: JUDGE'S DECISION

Check

☐ PTS/NONFINANCIAL
or
☐ FINANCIAL $ _____
(amount of bond)

PTS/CONDITIONS: _____
_____

☐ FALLS WITHIN UNIFORM BOND STANDARDS
or
☐ DIFFERS FROM SUGGESTED DECISION

Reasons (for deciding out of UBS range):

☐ Currently on Felony Bond
☐ Probation/Parole Hold
☐ Fugitive
☐ A/C, Outstanding Warrants or Detainers
☐ Physical or Mental Health
☐ Added Charges

☐ Other (please specify)
_____
_____
_____
_____

_____
(Judge's signature)

Figure 11.7 Pretrial release guidelines for Boston Municipal Court

SECTION I: GUIDELINES DECISION MATRIX

Charge Severity: Least Serious ← → Most Serious

Probability of failure: Lower ↑ ↓ Higher

| | 1 | 2 | 3 | 4 |
|---|---|---|---|---|
| 1 | ROR | ROR | ROR | $100 to 300 B |
| 2 | ROR | ROR/ Conditions | ROR/ Conditions B D | $250 to 450 D B |
| 3 | ROR/ Conditions | ROR/ Conditions | ROR/ Conditions to $200 B D | $300 to 600 D B |
| 4 | ROR/ Conditions | ROR/ Conditions to $200 B | $300 to 600 B | $500 to 1,000 B |

Key

B = higher than average probability of bind over

D = higher than average dropout rate

SECTION II: GUIDELINES SUMMARY

Classification: Severity Level _____ Risk Group _____

Suggested Decision: Nonfinancial (ROR) Yes___ No___

Financial $_____ to _____ Specify Conditions (if yes): _____

Unusual Circumstances (check): Not applicable: ___ Applicable: ___

Specify: _____

SECTION III: JUDGES DECISION

Nonfinancial (ROR) Yes___ No___ Conditions: _____

Financial $_____

Departs from guidelines: No_____ Yes_____

(If yes note reasons)

- ☐ The nature and circumstances of the offense charged.
- ☐ The potential penalty the defendant faces.
- ☐ The defendant's family ties.
- ☐ The defendant's financial resources and employement record.
- ☐ The defendant's history of mental illness.
- ☐ The defendant's reputation and length of residence in the community.
- ☐ The defendant's record of convictions.
- ☐ The defendant's present drug dependancy or his record for illegal drug distribution.
- ☐ The defendant's record of flight to avoid prosecution.
- ☐ The defendant's fraudulent use of an alias or false identification.
- ☐ The defendant's failure to appear at a court proceeding to answer an offense.
- ☐ The defendant's status of being on bail pending adjudication of a prior charge.
- ☐ The defendant's status of being on probation, parole, or other release pending completion of sentence for any conviction.
- ☐ The defendant's status of being on release pending sentence on appeal for any conviction.

Other: _____

Judge _____ Date _____

## Chapter Twelve

# ESTIMATING THE IMPACT OF THE BAIL/PRETRIAL RELEASE GUIDELINES ON FUTURE BAIL PRACTICES

### Limitations and Assumptions in "Projecting Impact"

To assist the courts in deciding whether to implement the bail/pretrial release decision guidelines, the research staff conducted analyses aimed at estimating the impact guidelines would have on existing practices. In Dade County and Boston, in fact, the courts requested an analysis of impact on the use of pretrial detention both in the hope that guidelines might reduce the use of detention and in the fear that guidelines might increase the use of detention, given the jail crises in those locations. In Maricopa County, the Court wished to learn whether the guidelines could help reduce the Court's use of pretrial detention, which the descriptive analyses had revealed to be considerable.

To estimate the impact that guidelines might have on the three courts systems, we asked the simple question: To what extent would the decisions in our sample of past cases be different had they been made according to the newly drafted bail/pretrial release guidelines?

Analysis of the likely impact of the guidelines, of course, amounts to trying to predict how decisionmaking will be affected by use of the guidelines in the future. Like other kinds of predictive analyses, the analysis of the future impact of guidelines was constrained by certain limitations and assumptions. The first limitation was, of course, that our findings would be tied to the characteristics of the cases in our sample. To the degree that future defendants entering the courts differed from the sample defendants we studied, our estimate of impact might be unrepresentative.

There was another limitation our analysis had to confront. In principle, decision guidelines of the voluntary sort we have been developing are not intended to be followed by judges in 100 percent of the cases. They are intended as a policy resource in two ways: first, they are designed to be an overall compass reflecting the policy directions the Court wishes to pursue in its decisionsmaking and second, to be a case-by-case decision aid which posits a decision that will usually accomplish the policy aims of the Court. Depending on the particular court's need for change to meet its goals, we can say that to be useful, the judge-decisionmakers should be making decisions that fall within the suggested ranges a majority of the time. The guidelines approach expects that a minority of cases will

be decided as exceptions to the guidelines, for acknowledged reasons which the judge records. Thus, even in a jurisdiction seeking to effect noticeable change, agreement with guidelines should never be 100 percent, but rather closer to, say, 75 percent of the cases.

In our analysis of impact, however, we cannot estimate a 75 percent effect as soundly as we can estimate the effect that the guidelines would have were they followed 100 percent of the time. So, a limitation of our analysis of impact is that it will exaggerate the actual impact of guidelines to a degree depending upon what the actual rate of agreement between judges decisions and the guidelines ranges would be. The following analysis first examines the likely impact of guidelines on the distribution of bail decisions and then estimates the projected impact on the use of pretrial detention.

## THE LIKELY IMPACT OF DECISION GUIDELINES IN MARICOPA COUNTY

In constructing decision guidelines for use by Superior Court commissioners in Maricopa County, the special characteristics of the final model obviously would determine the nature of the impact of guidelines on decision practices. For example, if the Court had preferred a model of pretrial release guidelines based primarily on mirroring current practices (essentially descriptive guidelines), little change would be the likely result, except that many fewer atypical decisions would be produced. The explicit format would have helped the commissioners to center their decisions in certain categories within a range defined by the way they made decisions in like cases in the recent past.

But as the model finally chosen in Maricopa County differed from that purely descriptive orientation, the likelihood that it would restructure future decisionmaking notably increased. In short, because commissioners' recent past decisions had been governed exclusively neither by charge severity nor by defendant risk, the final version of guidelines which would seek to do this could be expected to produce decisions that differed from those practiced in the past.

Aligning the decisions suggested by the guidelines according to the severity of a defendant's charges presents the least amount of change in future decision patterns. This is because the severity measure used as one of the guidelines dimensions is derived from study of the relative use of nonfinancial conditions by the commissioners as a group. (Of course, commissioners did not always agree in their ranking of offenses; thus, the resulting ranking

of offenses is a generalized measure.) To the extent that this theme becomes in future decisionmaking one of two primary emphases--as opposed to one of several in the past--the severity dimension in guidelines does represent a more structured use of severity. Consideration of special emphasis "severity factors" would also accent this theme a bit more than in the recent past.

Greater change in practices is posed by use of the risk dimension. Clearly, commissioners weighed the risk of flight and crime posed by defendants in making their decisions at initial appearance. But as a group, their diverse, subjective approaches appeared to have relied on factors not strongly predictive of flight and crime in a statistical sense.

To the extent that commissioners' decisions in the past have conformed to severity concerns (and thus would not differ much from the severity ranking used in the guidelines), they have not conformed to risk concerns. Our research has shown that in Maricopa County the severity of offenses is almost unrelated to the prospects of pretrial flight or crime among Maricopa (and other) defendants.

We can estimate the nature of some of the projected changes by applying the draft guidelines to the defendants we studied from the summer of 1984. In addition, we can apply the guidelines to our data describing persons held in pretrial detention in Maricopa County on one day in the fall of 1985 and determine whether they would have received different decisions under guidelines.

Estimating the Impact of Guidelines on Decisions in Maricopa County

Table 12.1 summarizes the decisions and outcomes characterizing defendants in our summer 1984 sample falling within given categories of the guidelines. By contrasting this information with the decisions suggested by the guidelines for each category, we can approximate in a rough way how different decisions under guidelines might be. In other words, we superimpose the guidelines grid (see Figure 11.5 above) over the data in Table 12.1 and try to draw conclusions about differences.

This is a rough method for projecting the likely impact of guidelines producing an estimate of the maximum possible effect. The actual effect will be somewhat less because we will be taking the guidelines literally, as if commissioners would be following the suggested decisions in 100 percent of the cases.

To begin our assessment of the differences that would be produced through use of the guidelines, we consider how defendants would be distributed in the guidelines grid. The results are summarized in Tables 12.2a

Table 12-1 Background data for guidelines formulation: classification of Maricopa felony defendants according to draft release guidelines, by bail decisions, detention, defendant performance, and case processing outcomes, June-July, 1984

Least serious — Most serious

Charge severity

| Probability of flight and/or crime | 1 | 2 | 3 | 4 | 5 | 6 |
|---|---|---|---|---|---|---|
| Lowest Risk | Cell 1 (n=6)<br>% ROR 100<br>Mdn $ (0)[a] $ 0<br>IQ (0,0) $ 0<br>% Det > 1 day 0<br>% FTA 17<br>% Rearrest 0<br>% Failure 17<br>% Dropped 67 | Cell 2 (n=14)<br>% ROR 43<br>Mdn $ (0)[a] $ 68<br>IQ (0,1781) $ 1,781<br>% Det > 1 day 50<br>% FTA 0<br>% Rearrest 25<br>% Failure 25<br>% Dropped 79 | Cell 3 (n=28)<br>% ROR 64<br>Mdn $ (0)[a] $ 0<br>IQ (0,1096) $ 1,096<br>% Det > 1 day 32<br>% FTA 0<br>% Rearrest 10<br>% Failure 10<br>% Dropped 79 | Cell 4 (n=157)<br>% ROR 61<br>Mdn $ (0)[a] $ 0<br>IQ (0,1370) $ 1,370<br>% Det > 1 day 36<br>% FTA 1<br>% Rearrest 5<br>% Failure 6<br>% Dropped 77 | Cell 5 (n=67)<br>% ROR 24<br>Mdn $ (0)[a] $ 1,507<br>IQ (0,2740) $ 2,740<br>% Det > 1 day 60<br>% FTA 3<br>% Rearrest 0<br>% Failure 3<br>% Dropped 70 | Cell 6 (n=34)<br>% ROR 50<br>Mdn $ w(0)[a] $ 0<br>IQ (0,13700) $13,700<br>% Det > 1 day 47<br>% FTA 0<br>% Rearrest 5<br>% Failure 5<br>% Dropped 82 |
| | Cell 7 (n=30)<br>% ROR 80<br>Mdn $ (0)[a] $ 0<br>IQ (0,0) $ 0<br>% Det > 1 day 13<br>% FTA 4<br>% Rearrest 8<br>% Failure 11<br>% Dropped 60 | Cell 8 (n=229)<br>% ROR 62<br>Mdn $ (0)[a] $ 0<br>IQ (0,411) $ 411<br>% Det > 1 day 30<br>% FTA 4<br>% Rearrest 10<br>% Failure 13<br>% Dropped 65 | Cell 9 (n=328)<br>% ROR 55<br>Mdn $ (0)[a] $ 0<br>IQ (0,842) $ 842<br>% Det > 1 day 38<br>% FTA 4<br>% Rearrest 10<br>% Failure 13<br>% Dropped 65 | Cell 10 (n=369)<br>% ROR 48<br>Mdn $ (0)[a] $ 206<br>IQ (0,1370) $ 1,370<br>% Det > 1 day 48<br>% FTA 5<br>% Rearrest 12<br>% Failure 16<br>% Dropped 69 | Cell 11 (n=143)<br>% ROR 41<br>Mdn $ (0)[a] $ 822<br>IQ (0,2740) $ 2,740<br>% Det > 1 day 55<br>% FTA 5<br>% Rearrest 8<br>% Failure 13<br>% Dropped 51 | Cell 12 (n=116)<br>% ROR 20<br>Mdn $ (0)[a] $ 3,425<br>IQ (685,12330) $11,645<br>% Det > 1 day 76<br>% FTA 10<br>% Rearrest 15<br>% Failure 20<br>% Dropped 59 |
| | Cell 13 (n=4)<br>% ROR 25<br>Mdn $ (0)[a] $ 685<br>IQ (0,959) $ 959<br>% Det > 1 day 75<br>% FTA 33<br>% Rearrest 68<br>% Failure 68<br>% Dropped 25 | Cell 14 (n=60)<br>% ROR 35<br>Mdn $ (0)[a] $ 500<br>IQ (0,1370) $ 1,370<br>% Det > 1 day 52<br>% FTA 3<br>% Rearrest 9<br>% Failure 9<br>% Dropped 33 | Cell 15 (n=110)<br>% ROR 26<br>Mdn $ (0)[a] $ 959<br>IQ (0,2055) $ 2,055<br>% Det > 1 day 64<br>% FTA 10<br>% Rearrest 12<br>% Failure 79<br>% Dropped 24 | Cell 16 (n=163)<br>% ROR 22<br>Mdn $ (0)[a] $ 1,370<br>IQ (274,3000) $ 2,726<br>% Det > 1 day 71<br>% FTA 20<br>% Rearrest 13<br>% Failure 29<br>% Dropped 34 | Cell 17 (n=71)<br>% ROR 18<br>Mdn $ (0)[a] $ 1,791<br>IQ (479,3836) $ 3,357<br>% Det > 1 day 77<br>% FTA 28<br>% Rearrest 21<br>% Failure 38<br>% Dropped 28 | Cell 18 (n=68)<br>% ROR 13<br>Mdn $ (0)[a] $ 4,110<br>IQ (1100,20550) $19,450<br>% Det > 1 day 85<br>% FTA 5<br>% Rearrest 0<br>% Failure 5<br>% Dropped 35 |
| Highest risk | Cell 19 (n=1)<br>% ROR 100<br>Mdn $ (0)[a] $ 0<br>IQ (0,0) $ 0<br>% Det > 1 day 0<br>% FTA 100<br>% Rearrest 0<br>% Failure 100<br>% Dropped 0 | Cell 20 (n=18)<br>% ROR 33<br>Mdn $ (0)[a] $ 548<br>IQ (0,1370 $ 1,370<br>% Det > 1 day 50<br>% FTA 46<br>% Rearrest 39<br>% Failure 62<br>% Dropped 28 | Cell 21 (n=31)<br>% ROR 10<br>Mdn $ (0)[a] $ 1,370<br>IQ (411,2055) $ 1,644<br>% Det > 1 day 84<br>% FTA 27<br>% Rearrest 27<br>% Failure 54<br>% Dropped 10 | Cell 22 (n=73)<br>% ROR 3<br>Mdn $ (0)[a] $ 2,740<br>IQ (1370,3425) $ 2,055<br>% Det > 1 day 92<br>% FTA 44<br>% Rearrest 22<br>% Failure 56<br>% Dropped 10 | Cell 23 (n=36)<br>% ROR 6<br>Mdn $ (0)[a] $ 2,055<br>IQ (1027,5480) $ 4,453<br>% Det > 1 day 86<br>% FTA 50<br>% Rearrest 20<br>% Failure 45<br>% Dropped 3 | Cell 24 (n=76)<br>% ROR 4<br>Mdn $ (0)[a] $ 9,042<br>IQ (2055,21920) $19,865<br>% Det > 1 day 85<br>% FTA 18<br>% Rearrest 29<br>% Failure 39<br>% Dropped 22 |

[a]Median bail is calculated including $0

and 12.2b. We first examine the effects of the grid used alone and then of the grid as modified by the Court's "special severity factors" which have the effect of moving certain defendants into higher severity categories.

Use of Nonfinancial Release: By superimposing the guidelines decision grid over the data in Table 12.2a, 11 categories (the upper left half of the grid) would involve some form of nonfinancial release (which we have abbreviated by calling "standard" or "special") and 3 categories would permit nonfinancial options (but low amounts of secured bond could also be chosen). (For this discussion we include these three categories in the nonfinancial section of guidelines.)

Approximately 69 percent of the felony defendants we studied would now fall into these presumptive nonfinancial release categories. This compares with 40 percent of the studied defendants who actually did receive some version of nonfinancial release. A maximum estimate is that nonfinancial release will be increased by 29 percent under the guidelines--before taking into account the extra severity factors also included in the guidelines. When we adjust the guidelines decisions to take into account whether a weapon was used in the offense, whether a victim suffered any injury, and whether there were repetitive serious counts (see 12.3), the maximum projected use of nonfinancial options at initial appearance drops to 64 percent.

Although the impact would be less because we do not expect that commissioners will follow the guidelines in 100 percent of the cases, this finding is important because any increase in the use of nonfinancial release translates into an increase in the use of release (or, a reduction in the use of pretrial detention), an important goal in a jurisdiction experiencing crowded jail facilities.

Use of "Special" Nonfinancial Conditions of Release: One explanation for the projected greater use of OR and reduced use of detention is the guidelines' reliance on more restrictive or "special" conditions of release for targeted categories of defendants (defendants who would have been detained in the past). Formerly, under the practices we recently studied, what we called "special conditions" (which we roughly measure as either third party custody or supervision by pretrial services) were assigned in 16 percent of all cases and were not focused on a small number of categories (the highest proportions of defendants receiving these conditions were located in Cells 1 (33 percent), 2 (28 percent), 3 (27 percent) and 14 (24 percent). Under these guidelines, the proportion would be 25 percent and would be focused on Cells 5, 10, 15, 19 and 20, the middle severity and middle risk kinds of cases.

Table 12.2a The distribution of 1984 Maricopa County felony defendants within guidelines categories: without taking into account special severity factors

Least serious — Most serious

Charge severity

| Probability of flight and/or crime | 1 | 2 | 3 | 4 | 5 | 6 |
|---|---|---|---|---|---|---|
| Lowest risk 1 | 0.3% (n = 7) OR/Standard | 0.7% (n = 15) OR/Standard | 1.2% (n = 26) OR/Standard | 10.0% (n = 222) OR/Standard | 0.4% (n = 9) OR/Special to $ 750 | 1.9% (n = 43) $1,000 to $5,000 |
| 2 | 1.2% (n = 38) OR/Standard | 10.4% (n = 232) OR/Standard | 15.6% (n = 348) OR/Standard | 19.4% (n = 431) OR/Special | 3.7% (n = 83) $ 500 to $1,500 | 4.9% (n = 109) $3,000 to $7,500 |
| 3 | 0.2% (n = 5) OR/Standard | 3.0% (n = 66) OR/Standard | 5.6% (n = 125) OR/Special to $ 750 | 7.7% (n = 171) $ 500 to $1,500 | 2.4% (n = 53) $1,000 to $2,500 | 1.3% (n = 29) $ 5,000 to $10,000 |
| 4 Highest risk | 0% (n = 1) OR/Special | 0.9% (n = 19) OR/Special to $500 | 1.6% (n = 35) $500 to $1,500 | 3.8% (n = 85) $1,500 to $3,500 | 1.3% (n = 29) $2,000 to $5,000 | 2.1% (n = 46) $10,000 to $15,000 |

Total n = 2,232

Table 12.2b The distribution of 1984 Maricopa County defendants within guidelines categproes: taking into account special severity factors

Least serious — Most serious

Charge severity

| Probability of flight and/or crime | 1 | 2 | 3 | 4 | 5 | 6 |
|---|---|---|---|---|---|---|
| Lowest risk 1 | 0.3% (n = 6) OR/Standard | 0.6% (n = 14) OR/Standard | 7.0% (n = 28) OR/Standard | 3.0% (n = 157) OR/Standard | 1.5% (n = 67) OR/Special to $ 750 | 1.9% (n = 34) $1,000 to $5,000 |
| 2 | 1.3% (n = 30) OR/Standard | 10.3% (n = 229) OR/Standard | 14.7% (n = 328) OR/Standard | 16.5% (n = 369) OR/Special | 6.4% (n = 143) $ 500 to $1,500 | 5.2% (n = 116) $3,000 to $7,500 |
| 3 | 0.2% (n = 4) OR/Standard | 2.7% (n = 60) OR/Standard | 4.9% (n = 110) OR/Special to $ 750 | 7.3% (n = 163) $ 500 to $1,500 | 3.2% (n = 71) $1,000 to $2,500 | 3.0% (n = 68) $ 5,000 to $10,000 |
| 4 Highest risk | 0% (n = 1) OR/Special | 0.8% (n = 18) OR/Special to $500 | 1.4% (n = 31) $500 to $1,500 | 3.3% (n = 73) $1,500 to $3,500 | 1.6% (n = 36) $2,000 to $5,000 | 3.4% (n = 76) $10,000 to $15,000 |

Total n = 2,232

Table 12.3 Estimating the impact of guidelines: comparison of initial appearance decisions projected under guidelines with past decisions for Maricopa County felony defendants, 1984

| Decision approach | Decision category: Financial[a] Percent | Nonfinancial Total[b] Percent | Nonfinancial Standard Percent | Nonfinancial Special Percent |
|---|---|---|---|---|
| Past (1984)[c] | 60 | 40 | 24 | 16 |
| Guidelines without special severity) | 31 | 69 | 45 | 24 |
| Guidelines with special severity | 36 | 64 | 39 | 25 |

[a]Cases bondable by law but denied bond in practice are included in this category.
[b]This category represents the total of cases receiving or possibly receiving nonfinancial bond, whether "special" or "standard." Included as well are the guidelines categories which suggest a choice of either special conditions of release or low amounts of bond. In practice, in these categories bond could be decided as either nonfinancial or secured financial.
[c]This category reports what the actual bond decisions were for defendants in our study of 1984 felony defendants looked at using the guidelines categories for comparison. Thus, this table shows what defendants in the past received in given guidelines categories compared to what they would receive if guidelines had been in effect at the time.

Table 12.4 Use of "special" conditions (supervision, third party custody) among 1984 cases using guidelines categories

[Percent of defendants in category]

| | Lowest | | Severity | | | Highest |
|---|---|---|---|---|---|---|
| | Cell 1 | Cell 2 | Cell 3 | Cell 4 | Cell 5 | Cell 6 |
| Risk | 33 | 29 | 25 | 28 | 15 | 23 |
| | Cell 7 | Cell 8 | Cell 9 | Cell 10 | Cell 11 | Cell 12 |
| | 20 | 22 | 17 | 18 | 20 | 9 |
| | Cell 13 | Cell 14 | Cell 15 | Cell 16 | Cell 17 | Cell 18 |
| | 25 | 10 | 14 | 11 | 11 | 9 |
| | Cell 19 | Cell 20 | Cell 21 | Cell 22 | Cell 23 | Cell 24 |
| | 0 | 7 | 3 | 1 | 0 | 1 |

Secured Bond under the Guidelines: Secured bond would be permitted in 13 categories (though it would be presumed in only 10 of these). We compared the bonds that would be suggested under the guidelines with those received by defendants in these categories in the past. Table 12.1 (above) shows the median bond that had been set for each of the 13 financial bond categories of guidelines in 1984. If we multiply the median bond in each category by the number of defendants that were in that category and add the totals for each of the 13 categories we obtain a weighted median for all secured bond defendants. If we then divide by the number of defendants in those 13 categories (n=1,027), we can find an averaged median bond for defendants we studied.

We can follow a similar procedure using the middle bond amounts suggested by the guidelines for each of the 13 secured bond categories. (We multiply the median guidelines bonds by the number of defendants falling in each category, add the totals and divide by the total number of bond defendants or 1,006). We obtain the following results:

| | Weighted median bond (all bond defendants) | Averaged median bond ($2,698,291/1,006 defs.) |
|---|---|---|
| 1984 decisions | $2,513,814 | $2,499 |
| Projected under guidelines | $3,021,375 | $3,003 |

This approach suggests that, assuming all secured bond defendants would receive the middle bond suggested for their category, the average bond would be raised approximately $500. The impact this is likely to have is uncertain, when we recall that if bonds were set over $500 in the first place they would usually cause the detention of the defendant.

Estimating the Impact of Guidelines on Pretrial Detention

Detention as a Result of the Pretrial Release Decision: Because detention is not decided directly in all cases (release is a direct outcome of a nonfinancial release decisions, but when bond is set release depends on the defendant's unknown ability to afford bond), it is somewhat more difficult to estimate the impact of guidelines on the use of pretrial detention. As an outside estimate, we can begin with the knowledge that if we expect nonfinancial release in 66 percent of the cases (up from 40 percent), we cannot expect detention to result in more cases than the number having bond set--or 33 percent of the cases. This compares with 54 percent of defendants in the sample who were held at least more than one day.[90] So, assuming very conservatively that all financial

[90] Again, this assumes that guidelines would be followed in 100 percent of the cases and that defendants in cells specifying choices between ROR and low bonds amounts all would be given ROR.

defendants would be detained, this measure estimates that the number detained would be reduced at least 21 percent.

Because of the importance of questions about the impact of pretrial release guidelines on the use of pretrial detention, we have tried to estimate their effects a little more thoroughly. Table 12.5 presents comparative data for each category of Maricopa County defendants. The "projected" rate of detention in each cell was arrived at from the suggested decisions in the decision guidelines. In categories in which the guidelines suggested OR, the projected impact was that 0 percent of defendants would be detained (either longer than one day or throughout the pretrial period. In categories with a range of cash bond suggested we determined a probability of detention (for detention measure as more than one day and for detention throughout the pretrial period) associated with given levels of financial bond[91] and made the assumption that defendants falling in each of these categories would receive the highest amount of bond within the suggested range.[92]

Cell-by-cell analysis shows that in the middle and lower severity and risk categories the use of pretrial detention would be decreased, while in the more seriously charged and higher risk categories greater use of detention would occur. Overall, however, we estimate that detention for longer than one day should decrease at least 10 percent[93] but perhaps as much as 20 percent[94] with almost comparable reductions in detention throughout the pretrial period.

Table 12.6 summarizes a similar analysis conducted to estimate the impact of guidelines on the number of "jail days" associated with bail practices. The approach taken was similar to that employed in the preceding analysis estimating the effects of guidelines on detention. First, the actual total number of days spent in jail by defendants in

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91 The probabilities of pretrial detention associated with given amounts of bond were the following in Maricopa County:

| | Bond range | % Detained >One day | % Detained >Two days | % Detained throughout |
|---|---|---|---|---|
| $ | 1-500 | 65.7 | 63.4 | 53.7 |
| | 501-1000 | 87.0 | 85.5 | 77.8 |
| | 1001-5000 | 92.1 | 90.6 | 77.8 |
| | >5000 | 97.8 | 96.0 | 78.1 |

92 Of course, we could have assumed that commissioners would usually set bond at the midpoint of the guidelines ranges, thus lowering the bonds and decreasing the estimates of detention somewhat.

93 This estimate assumes that defendants in categories with a choice of OR "special" or low bond would all be detained.

94 This estimate assumes that defendants in categories with a choice of OR "special" or a low bond would all be released.

Table 12.5 Estimating the impact of guidelines on the use of pretrial detention among entering felony defendants in Superior Court, Maricopa County

| | N | Percent | N | Percent | N | Percent | N | Percent | N | Percent | N | Percent |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 1984 | > 1 Day ( 0) | 0 | > 1 Day ( 7) | 50.0 | > 1 Day ( 9) | 32.1 | > 1 Day ( 57) | 37.0 | > 1 Day (40) | 59.7 | > 1 Day (16) | 47.1 |
| | > 2 Days ( 0) | 0 | > 2 Days ( 7) | 50.0 | > 2 Day ( 9) | 32.1 | > 2 Days ( 56) | 36.4 | > 2 Days (38) | 56.7 | > 2 Days (16) | 47.1 |
| | 90 Days ( 0) | 0 | Days ( 6) | 42.9 | 90 Days ( 9) | 32.1 | 90 Days ( 52) | 33.8 | 90 Days (35) | 52.2 | 90 Days (14) | 41.2 |
| Projected | > 1 Day ( 0) | 0 | > 1 Day ( 0) | 0 | > 1 Day ( 0) | 0 | > 1 Day ( 0) | 0 | > 1 Day ( 58.3) | 87.0 | > 1 Day ( 31.3) | 92.1 |
| | > 2 Days ( 0) | 0 | > 2 Days ( 0) | 0 | > 2 Days ( 0) | 0 | > 2 Days ( 0) | 0 | > 2 Days ( 57.3) | 85.5 | > 2 Days ( 30.8) | 90.6 |
| | 90 Days ( 0) | 0 | 90 Days ( 0) | 0 | 90 Days ( 0) | 0 | 90 Days ( 0) | 0 | 90 Days ( 52.1) | 77.8 | 90 Days ( 26.4) | 77.8 |
| | Cell ( 6) | 100.0 | Cell (14) | 100.0 | Cell (28) | 100.0 | Cell (154) | 100.0 | Cell (67) | 100.0 | Cell (34) | 100.0 |
| | OR/Standard | | OR/Standard | | OR/Standard | | OR/Standard | | OR/Special to $750 | | $5,000 | |
| 1984 | > 1 Day ( 4) | 13.3 | > 1 Day (68) | 30.1 | > 1 Day (124) | 38.0 | > 1 Day (179) | 49.4 | > 1 Day (78) | 55.3 | > 1 Day (88) | 75.9 |
| | > 2 Days ( 4) | 13.3 | > 2 Day (67) | 29.6 | > 2 Days (121) | 37.1 | > 2 Days (176) | 48.6 | > 2 Days (76) | 53.9 | > 2 Days (88) | 75.9 |
| | 90 Days ( 4) | 13.3 | 90 Days (58) | 25.7 | 90 Days (110) | 33.7 | 90 Days (159) | 43.9 | 90 Days (65) | 46.1 | 90 Days (76) | 65.5 |
| Projected | > 1 Day ( 0) | 0 | > 1 Day ( 0) | 0 | > 1 Day ( 0) | 0 | > 1 Day ( 0) | 0 | > 1 Day (129.9) | 92.1 | > 1 Day (113.4) | 97.8 |
| | > 2 Day ( 0) | 0 | > 2 Days ( 0) | 0 | > 2 Days ( 0) | 0 | > 2 Days ( 0) | 0 | > 2 Days (127.7) | 90.6 | > 2 Days (111.4) | 96.0 |
| | 90 Days ( 0) | 0 | 90 Days ( 0) | 0 | 90 Days ( 0) | 0 | 90 Days ( 0) | 0 | 90 Days (109.7) | 77.8 | 90 Days ( 90.6) | 78.1 |
| | Cell (30) | 100.0 | Cell (226) | 100.0 | Cell (326) | 100.0 | Cell (362) | 100.0 | Cell (141) | 100.0 | Cell (116) | 100.0 |
| | OR/Standard | | OR/Standard | | OR/Standard | | OR/Special | | $1,500 | | $7,500 | |
| 1984 | > 1 Day ( 3) | 75.0 | > 1 Day (31) | 51.7 | > 1 Day ( 71) | 65.1 | > 1 Day (116) | 71.2 | > 1 Day (54) | 77.1 | > 1 Day (58) | 86.6 |
| | > 2 Days ( 3) | 75.0 | > 2 Days (31) | 51.7 | > 2 Days ( 68) | 62.4 | > 2 Days (115) | 70.6 | > 2 Days (54) | 77.1 | > 2 Days (56) | 83.6 |
| | 90 Days ( 1) | 25.0 | 90 Days (26) | 43.3 | 90 Days ( 62) | 56.9 | Days ( 93) | 57.1 | 90 Days (41) | 58.6 | 90 Days (47) | 70.1 |
| Projected | > 1 Day ( 0) | 0 | > 1 Day ( 0) | 0 | > 1 Day (94.8) | 87.0 | > 1 Day (150.1) | 92.1 | > 1 Day ( 64.5) | 92.1 | > 1 Day ( 65.5) | 97.8 |
| | > 2 Days ( 0) | 0 | > 2 Days ( 0) | 0 | > 2 Days (93.2) | 85.5 | > 2 Days (147.7) | 90.6 | > 2 Days ( 63.4) | 90.6 | > 2 Days ( 64.3) | 96.0 |
| | 90 Days ( 0) | 0 | 90 Days ( 0) | 0 | 90 Days (84.8) | 77.8 | Days (126.9) | 77.8 | 90 Days ( 54.5) | 77.8 | 90 Days ( 52.3) | 78.1 |
| | Cell (4) | 100.0 | Cell (60) | 100.0 | Cell (109) | 100.0 | Cell (163) | 100.0 | Cell (70) | 100.0 | Cell (67) | 100.0 |
| | OR/Standard | | OR/Standard | | OR/Special to $750 | | $1,500 | | $2,500 | | $10,000 | |
| 1984 | > 1 Day ( 0) | 0 | > 1 Day ( 9) | 52.9 | > 1 Day ( 26) | 86.7 | > 1 Day ( 67) | 91.8 | > 1 Day (31) | 86.1 | > 1 Day (65) | 89.0 |
| | > 2 Days ( 0) | 0 | > 2 Days ( 9) | 52.9 | > 2 Days ( 25) | 83.3 | > 2 Days ( 67) | 91.8 | > 2 Days (31) | 86.1 | > 2 Days (63) | 86.3 |
| | 90 Days ( 0) | 0 | 90 Days ( 5) | 29.4 | 90 Days ( 20) | 66.7 | 90 Days ( 55) | 75.3 | 90 Days (26) | 64.9 | 90 Days (45) | 61.6 |
| Projected | > 1 Day ( 0) | 0 | > 1 Day (11.2) | 65.7 | > 1 Day (27.6) | 92.1 | > 1 Day (67.2) | 92.1 | > 1 Day ( 33.2) | 92.1 | > 1 Day ( 71.4) | 97.8 |
| | > 2 Days ( 0) | 0 | > 2 Days (10.8) | 63.4 | > 2 Days (27.2) | 90.6 | > 2 Days (66.1) | 90.6 | > 2 Day ( 32.6) | 90.6 | > 2 Days ( 70.1) | 96.0 |
| | 90 Days ( 0) | 0 | 90 Days ( 9.1) | 53.7 | 90 Days (23.3) | 77.8 | 90 Days (56.8) | 77.8 | 90 Days ( 28.0) | 77.8 | 90 Days ( 57.0) | 78.1 |
| | Cell ( 1) | 100.0 | Cell (17) | 100.0 | Cell (30) | 100.0 | Cell (73) | 100.0 | Cell (36) | 100.0 | Cell (73) | 100.0 |
| | OR/Special | | OR/Sspecial to $500 | | $1,500 | | $3,500 | | $5,000 | | $15,000 | |

| | N | Percent |
|---|---|---|
| 1984 Total | (2,207) | 100.0 |
| Det > 1 day | (1,201) | 54.4 |
| Det > 2 days | (1,180) | 53.5 |
| Det 90 days | (1,008) | 45.7 |

| | N | Percent |
|---|---|---|
| Projected total | (2,207) | 100.0 |
| Det > 1 day | (918.4) | 41.6 |
| Det > 2 days | (902.6) | 40.9 |
| Det > 90 days | (771.4) | 34.9 |
| Treating 3 OR/Special to cash cells as non-cash | | |
| Det > 1 day | (754.1) | 34.2 |
| Det > 2 days | (741.1) | 33.6 |
| Det 90 days | (625.4) | 28.3 |

Key

> 1 Day = Detained more than 1 day
> 2 Days = Detained more than 2 days
90 Days = Detained throughout

Guidelines ranges

OR/Standard = OR with routine conditions
OR/Special = OR with restrictive conditions
OR/Special to $750 = choice: OR or low bond
Cash amount = Upper limit guidelines range

[Note: The estimates of the impact of guidelines assumes 100 percent compliance with guidelines and that judges would select maximum bail amounts permitted in each category.]

Table 12.6 Estimating the impact of guidelines on jail days associated with the processing of entering felony defendants in Maricopa County Superior Court

| | | | | | | |
|---|---|---|---|---|---|---|
| 1984 | Mn = 0.3<br>Sum = 2.0 | Mn = 41.5<br>Sum = 581.0 | Mn = 29.1<br>Sum = 816.0 | Mn = 30.8<br>Sum = 4,748.0 | Mn = 47.9<br>Sum = 3,208.0 | Mn = 38.2<br>Sum = 1,299.0 |
| Projected | Mn = 0<br>Sum = 0 | Mn = 0<br>Sum = 0 | Mn = 0<br>Sum = 0 | Mn = 0<br>Sum = 0 | Mn = 71.0<br>Sum = 4,757.3a | Mn = 72.2<br>Sum = 2,455.7 |
| | (n = 7) | (n = 14) | (n = 28) | (n = 154) | (n = 67) | (n = 34) |
| | OR/Standard | OR/Standard | OR/Standard | OR/Standard | OR/Special $750b | $5,000 |
| 1984 | Mn = 12.2<br>Sum = 367.0 | Mn = 23.7<br>Sum = 5,348.0 | Mn = 30.7<br>Sum = 9,996.0 | Mn = 40.3<br>Sum = 14,594.0 | Mn = 43.1<br>Sum = 6,075.0 | Mn = 62.6<br>Sum = 7,264.0 |
| Projected | Mn = 0<br>Sum = 0 | Mn = 0<br>Sum = 0 | Mn = 0<br>Sum = 0 | Mn = 0<br>Sum = 0 | Mn = 72.2<br>Sum = 10,184.1 | Mn = 74.5<br>Sum = 8,639.0 |
| | (n = 30) | (n = 226) | (n = 326) | (n = 362) | (n = 141) | (n = 116) |
| | OR/Standard | OR/Standard | OR/Standard | OR/Special | $1,500 | $7,500 |
| 1984 | Mn = 26.0<br>Sum = 104.0 | Mn = 40.8<br>Sum = 2,451.0 | Mn = 52.3<br>Sum = 5,702.0 | Mn = 54.2<br>Sum = 8,832.0 | Mn = 57.3<br>Sum = 4,012.0 | Mn = 6[illegible].0<br>Sum = 4,3[illegible].0 |
| Projected | Mn = 0<br>Sum = 0 | Mn = 0<br>Sum = 0 | Mn = 71.0<br>Sum = 7,739.5 | Mn = 72.2<br>Sum = 11,773.2 | Mn = 72.2<br>Sum = 5,056.0 | Mn = 74.5<br>Sum = 989.8 |
| | (n = 4) | (n = 60) | (n = 109) | (n = 163) | (n = 70) | (n = 67) |
| | OR/Standard | OR/Standard | OR/Special $750b | $1,500 | $2,500 | $10,000 |
| 1984 | Mn = 1.0<br>Sum = 1.0 | Mn = 28.5<br>Sum = 485.0 | Mn = 62.3<br>Sum = 1,869.0 | Mn = 71.9<br>Sum = 5,251.0 | Mn = 67.2<br>Sum = 2,420.0 | Mn = 60.7<br>Sum = 4,431.0 |
| Projected | Mn = 0<br>Sum = 0 | Mn = 49.7<br>Sum = 844.3 | Mn = 72.2<br>Sum = 2,166.8 | Mn = 72.2<br>Sum = 5,272.6 | Mn = 72.2<br>Sum = 2,600.2 | Mn = 74.5<br>Sum = 5,436.6 |
| | (n = 1) | (n = 17) | (n = 30) | (n = 73) | (n = 36) | (n = 73) |
| | | OR/Special $500b | $1,500 | $3,500 | $5,000 | $15,000 |

1984 Total defendants (n = 2,207)
Total jail days = 94,211
Mean jail days = 42.7 per defendant
aSums were calculated on unrounded means

Projected total defendant ( n = 2,207)
Projected total jail days = 71,915.1
Projected mean jail days = 32.6
bUsing 3 OR SPECIAL categories as non-cash
Projected total jail days = 58,574.0
Projected mean jail days = 26.5

[Note: The estimates of the impact of guidelines assume 100 percent compliance with guidelines and that judges would select the maximum bail amounts permitted in each category. Sums of jail days were calculated on unrounded means.]

each of the categories in 1984 was calculated. Then jail days values associated with the decision ranges suggested by the guidelines were determined. For example, in categories suggesting nonfinancial release, the expected number of jail days was assigned as 0. Analysis was conducted to determine an average number of jail days associated with given levels of financial bail. Assuming again that commissioners would select the highest bond in the suggest bond ranges, the number of jail days associated with that bond level was assigned to all defendants falling in given categories.

The results show that under guidelines the sample defendants would have been detained for 22,245 less jail days--a reduction of 24 percent. Or, stated another way, bail practices under the 1984 procedures in Maricopa County produced an average of 42.7 jail days per entering felony defendant compared to an estimated 32.6 expected under the guidelines system. This estimate suggests that the costs of housing inmates in the jail can be considerably reduced using the guidelines system.

The Likely Impact on the Jail Population: Another way to estimate the impact of guidelines on detention is to examine the data we collected describing a sample of defendants detained in the Maricopa County jail. The approach here is quite simple: we merely classify defendants held in Maricopa County on a given day as if they were to have bond decided under the draft pretrial release guidelines.

To do this, we are not able to take fully into consideration the effect of the special severity factors, because our jail information was not as complete as our information describing the sample of 1984 felony defendants. On the basis of the guidelines matrix alone, however, we were able to classify defendants detained in Maricopa County on September 21, 1985, according to severity and risk. See Table 12.7a and 12.7b.

Forty-three percent of the detained defendants are ranked within the two lowest risk categories; 30 percent fall within the two least severe charge categories. Remarkably, without considering the special severity factors which are part of the guidelines approach, 44 percent of those held would be suggested OR releases under the guidelines: 31 percent OR with standard conditions and 13 percent OR with special conditions of release.

This comparison, of course, exaggerates the releasability of the detainees in three ways. First, it does not consider the effects of the special severity enhancements (weapons use, injury to victim, and repetitive serious

Table 12.7a The distribution of 1985 Maricopa County pretrial detainees within guidelines categories: without taking into account special severity factors

Least serious — Most serious

Charge severity

| Probability of flight and/or crime | 1 | 2 | 3 | 4 | 5 | 6 |
|---|---|---|---|---|---|---|
| Lowest risk 1 | 3.6% (n = 6) OR/Standard | 1.2% (n = 2) OR/Standard | 1.2% (n = 2) OR/Standard | 3.6% (n = 6) OR/Standard | 0% (n = 0) OR/Special $ 750 | 1.2% (n = 2) $ 1,000 to $ 5,000 |
| 2 | 7.7% (n = 13) OR/Standard | 1.8% (n = 3) OR/Standard | 4.8% (n = 8) OR/Standard | 6.5% (n = 11) OR/Special | 1.8% (n = 3) $500 to $1,500 | 2.4% (n = 4) $ 3,000 to $ 7,500 |
| 3 | 10.1% (n = 17) OR/Standard | 3.0% (n = 5) OR/Standard | 8.9% (n = 15) OR/Special to $ 750 | 8.3% (n = 14) $ 500 to $1,500 | 4.8% (n = 8) $1,000 to $2,500 | 6.0% (n = 10) $ 5,000 to $10,000 |
| 4 Highest risk | 0% (n = 0) OR/Special | 0% (n = 0) OR/Special to $500 | 5.4% (n = 9) $500 to $1,500 | 8.3% (n = 14) $1,500 to $3,500 | 1.8% (n = 3) $2,000 to $5,000 | 7.7% (n = 13) $10,000 to $15,000 |

Total n = 167

Table 12.7b The distribution of 1985 Maricopa County pretrial detainees within guidelines categories: taking into account special severity factors

Least serious — Most serious

Charge severity

| Probability of flight and/or crime | 1 | 2 | 3 | 4 | 5 | 6 |
|---|---|---|---|---|---|---|
| Lowest risk 1 | 1.7% (n = 3) OR/Standard | 2.8% (n = 5) OR/Standard | 1.1% (n = 2) OR/Standard | 1.1% (n = 2) OR/Standard | 1.7% (n = 3) OR/Special to $ 750 | 1.7% (n = 3) $ 1,000 to $ 5,000 |
| 2 | 4.0% (n = 7) OR/Standard | 5.1% (n = 9) OR/Standard | 2.3% (n = 4) OR/Standard | 4.5% (n = 8) OR/Special | 5.1% (n = 9) $ 500 to $1,500 | 1.1% (n = 2) $ 3,000 to $ 7,500 |
| 3 | 6.2% (n = 11) OR/Standard | 5.6% (n = 10) OR/Standard | 3.4% (n = 6) OR/Special to $ 750 | 9.6% (n = 17) $ 500 to $1,500 | 6.2% (n = 11) $1,000 to $2,500 | 4.5% (n = 8) $ 500 to $10,000 |
| 4 Highest risk | 0% (n = 0) OR/Special | 0% (n = 0) OR/Special to $500 | 4.0% (n = 7) $500 to $1,500 | 2.8% (n = 5) $1,500 to $3,500 | 6.2% (n = 11) $2,000 to $5,000 | 19.2% (n = 35) $10,000 to $15,000 |

Total n = 167

counts)[95] and it takes the guidelines too literally. Further, we are making the unlikely assumption in this estimate that none of the detainees were "unusual cases," the kind likely to be treated as exceptions under the guidelines. Finally, this estimate does not consider the extent to which defendants previously not held in jail might be confined as a result of the guidelines.

## THE ESTIMATED IMPACT OF THE GUIDELINES ON DECISIONS IN DADE COUNTY

A similar analysis of the likely effect of guidelines was carried out for the Circuit Court in Dade County. Yet so concerned was the court leadership about the possible side-effects of a guidelines approach on the critically crowded jail facilities in Dade County that the research staff worked closely with the pretrial services program to draft two versions of guidelines with varying impact for the committee's review. The difference between version I and version II is in the decisions suggested for cells 25 and 26. Under version I these categories offer a choice between nonfinancial release with special conditions and low amounts of bond; under version II the suggested decisions involve only nonfinancial release with special conditions.

Like the Maricopa analysis, the analysis began by superimposing the draft guidelines over the data describing the decisions and outcomes characterizing the defendants in the 1984 sample we studied. See Table 12.8. Tables A12.9 and A12.10 display the distributions of 1984 defendants within the two versions of guidelines. Table A12.11 compares the percentage of defendants actually receiving nonfinancial versus financial release in 1984 with the percentages that would have received each kind of decision under the two proposed version of guidelines (again, assuming judges agreed 100 percent of the time with the guidelines).

The Use of Nonfinancial Release: Under version I, we estimate that the use of nonfinancial release would increase 7 percent from 69 to 76 percent. Under version II, the estimated increase in the use of nonfinancial release would be 12 percent.

The Use of "Special" Conditions of Nonfinancial Conditions of Release: A rough estimate of bond hearing defendants assigned the equivalent of what we now call "special" conditions of release in 1984 might include those assigned to pretrial services and then supervised and those released to ADAP (Alcohol Drug Abuse Program)

[95] We do know that at least 18 percent were charged with weapons offenses; however, we could not determine if weapons were alleged to have been used as the guidelines would require. We also know that a victim suffered some harm in 17 percent of the cases.)

Table 12.8 Background data for guidelines formulation: classification of Dade felony defendants according to draft release guidelines, by bail decisions, detention, defendant performance, and case processing outcomes, 1984

Least serious — Most serious

Charge severity

| Probability of flight and/or crime | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 |
|---|---|---|---|---|---|---|---|---|
| Lowest risk | Cell 1 (n=31) | Cell 2 (n=67) | Cell 3 (n=29) | Cell 4 (n=28) | Cell 5 (n=32) | Cell 6 (n=39) | Cell 7 (n=39) | Cell 8 (n=28) |
| | % Nonfinancial 90 | % Nonfinancial 87 | % Nonfinancial 79 | % Nonfinancial 93 | % Nonfinancial 91 | % Nonfinancial 87 | % Nonfinancial 88 | % Nonfinancial 22 |
| | Mdn $ (0)[a] $ 0 | Mdn $ (0)[a] $ 0 | Mdn $ (0)[a] $ 0 | Mdn $ (0)[a] $ 0 | Mdn $ (0)[a] $ 0 | Mdn $ (0)[a] $ 0 | Mdn $ (0)[a] $ 0 | Mdn $ (0)[a] $50,000 |
| | % Det > 2 days 15 | % Det > 2 days 9 | % Det > 2 days 16 | % Det > 2 days 6 | % Det > 2 days 19 | % Det > 2 days 16 | % Det > 2 days 20 | % Det > 2 days 44 |
| 1 | % FTA 12 | % FTA 2 | % FTA 6 | % FTA 6 | % FTA 11 | % FTA 0 | % FTA 5 | % FTA 6 |
| | % Rearrest 0 | % Rearrest 0 | % Rearrest 0 | % Rearrest 6 | % Rearres 10 | % Rearrest 5 | % Rearrest 0 | % Rearrest 0 |
| | % Failure 11 | % Failure 2 | % Failure 6 | % Failure 11 | % Failure 15 | % Failure 5 | % Failure 5 | % Failure 6 |
| | % Bound down 10 | % Bound down 23 | % Bound down 32 | % Bound down 22 | % Bound down 10 | % Bound down 0 | % Bound down 12 | % Bound down 0 |
| | % Dropped 45 | % Dropped 35 | % Dropped 58 | % Dropped 44 | % Dropped 52 | % Dropped 56 | % Dropped 36 | % Dropped 33 |
| | Cell 9 (n=45) | Cell 10 (n=131) | Cell 11 (n=70) | Cell 12 (n=71) | Cell 13 (n=127) | Cell 14 (n=79) | Cell 15 (n=56) | Cell 16 (n=63) |
| | % Nonfinancial 89 | % Nonfinancial 77 | % Nonfinancial 78 | % Nonfinancial 72 | % Nonfinancial 76 | % Nonfinancial 86 | % Nonfinancial 77 | % Nonfinancial 40 |
| | Mdn $ (0)[a] $ 0 | Mdn $ (0)[a] $ 0 | Mdn $ (0)[a] $ 0 | Mdn $ (0)[a] $ 0 | Mdn $ (0)[a] $ 0 | Mdn $ (0)[a] $ 0 | Mdn $ (0)[a] $ 0 | Mdn $ (0)[a] $20,000 |
| | % Det > 2 days 28 | % Det > 2 days 31 | % Det > 2 days 42 | % Det > 2 days 33 | % Det > 2 days 34 | % Det > 2 days 29 | % Det > 2 days 31 | % Det > 2 days 58 |
| 2 | % FTA 15 | % FTA 6 | % FTA 11 | % FTA 11 | % FTA 8 | % FTA 11 | % FTA 9 | % FTA 14 |
| | % Rearrest 4 | % Rearrest 4 | % Rearrest 6 | % Rearrest 6 | % Rearrest 8 | % Rearrest 4 | % Rearrest 6 | % Rearrest 0 |
| | % Failure 19 | % Failure 10 | % Failure 14 | % Failure 16 | % Failure 15 | % Failure 13 | % Failure 13 | % Failure 14 |
| | % Bound down 17 | % Bound down 28 | % Bound down 42 | % Bound down 37 | % Bound down 21 | % Bound down 8 | % Bound down 14 | % Bound down 5 |
| | % Dropped 45 | % Dropped 57 | % Dropped 51 | % Dropped 54 | % Dropped 56 | % Dropped 51 | % Dropped 39 | % Dropped 20 |
| | Cell 17 (n=37) | Cell 18 (n=105) | Cell 19 (n=67) | Cell 20 (n=67) | Cell 21 (n=102) | Cell 22 (n=50) | Cell 23 (n=73) | Cell 24 (n=73) |
| | % Nonfinancial 59 | % Nonfinancial 64 | % Nonfinancial 76 | % Nonfinancial 67 | % Nonfinancial 69 | % Nonfinancial 72 | % Nonfinancial 66 | % Nonfinancial 50 |
| | Mdn $ (0)[a] $ 0 | Mdn $ (0)[a] $ 0 | Mdn $ (0)[a] $ 0 | Mdn $ (0)[a] $ 0 | Mdn $ (0)[a] $ 0 | Mdn $ (0)[a] $ 0 | Mdn $ (0)[a] $ 0 | Mdn $ (0)[a] $ 0 |
| | % Det > 2 days 54 | % Det > 2 days 47 | % Det > 2 days 46 | % Det > 2 days 49 | % Det > 2 days 45 | % Det > 2 days 37 | % Det > 2 days 47 | % Det > 2 days 47 |
| 3 | % FTA 22 | % FTA 8 | % FTA 31 | % FTA 27 | % FTA 11 | % FTA 13 | % FTA 16 | % FTA 13 |
| | % Rearrest 18 | % Rearrest 10 | % Rearrest 10 | % Rearrest 13 | % Rearrest 9 | % Rearrest 4 | % Rearrest 3 | % Rearrest 3 |
| | % Failure 39 | % Failure 18 | % Failure 40 | % Failure 37 | % Failure 17 | % Failure 17 | % Failure 16 | % Failure 16 |
| | % Bound down 8 | % Bound down 13 | % Bound down 37 | % Bound down 30 | % Bound down 29 | % Bound down 31 | % Bound down 13 | % Bound down 9 |
| | % Dropped [illegible] | % Dropped 60 | % Dropped 40 | % Dropped 42 | % Dropped 53 | % Dropped 41 | % Dropped 62 | % Dropped 51 |
| | Cell 25 (n=17) | Cell 26 (n=42) | Cell 27 (n=39) | Cell 28 (n=42) | Cell 29 (n=67) | Cell 30 (n=31) | Cell 31 (n=34) | Cell 32 (n=59) |
| | % Nonfinancial 64 | % Nonfinancial 70 | % Nonfinancial 56 | % Nonfinancial 65 | % Nonfinancial 48 | % Nonfinancial 37 | % Nonfinancial 48 | % Nonfinancial 36 |
| | Mdn $ (0)[a] $ 0 | Mdn $ (0)[a] $ 0 | Mdn $ (0)[a] $ 0 | Mdn $ (0)[a] $ 0 | Mdn $ (0)[a] $ 2,000 | Mdn $ (0)[a] $ 4,500 | Mdn $ (0)[a] $1,500 | Mdn $[a] (0)a $ 9,000 |
| | % Det > 2 days 64 | % Det > 2 days 44 | % Det > 2 days 84 | % Det > 2 days 74 | % Det > 2 days 72 | % Det > 2 days 70 | % Det > 2 days 64 | % Det > 2 days 81 |
| 4 | % FTA 67 | % FTA 6 | % FTA 40 | % FTA 23 | % FTA 19 | % FTA 29 | % FTA 11 | % FTA 14 |
| | % Rearrest 40 | % Rearrest 18 | % Rearrest 40 | % Rearrest 15 | % Rearrest 12 | % Rearrest 14 | % Rearrest 22 | % Rearrest 0 |
| | % Failure 83 | % Failure 18 | % Failure 53 | % Failure 31 | % Failure 26 | % Failure 36 | % Failure 33 | % Failure 13 |
| | % Bound down 46 | % Bound down 15 | % Bound down 44 | % Bound down 19 | % Bound down 16 | % Bound down 10 | % Bound down 5 | % Bound down 3 |
| Highest risk | % Dropped 55 | % Dropped 59 | % Dropped 36 | % Dropped 30 | % Dropped 56 | % Dropped 35 | % Dropped 68 | % Dropped 41 |

[a]Median bail is calculated including $0.

or DIP (Domestic Intervention Program). Approximately 20 percent of the 1984 defendants fell into those categories. Under the guidelines, we estimate that from 8 to 11 percent more of entering felony defendants would be classified within "special" conditions ranges.

The Use of Secured Bond: In striking contrast to the slight increase in average bond amount projected under the guidelines in Maricopa County, our estimates point to a sharp drop in the average bond amount in Dade County among bond defendants under guidelines.

| | Weighted median bond (all bond defendants) | Averaged median bond (weighted bond/554) |
|---|---|---|
| 1984 decisions | $3,470,500 | 6,264 |
| Projected under guidelines | 1,426,825 | 2,575 |

The Estimated Impact of Guidelines on the Use of Pretrial Detention in Dade County

Using the same procedure outlined above in the discussion of Maricopa County, we estimated the likely detention associated with each category of the proposed guidelines and for defendants overall (here we limit our discussion to version II, the one with the greater likely impact). Table 12.12 suggests that the effect of the guidelines would be to reduce the use of pretrial detention noticeably in the lower risk-lower seriousness categories of defendants and increase the use of detention in the higher risk-higher severity kinds of categories. Overall, assuming guidelines were followed 100 percent of the time (which they would not be), the use of detention for more than two days would be reduced from 17 to 24 percentage points (depending on assumptions about what judges would do in the categories giving choices between nonfinancial-special conditions and low amounts of cash bond).

Table 12.13 summarizes the analysis estimating the impact of the guidelines decision on the number of jail days associated with bail practices. If the 1984 sample of defendants had the decisions suggested by the (version II) guidelines rather than their actual decisions, the total number of jail days generated by the Court's bond decisions would have been cut roughly in half. The average of 11.2 jail days per defendant characteristic of bond practices in 1984 would be reduced to 4.2 jail days per defendants.

The Likely Impact on the Jail Population: Table A12.14 shows the result of classifying our fall, 1985, sample of pretrial detainees according to the version I guidelines. Assuming unrealistically that guidelines would be

Table 12.12 Estimating the impact of guidelines (Version II) on the use of pretrial detention among entering felony defendants in Dade County Circuit Court

| | N | Percent | N | Percent | N | Percent | N | Percent | N | Percent | N | Percent | N | Percent | N | Percent |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 1984 | > 1 Day | ( 8.0) | 25.0 | > 1 Day | (12.0) | 18.6 | > 1 Day | ( 8.0) | 26.3 | > 1 Day | ( 3.0) | 11.1 | > 1 Day | ( 9.0) | 28.6 | > 1 Day | (11.0) | 28.0 | > 1 Day | (11.0) | 28.0 | > 1 Day | (14.0) | 50.0 |
| | > 2 Days | ( 5.0) | 15.0 | > 2 Days | ( 6.0) | 9.3 | > 2 Days | ( 5.0) | 15.8 | > 2 Days | ( 2.0) | 5.6 | > 2 Days | ( 6.0) | 19.0 | > 2 Days | ( 6.0) | 16.0 | > 2 Days | ( 8.0) | 20.0 | > 2 Days | (12.0) | 44.4 |
| | 90 Days | ( 3.0) | 10.0 | 90 Days | ( 3.0) | 4.7 | 90 Days | ( 5.0) | 15.8 | 90 Days | ( 0) | 0 | 90 Days | ( 2.0) | 4.8 | 90 Days | ( 5.0) | 12.0 | 90 Days | ( 5.0) | 12.0 | 90 Days | ( 2.0) | 5.6 |
| Projected | > 1 Day | ( 0) | 0 | > 1 Day | ( 0) | 0 | > 1 Day | ( 0) | 0 | > 1 Day | ( 0) | 0 | > 1 Day | ( 0) | 0 | > 1 Day | ( 0) | 0 | > 1 Day | (11.4) | 29.3 | > 1 Day | (25.3) | 90.2 |
| | > 2 Days | ( 0) | 0 | > 2 Days | ( 0) | 0 | > 2 Days | ( 0) | 0 | > 2 Days | ( 0) | 0 | > 2 Days | ( 0) | 0 | > 2 Days | ( 0) | 0 | > 2 Days | ( 8.3) | 21.3 | > 2 Days | (24.3) | 86.8 |
| | 90 Days | ( 0) | 0 | 90 Days | ( 0) | 0 | 90 Days | ( 0) | 0 | 90 Days | ( 0) | 0 | 90 Days | ( 0) | 0 | 90 Days | ( 0) | 0 | 90 Days | ( 0) | 0 | 90 Days | (13.9) | 49.6 |
| | Cell | (31) | 100.0 | Cell | (67) | 100.0 | Cell | (29) | 100.0 | Cell | (28) | 100.0 | Cell | (32) | 100.0 | Cell | (39) | 100.0 | Cell | (39) | 100.0 | Cell | (28) | 100.0 |
| | PIS/Standard | | | PIS/Standard | | | PIS/Standard | | | PIS/Standard | | | PIS/Standard | | | PIS/Standard | | | PIS/Standard | | | $2,000 | | |
| 1984 | > 1 Day | (15.0) | 34.5 | > 1 Day | (48.0) | 36.5 | > 1 Day | (32.0) | 46.7 | > 1 Day | (26.0) | 37.0 | > 1 Day | (50.0) | 39.0 | > 1 Day | (28.0) | 35.3 | > 1 Day | (20.0) | 36.1 | > 1 Day | (40.0) | 63.4 |
| | > 2 Days | (12.0) | 27.6 | > 2 Days | (40.0) | 30.6 | > 2 Days | (29.0) | 42.2 | > 2 Days | (23.0) | 32.6 | > 2 Days | (43.0) | 34.1 | > 2 Days | (23.0) | 29.4 | > 2 Days | (17.0) | 30.6 | > 2 Days | (37.0) | 58.5 |
| | 90 Days | ( 5.0) | 10.3 | 90 Days | (22.0) | 16.5 | 90 Days | (15.0) | 22.2 | 90 Days | (12.0) | 17.4 | 90 Days | (26.0) | 20.7 | 90 Days | ( 8.0) | 9.8 | 90 Days | ( 6.0) | 11.1 | 90 Days | ( 9.0) | 14.6 |
| Projected | > 1 Day | ( 0) | 0 | > 1 Day | ( 0) | 0 | > 1 Day | ( 0) | 0 | > 1 Day | ( 0) | 0 | > 1 Day | ( 0) | 0 | > 1 Day | ( 0) | 0 | > 1 Day | ( 0) | 0 | > 1 Day | (56.8) | 90.2 |
| | > 2 Days | ( 0) | 0 | > 2 Days | ( 0) | 0 | > 2 Days | ( 0) | 0 | > 2 Days | ( 0) | 0 | > 2 Days | ( 0) | 0 | > 2 Days | ( 0) | 0 | > 2 Days | ( 0) | 0 | > 2 Days | (54.7) | 86.8 |
| | 90 Days | ( 0) | 0 | 90 Days | ( 0) | 0 | 90 Days | ( 0) | 0 | 90 Days | ( 0) | 0 | 90 Days | ( 0) | 0 | 90 Days | ( 0) | 0 | 90 Days | ( 0) | 0 | 90 Days | (31.2) | 49.6 |
| | Cell | (45) | 100.0 | Cell | (131) | 100.0 | Cell | (70) | 100.0 | Cell | (71) | 100.0 | Cell | (127) | 100.0 | Cell | (79) | 100.0 | Cell | (56) | 100.0 | Cell | (63) | 100.0 |
| | PIS/Standard | | | PIS/Standard | | | PIS/Standard | | | PIS/Standard | | | PIS/Standard | | | PIS/Special | | | PIS/Special | | | $3,000 | | |
| 1984 | > 1 Day | (20.0) | 54.2 | > 1 Day | (53.0) | 50.0 | > 1 Day | (34.0) | 51.2 | > 1 Day | (40.0) | 60.5 | > 1 Day | (56.0) | 54.5 | > 1 Day | (23.0) | 46.9 | > 1 Day | (40.0) | 55.3 | > 1 Day | (43.0) | 59.6 |
| | > 2 Days | (20.0) | 54.2 | > 2 Days | (50.0) | 47.1 | > 2 Days | (31.0) | 46.2 | > 2 Days | (32.0) | 48.8 | > 2 Days | (46.0) | 45.5 | > 2 Days | (19.0) | 37.5 | > 2 Days | (34.0) | 46.8 | > 2 Days | (39.0) | 53.2 |
| | 90 Days | ( 9.0) | 25.0 | 90 Days | (28.0) | 26.5 | 90 Days | (20.0) | 30.2 | 90 Days | (20.0) | 30.2 | 90 Days | (29.0) | 28.8 | 90 Days | (12.0) | 25.0 | 90 Days | (15.0) | 21.3 | 90 Days | (25.0) | 34.0 |
| Projected | > 1 Day | ( 0) | 0 | > 1 Day | ( 0) | 0 | > 1 Day | ( 0) | 0 | > 1 Day | ( 0) | 0 | > 1 Day | ( 0) | 0 | > 1 Day | (25.0) | 50.0 | > 1 Day | (47.2) | 64.7 | > 1 Day | (65.9) | 90.2 |
| | > 2 Days | ( 0) | 0 | > 2 Days | ( 0) | 0 | > 2 Days | ( 0) | 0 | > 2 Days | ( 0) | 0 | > 2 Days | ( 0) | 0 | > 2 Days | (25.0) | 50.0 | > 2 Days | (42.9) | 58.8 | > 2 Days | (63.4) | 86.8 |
| | 90 Days | ( 0) | 0 | 90 Days | ( 0) | 0 | 90 Days | ( 0) | 0 | 90 Days | ( 0) | 0 | 90 Days | ( 0) | 0 | 90 Days | (12.5) | 25.0 | 90 Days | (25.8) | 35.3 | 90 Days | (36.2) | 49.6 |
| | Cell | (37) | 100.0 | Cell | (105) | 100.0 | Cell | (67) | 100.0 | Cell | (67) | 100.0 | Cell | (102) | 100.0 | Cell | (50) | 100.0 | Cell | (73) | 100.0 | Cell | (73) | 100.0 |
| | PIS/Special | | | PIS/Special | | | PIS/Special | | | PIS/Special | | | PIS/Special | | | PIS/Special to $500 | | | PIS/Special to $1,000 | | | $5,000 | | |
| 1984 | > 1 Day | (11.0) | 63.6 | > 1 Day | (19.0) | 44.4 | > 1 Day | (26.0) | 68.0 | > 1 Day | (34.0) | 81.5 | > 1 Day | (51.0) | 76.7 | > 1 Day | (23.0) | 75.0 | > 1 Day | (25.0) | 72.7 | > 1 Day | (50.0) | 84.2 |
| | > 2 Days | (11.0) | 63.6 | > 2 Days | (19.0) | 44.4 | > 2 Days | (25.0) | 64.0 | > 2 Days | (31.0) | 74.1 | > 2 Days | (48.0) | 72.1 | > 2 Days | (22.0) | 70.0 | > 2 Days | (22.0) | 63.6 | > 2 Days | (48.0) | 81.6 |
| | 90 Days | ( 8.0) | 45.5 | 90 Days | (15.0) | 37.0 | 90 Days | (15.0) | 40.0 | 90 Days | (20.0) | 51.9 | 90 Days | (25.0) | 37.2 | 90 Days | ( 9.0) | 30.0 | 90 Days | (20.0) | 59.1 | 90 Days | (36.0) | 60.5 |
| Projected | > 1 Day | ( 0) | 0 | > 1 Day | ( 0) | 0 | > 1 Day | (25.2) | 64.7 | > 1 Day | (37.9) | 90.2 | > 1 Day | (60.4) | 90.2 | > 1 Day | (28.0) | 90.2 | > 1 Day | (30.7) | 90.2 | > 1 Day | (53.2) | 90.2 |
| | > 2 Days | ( 0) | 0 | > 2 Days | ( 0) | 0 | > 2 Days | (22.9) | 58.8 | > 2 Days | (36.5) | 86.8 | > 2 Days | (58.2) | 86.8 | > 2 Days | (26.9) | 86.8 | > 2 Days | (29.5) | 86.8 | > 2 Days | (52.3) | 88.7 |
| | 90 Days | ( 0) | 0 | 90 Days | ( 0) | 0 | 90 Days | (13.8) | 35.3 | 90 Days | (20.8) | 49.6 | 90 Days | (33.2) | 49.6 | 90 Days | (33.2) | 49.6 | 90 Days | (16.9) | 49.6 | 90 Days | (29.3) | 49.6 |
| | Cell | (17) | 100.0 | Cell | (42) | 100.0 | Cell | (39) | 100.0 | Cell | (42) | 100.0 | Cell | (67) | 100.0 | Cell | (31) | 100.0 | Cell | (34) | 100.0 | Cell | (59) | 100.0 |
| | PIS/Special | | | PIS/Special | | | PIS/Special to $750 | | | PIS/Special to $1,500 | | | $3,500 | | | $4,500 | | | $5,000 | | | $11,000 | | |

| | N | Percent |
|---|---|---|
| 1984 Total | (1,840) | 100.0 |
| Det > 1 day | (883) | 48.0 |
| Det > 2 days | (771) | 41.9 |
| Det 90 days | (434) | 23.6 |

| | N | Percent |
|---|---|---|
| Projected total | (1,840) | 100.0 |
| Det > 1 day | (455.6) | 24.8 |
| Det > 2 days | (436.6) | 23.7 |
| Det 90 days | (248.9) | 13.5 |
| Treating 4 PIS/Special to cash cells as non-cash | | |
| Det > 1 day | (320.3) | 17.4 |
| Det > 2 days | (309.3) | 16.8 |
| Det 90 days | (176.0) | 9.6 |

Key
> 1 Day = Detained more than 1 day
> 2 Days = Detained more than 2 days
90 Days = Detained throughout

Guidelines ranges
PIS/Standard = OR with routine conditions
PIS/Special = OR with restrictive conditions
PIS/Special to $750 = choice: OR or low bond

[Note: The estimates of the impact of guidelines assumes 100 percent compliance with guidelines and that judges would select maximum bail amounts permitted in each category. The 1984 Dade sample includes 88 cases (136 weighted) of defendants who received OR ($0 bond) but were released to programs from which they were subsequently rejected. They appear, therefore, as not having been released.]

Table 12.13 Estimating the impact of bond hearing guidelines (Version II) on jail days associated with the processing of entering felony defendants in Dade County Circuit Court

| | | | | | | | | |
|---|---|---|---|---|---|---|---|---|
| 1984 | Mn = 2.8<br>Sum = 85.1 | Mn = 2.4<br>Sum = 157.8 | Mn = 3.2<br>Sum = 94.4 | Mn = 2.3<br>Sum = 65.0 | Mn = 2.5<br>Sum = 80.4 | Mn = 5.8<br>Sum = 222.8 | Mn = 2.4<br>Sum = 91.3 | Mn = 11.3<br>Sum = 315.6 |
| Projected | Mn = 0<br>Sum = 0 | Mn = 0<br>Sum = 0 | Mn = 0<br>Sum = 0 | Mn = 0<br>Sum = 0 | Mn = 0<br>Sum = 0 | Mn = 0<br>Sum = 0 | Mn = 0<br>Sum = 0 | Mn = 20.9<br>Sum = 585.1 |
| | (n = 31) | (n = 67) | (n = 29) | (n = 28) | (n = 32) | (n = 39) | (n = 39) | (n = 28) |
| | PIS/Standard | PIS/Standard | PIS/Standard | PIS/Standard | PIS/Standard | PIS/Standard | PIS/Standard | $2,000 |
| 1984 | Mn = 4.2<br>Sum = 188.7 | Mn = 7.4<br>Sum = 966.9 | Mn = 9.9<br>Sum = 690.0 | Mn = 6.8<br>Sum = 481.1 | Mn = 6.4<br>Sum = 815.3 | Mn = 8.9<br>Sum = 703.9 | Mn = 8.6<br>Sum = 478.0 | Mn = 15.5<br>Sum = 985.4 |
| Projected | Mn = 0<br>Sum = 0 | Mn 0<br>Sum = 0 | Mn = 0<br>Sum = 0 | Mn = 0<br>Sum = 0 | Mn = 0<br>Sum = 0 | Mn = 0<br>Sum = 0 | Mn = 0<br>Sum = 0 | Mn = 20.9<br>Sum = 1,316.5 |
| | (n = 45) | (n = 131) | (n = 70) | (n = 71) | (n = 127) | (n = 79) | (n = 56) | (n = 63) |
| | PIS/Standard | PIS/Standard | PIS/Standard | PIS/Standard | PIS/Standard | PIS/Special | PIS/Special | $3,000 |
| 1984 | Mn = 6.3<br>Sum = 235.1 | Mn = 9.7<br>Sum = 1,021.0 | Mn = 13.0<br>Sum = 866.3 | Mn = 13.0<br>Sum = 861.7 | Mn = 11.6<br>Sum = 1,181.9 | Mn = 13.1<br>Sum = 646.7 | Mn = 12.2<br>Sum = 888.0 | Mn = 20.8<br>Sum = 1,513.0 |
| Projected | Mn = 0<br>Sum = 0 | Mn = 0<br>Sum = 0 | Mn = 0<br>Sum = 0 | Mn = 0<br>Sum = 0 | Mn = 0<br>Sum = 0 | Mn = 5.8<br>Sum = 287.5 | Mn = 9.3<br>Sum = 678.5 | Mn = 20.9<br>Sum = 1,525.5 |
| | (n = 37) | (n = 105) | (n = 67) | (n = 67) | (n = 102) | (n = 50) | (n = 73) | (n = 73) |
| | PIS/Special | PIS/Special | PIS/Special | PIS/Special | PIS/Special | PIS/Special to $500 | PIS/Special to $1,000 | $5,000 |
| 1984 | Mn = 12.4<br>Sum = 210.4 | Mn = 19.2<br>Sum = 799.8 | Mn = 18.0<br>Sum = 697.7 | Mn = 20.0<br>Sum = 835.4 | Mn = 18.2<br>Sum = 1,208.2 | Mn = 21.5<br>Sum = 663.7 | Mn = 15.0<br>Sum = 509.0 | Mn = 35.6<br>Sum = 2,094.6 |
| Projected | Mn = 0<br>Sum = 0 | Mn = 0<br>Sum = 0 | Mn = 9.3<br>Sum = 362.5 | Mn = 20.9<br>Sum = 877.7 | Mn = 20.9<br>Sum = 1,400.1 | Mn = 20.9<br>Sum = 647.8 | Mn = 20.9<br>Sum = 711.0 | Mn = 27.5<br>Sum = 1,624.9 |
| | (n = 17) | (n = 42) | (n = 39) | (n = 42) | (n = 67) | (n = 31) | (n = 34) | (n = 59) |
| | PIS/Special | PIS/Special | PIS/Special to $750 | PIS/Special to $1,500 | $3,500 | $4,500 | $5,000 | $11,000 |

1984 Total defendants = 1,840
Total jail days = 20,654
Mean jail days = 11.2

Projected total defendants (n = 1,840)
Projected total jail days = 10,017.1
Projected mean jail days = 5.4
Using PIS/Special to cash cells as non-cash
Projected total jail days = 7,810.9
Projected mean jail days = 4.2

[Note: The estimates of the impact of guidelines assume 100 percent compliance with guidelines and that judges would select the maximum bail amounts permitted in each category. Sums of jail days were calculated on unrounded means. The 1984 Dade sample includes 88 cases (136 weighted) of defendants who received ROR ($0 bond) but were released to programs from which they were subsequently rejected. They appear, therefore, as not having been released.]

followed 100 percent of the time, a remarkable 40 percent of Dade County's detainees would fall within nonfinancial release categories.

## THE LIKELY IMPACT OF BAIL GUIDELINES IN THE BOSTON MUNICIPAL COURT

### The Estimated Impact of the Guidelines on Decisions in Boston Municipal Court

By superimposing the draft guidelines (see Figure 11.7 above) on the Boston defendant sample, we compared the likely decisions under the proposed guidelines with what Municipal Court judges actually had assigned--assuming that judges in the future would follow the guidelines 100 percent of the time.

The Use of Nonfinancial Release: Table A12.15 shows that in 1984 the estimated population of defendants studied entering the Boston Municipal Court received ROR approximately 71 percent of the time. Under the version of guidelines proposed, Defendants would receive ROR 92 percent of the time, if we assume that no defendants in the ROR/special to low bond amounts categories would receive ROR or 95 percent of the time if we assumed the opposite.

The Use of "Special" Conditions of Nonfinancial Conditions of Release: We were unable to identify use of the equivalent of what we refer to as "special" conditions of release in the BMC data (there was no pretrial services program or equivalent supervisory program). The draft guidelines would propose that from 36 to 39 percent of the cases--or slightly more than one-third of all the cases in nonfinancial categories--would be targeted for restrictive conditions of release. This focused use of "special" conditions was intended to respond to the research findings that roughly one-third of all BMC defendants either fail to appear or are rearrested during the pretrial period.

The Use of Secured Bond: As we project that the BMC guidelines would increase the use of ROR notably and target special conditions of release on a large number of medium risk defendants, we estimate that the average bond amount for the (now smaller) category of defendants receiving bond would increase slightly, from approximately $200 to $350, not an increment likely to affect the use of pretrial detention.

| | Weighted median bond (all bond defendants) | Averaged median bond (weighted bond/554) |
|---|---|---|
| 1984 decisions | $ 68,300 | 189 |
| Projected under guidelines | 123,750 | 342 |

The Estimated Impact of Guidelines on the Use of Pretrial Detention in Boston Municipal Court

Using the procedures described above in the Maricopa County and Dade County discussions, we used the decisions suggested by the guidelines to project a level of pretrial detention. Table A12.16 summarizes the comparisons between our estimates of detention in the future and the actual use of detention in each of the guidelines categories. We estimate that the rate of detention for longer than one day will be reduced from 21 percent of entering defendants to 13 percent.

In the same fashion, we attempted to analyze the likely impact of the draft guidelines on the jail days associated with bail practices in the BMC. In 1984, the estimated population of BMC defendants entering the system between April and October were confined for a total of 19,825 jail days (see Table A12.17) ; this would be reduced to 3,963 jail days under the guidelines--a reduction of 80 percent. The average of 4.3 jail days per defendant in the 1984 sample could be reduced to an average of .7 jail days per defendant under the guidelines; this represents a reduction in the average jail days of 84 percent.

The Likely Impact on the Jail Population: When the population of defendants held in the Suffolk County Jail on the date of the jail study was classified according to the draft bail guidelines, approximately 8 percent would be classified as appropriate for outright release on OR (Standard). (See Table A12.18.) At least another 40 percent would be classified as candidates for release under restrictive nonfinancial conditions (OR/Special). Thus, even if this estimate based on an unrealistic 100 percent compliance with guidelines is cut in half, nearly one in four of defendants held on a given day could be released under some version of nonfinancial release.

A Concluding Note: Limitations of the Estimates of Impact

It is worth reiterating some of the limitations of the estimates we are making of the possible impact of initial appearance guidelines on release practices. First, when we apply the guidelines to the sample of felony defendants we studied, we make two assumptions for the exercise:

a) that future defendants will resemble 1984 defendants rather closely;

b) that guidelines will be followed in 100 percent of the cases.

Regarding the first concern, we do not anticipate that the composition of the defendant population will change greatly over time. Still, the proportions falling into the different categories will affect the use of nonfinancial and secured bond options, as well as pretrial release and detention. For that reason, cell specific estimates, because they deal with specific categories of defendants rather than defendants overall, will prove most valuable.

We have already noted that our estimates represent a maximum possible effect because guidelines are not intended to govern all cases. Rather than generating 100 percent compliance among decisionmakers, we would expect them to be invoked (i.e., the suggested decisions followed) in 70 to 80 percent of the cases. Because we cannot estimate well the nature of the likely departures from guidelines, we cannot meaningfully project the impact of guidelines any more closely. We imagine, for example, that judges or commissioners will wish to set nonfinancial bond in categories suggesting secured bond upon occasion and that they will employ secured bond from time to time when the guidelines suggest nonfinancial options as a rule of thumb.

Finally, we should stress the limitations of our estimates of the effects of guidelines on the jail population. While it is clear that detention may be reduced by guidelines (and refocused according to risk and severity concerns), our application of guidelines to the local populations of detainees overestimates the likely impact for two reasons:

a) once again, we "pretended" that guidelines would be applied literally in 100 percent of the cases--we have explained why this is not a practical assumption;

b) Similarly, the estimate of the impact on the jail population may be exaggerated. Recall that a minority of cases decided under guidelines will be decided as "exceptions." One could argue that in a jurisdiction which has been sifting through the detention population to find suitable candidates for release, those remaining in jail might all be appropriately classified as special exceptions. In

fact, many of the defendants who fall into nonfinancial decision categories may have special holds or other unusual circumstances that we do not examine when placing them in the guidelines.

Even considering the limitations of our analyses, we conclude that a) the net effect--though less than the maximum effects reported here--will be in the direction of more release; and, b) the guidelines may be adjusted to adapt to release effects as they are used.

## Chapter Thirteen

# CONCLUSION: THE DEVELOPMENT OF BAIL/PRETRIAL RELEASE GUIDELINES IN MARICOPA COUNTY, DADE COUNTY AND BOSTON MUNICIPAL COURT

In our research in these three urban courts, the development of decision guidelines specific to each jurisdiction and acceptable to them marked only the midpoint in our study. Yet ahead were long and trying implementation and evaluation phases to see what, if anything, our research and collaboration with three urban courts had accomplished. But this first phase provided us with an enormous amount of knowledge about the characteristic and the unique operations of the pretrial process in American criminal justice. It also provided us with the first glimpse of the adaptability of the guidelines model to varied circumstance. In this Chapter we briefly review some select, but important, lessons from the many that emerged from our research described so far. (In future volumes we will present a discussion of implementation and of empirical findings from our efforts to evaluate the guidelines that were adopted by our study jurisdictions).

The overriding purpose of the research described here was to discover the extent to which the guidelines methodology first developed in connection with parole and sentencing decisions (Gottfredson, Wilkins and Hoffman, 1978) and implemented successfully in one large urban court system for bail (Goldkamp and Gottfredson, 1985) could find application in diverse court systems. As discussed in Chapter One, despite decades of reform in the pretrial process, that have indeed made for a fairer and more rational process, the general picture of pretrial decisionmaking is still one that departs substantially from what is desirable. By and large, pretrial decisionmakers do not have a clarity of purpose marked by focused goals and by an explicit policy of how the various goals of the decision might be simultaneously considered; they do not have adequate information concerning how the data they receive (when they in fact do receive them at all) are related to the achievement of those goals; they do not receive systematic feedback about how the cases they do decide fare in the system; they do not have the means to ensure that equally situated cases are treated equally; and they do not have adequate resources for all purposes (jails are full, pretrial supervision staff are too few, time is too short).

Our first task was to contact a large number of courts throughout the country, seek their interest and select three systems for participation in the study. In selecting jurisdictions, several criteria were important: they first had

to be willing to collaborate (we did not seek a commitment to implement whatever was developed, of course), they had to have large caseloads, overcrowded jails (not by any means a difficult criterion to achieve), and be administratively diverse, reflecting to as large a degree as possible the diversity of the pretrial processes in American criminal justice. Our study jurisdictions met these criteria adequately and serve, we believe, to give a fair test to the generalizability of the voluntary guidelines approach.

Before we summarize the specific findings, one large and, perhaps most important "finding" of all, should be noted: at the outset of our work, when we looked for sites to study, we were overwhelmed with positive responses from the courts throughout the country. Most had some notion of what "guidelines" were all about and there was a near universal agreement that at least in principal guidelines were desirable. Most courts simply had neither the resources not the expertise to develop them. Then, when we selected the specific jurisdictions to study, we were once again overwhelmed, this time by cooperation. The courts we contacted were all highly professional, open to outside scrutiny, willing to work with researchers interested in trying to make things better, and, in every case, confronted by serious problems of overcrowding in their jails. The judges and administrators in our study sites gave generously of their time whenever they were asked, took our policy and feedback sessions seriously, and were uniformly committed to making the pretrial process fairer, more rational and more effective. Thus our first finding: the urban court systems are accessible for research, willing to collaborate, and interested in learning much more about themselves. Generally, the research resources available to the criminal court system are so inadequate, the information needs so obvious, and the desire to learn so great that the courts are anxious to collaborate in empirical research.

The Nature of the Pretrial Process

As described in Chapter Two, the three court systems differed both by law and by custom in terms of their procedures, their decisionmakers, their support staffs, their goals, and the adequacy of the information available at the first court release decision point. This latter point was perhaps most striking and of considerable consequence as our research progressed. In Boston, for example, the judge could not know from the information supplied to him or her what the prior criminal record of the arrestee was, or even the current pretrial release status, in one out of five cases.

With respect to the structure of decisionmaking in our study sites, diversity was the hallmark. They ranged from a system in which a single judge made most of the decisions most of the time with the assistance of an organized pretrial staff working under the department of corrections (Dade County) to a system in which numerous judges rotated the assignment in the absence of a modern pretrial service agency (Boston). Maricopa, with its system of several commissioners (who doubled as City Court pro tem judges) and a large and modern pretrial services agency working as an arm of the court, was yet another model.

Our selection criterion of variability was also well served by the nature of the criminal defendants entering the various court systems in the study. On sheer numbers of defendants alone, the study sites differed substantially, reminding us that even in the largest cities in the country the size and scope of the criminal courts system can themselves vary dramatically; Dade County's court processed over three times the number of defendants at the bail stage than did the other two courts. The relevant pretrial detention facilities in Maricopa and in Dade County held about 1,500 defendants, while the jail serving the Boston court we studied held only about 300.

Our study courts had differing caseloads, both with respect to the characteristics of the defendants (ethnicity varied among the sites) and criminal charges. Seriously charged felony defendants were in the small minority in the Boston Municipal Court , in comparison to the other sites. Drug cases more frequently came before the Dade court.

The range of options used by the decisionmakers in our study with respect to release or detention before trial reflects the diversity of procedures found in American courts. The proportion released before booking, the use of bond schedules, the use of ROR, the relative amounts of money bail required to be released, the detention rates, and the misconduct rates all varied enormously among our sites (see Chapter 5).

We discovered that despite considerable variation in detention practices early in the process, the majority of defendants did gain release before their trial and that the misconduct rates before trial are generally quite low. In particular, serious crime committed by the pretrial population is very rare.

Bail Decisionmaking in American Courts

One of our first tasks in each of the study sites was to develop a model of pretrial release decisionmaking and to study the correlates of the decision. In each site a very large sample of appropriate cases was selected and

extensive multivariate analyses undertaken (Chapters 6 through 8). Additionally, we studied the correlates of failure to appear in court and pretrial rearrest in each site.

We discovered that the role of the pretrial service agency (in the two sites having one) and the form of their recommendation played a large role in the process of release or detention before trial. In one site the recommendation of the pretrial staff was, for all practical purposes, indistinguishable from the decision of the judge; in another site, agency representatives "agreed" to take clients in court at the bond hearing; in the third no agency exists.

Despite this important variability, in all sites common factors were important in the initial bail decisions. Overwhelmingly, the seriousness of the charges facing the defendant determine the form and prospects for release. Beyond this, however, it was difficult to discover much consistency in bail decisionmaking, either within or between the courts in the study. In fact, our empirical analysis (informed by discussions with the bail decisionmakers) led us to conclude that bail decisions were disparate--they could not systematically be explained by objective factors available to us. (In Boston, at the request of the judiciary, we even constructed an empirical model based on the criteria suggested by statute since the judiciary told us that they followed these "guidelines". This "legal" model failed to be associated with the actual decisions of the Boston Judges, contrary to their predictions but consistent with the expectations of the guidelines approach.) On this basis alone, the need for explicit decisionmaking guidelines was evident.

With respect to the effectiveness of the decisions made in the three courts we studied, we discovered that here too the courts varied substantially. With respect to misconduct rates generally (see Chapter Nine), they ranged from 16 percent of released felony defendants in Dade and Maricopa to 30 percent in Boston. In terms of effective releases, (effectiveness being defined as the proportion of all defendants entering the process who were not detained and not released later to fail to appear as required or to be rearrested), our study courts also differed dramatically; Maricopa County Superior Court displayed the lowest effectiveness because of its frequent resort to detention, although its proportion of released defendants engaging in misconduct was comparatively low. Again there was considerable evidence of the need for explicit guidelines that provided the decisionmakers with knowledge of the consequences of their decisions on a systematic basis.

The Guidelines Development Process

In each site we worked with a steering and policy committee formed expressly to aid in the collaborative work. After the descriptive work resulting in the findings briefly summarized above, each site began the process of thinking through the various forms that guidelines might take and the implications of adopting different models. The research team developed several models for the consideration of each committee and a series of meetings were held in each site to discuss the virtues and defects of each model. The models had different assumptions and radically different forms. One was a strictly "actuarial" approach that would take the best of the predictors of pretrial flight and rearrest and combine them into guidelines that would consider nothing but these two classical aims of the decision. Another was a two-staged model, in which first the decision about release or detention was made and then, for those released the method of release was considered. Considerable empirical work was involved in this phase of the research, with the project team developing models at the suggestion of the court committee, constructing appropriate forms and fitting the models to the data for the site (see Chapter Ten).

In many respects, this phase of the collaborative research was most stimulating to the policy committee. The choices were real choices, each embodying a different vision for the pretrial process. The research staff not only presented the models, but developed material about their likely effects. Also, the research staff briefed the steering and policy committees about the social scientific literature and debates about such relevant topics as the consequences for prediction, the bail setting practices of other courts and the guideline models in use elsewhere in the criminal justice system. The process was iterative, with the site committees sending the researchers back to the drawing board for additional models and more data time and time again. In every case, prescriptive, descriptive, actuarial and legalistic guideline models were built, examined empirically, critiqued and modified.

In the end an important finding emerged: despite the diversity of organization, staffing, legal codes, resources, and caseloads, all three sites opted for some form of matrix guideline system of the now classic form that simultaneously considered the seriousness of the case and the actuarial probability of misconduct. Of course the details of the models differed substantially; the predictors of risk differed both on grounds of availability and efficiency of defendant information and the jurisdictions had different notions of "severity" of the offense. Much work had to be done to tailor the classic guidelines form to the needs and preferences of the specific jurisdictions. But the general discovery should not be lost in this detail (however time consuming and difficult the detail was, see

Chapter Eleven)--the pretrial decisionmakers saw virtue in an explicit policy that tempered the actual risk the defendant posed if released with the seriousness of the crime bringing the defendant to the court to begin with.

After the selection of the classic matrix model, site specific goals began to play a more prominent role. In Maricopa the judiciary was especially concerned about crimes in which weapons were used and in which persons had been injured. Similar concerns were shared by Dade County judges; in both sites public reaction was an important concern. In Dade County, the tradition of relying on a bond schedule had to be reckoned with. In Boston, the judges wished to reduce the remarkably high failure-to-appear ("default") rate without decreasing the use of pretrial release among defendants.

Thus another important finding emerged from this study: although the classic matrix model was seen to be the most preferable one, it would not be possible to develop a "generic" guidelines model and simply mail it to jurisdictions throughout the country. Significant local and situational modifications are vital components to an acceptable pretrial guidelines model, as is the participation of the decisionmakers in the development of the model itself. Put together with what has been learned in other settings, the conclusion seems inescapable, that all criminal justice decisionmakers concerned with the deprivation of liberty are greatly attracted to a system that considers their own risk in making an error (seriousness of offense) and the objective risk to the community of wrongful releases and a system that allows such concerns to be applied more equitably than is generally the case. Other considerations are clearly subordinate to these, including the state of crowding of the correctional facilities.

Constructing a Policy Tool

Once the sites had settled in principle on the matrix model and once the research team had given operational meaning to the concepts of risk and seriousness, hard work had yet to be done on the precise nature of the matrices and how they might actually be implemented in the ongoing court processes in some of the busiest court systems in the country. One important task was to establish presumptive decisions and decision ranges for the cells of the guidelines matrix, a normative task given that the combination of empirical risk and charge seriousness was novel in each of the study sites. This process was truly as much a part of the development of pretrial policy as the adoption of the matrix form itself. Whatever constituted the presumptions in these cells was to be the new policy of the court. Thus, preferred cash bail sums, alternative modes of release (supervised, ROR) had to be inserted into this new form. To assist the policymakers with this task, the research team "fit the data" from our

samples to various presumptions for each cell (i.e., that the cell would be an ROR cell or that the presumption would be for cash bail of, say, $500), seeking misconduct and detention rates that would be expected under various decisions. Throughout all of this the research staff presented data about equity and how various scenarios would impact on the fairness of the guidelines.

Once the steering and policy committees in each site settled on the specific nature of their matrix and once presumptive decisions had been established (both Maricopa and Dade forced their guidelines toward greater use of nonfinancial release options because of jail overcrowding), the research team used the models to predict their likely impact on the jails, misconduct rates and releases. Not surprisingly, given that the matrices were established to optimize these goals, the guidelines seemed to have a plausible chance of reducing jail populations, lowering or keeping constant the misconduct rates, and enhancing the consistency of decisionmaking in the pretrial process.

Implementation and Evaluation

We discovered much in the first phase of this research both about the pretrial process and about the need for and willingness to accept explicit decision guidelines for bail. Among diverse courts a common model emerged as most desirable to the courts themselves and uniformly, the courts saw great merit in the concept. In the next volume we describe the second phase of this research designed to assess the generalizability of voluntary guidelines for bail, a phase in which we assisted the courts in deciding whether to implement and if so, how. We also present evaluation data on how well these guidelines systems achieved their goals.

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# APPENDIX A

Table A3.1 Availability of key data from system records, by site, 1984

| | Dade County | | Maricopa County | | Boston Municipal Court | |
|---|---|---|---|---|---|---|
| Missing data | Number | Percent | Number | Percent | Number | Percent |
| Total | 2,308 | 100.0 | 2,232 | 100.0 | 4,580 | 100.0 |
| Demographic | | | | | | |
| Age | 0 | 0 | 1 | .0 | 202 | 4.4 |
| Sex | 0 | 0 | 3 | 0.1 | 0 | 0 |
| Race/ethnicity | 6 | 0.3 | 11 | 0.5 | 177 | 3.9 |
| Refugee status | 687 | 29.8 | n/a | n/a | n/a | n/a |
| Address | 36 | 1.5 | 52 | 2.3 | 104 | 2.3 |
| Address verified | 1,199 | 51.9 | 29 | 1.3 | n/a | n/a |
| Resident status | 1,346 | 58.3 | 62 | 2.8 | 3,119 | 68.1 |
| Living arrangement | 1,349 | 58.4 | 837 | 37.5 | 1,760 | 38.4 |
| Phone | 461 | 20.0 | 57 | 2.6 | 2,001 | 43.7 |
| Driver's license | 803 | 34.8 | 2,177 | 97.5 | 3,650 | 79.7 |
| Marital status | 1,334 | 57.8 | 74 | 3.3 | 846 | 18.5 |
| Number of children | 1,364 | 59.1 | 83 | 3.7 | 1,298 | 28.3 |
| Length of employment | 910 | 39.4 | 66 | 3.0 | 2,393 | 52.2 |
| Student status | 1,383 | 59.9 | 1,320 | 59.1 | 1,436 | 31.4 |
| Years of schooling | 2,218 | 96.1 | 1,734 | 77.7 | 3,870 | 84.5 |
| Veteran status | 1,383 | 59.9 | 2,208 | 98.9 | 2,082 | 45.5 |
| Income | 1,425 | 61.7 | 814 | 36.5 | 1,942 | 42.4 |
| Physical condition | 1,361 | 59.0 | 1,353 | 60.6 | 1,089 | 23.8 |
| Mental health | 1,366 | 59.2 | 1,351 | 60.5 | 1,085 | 23.7 |
| Substance abuse | 1,372 | 59.5 | 1,257 | 56.3 | 1,227 | 26.8 |
| Treatment for alcohol abuse | 1,420 | 61.5 | 1,364 | 61.1 | 2,708 | 59.1 |
| Treatment for drug abuse | 1,416 | 61.3 | 1,370 | 61.4 | 2,675 | 58.4 |
| Charge related | | | | | | |
| Statute (first charge) | 0 | 0 | 3 | 0.1 | 6 | 0.1 |
| Felony grading | 2 | 0.1 | 23 | 1.0 | 9 | 0.2 |
| Attempt/conspiracy/ solicitation | 0 | 0 | 4 | 0.2 | 30 | 0.7 |
| Number of counts (first charge) | 0 | 0 | 3 | 0.1 | 10 | 0.2 |
| Weapon (first charge) | 2 | 0.1 | 633 | 28.4 | 121 | 2.6 |
| Force (first charge) | 0 | 0 | 641 | 28.7 | 154 | 3.4 |
| Number of charges | 0 | 0 | 5 | 0.2 | 4,577 | 99.9 |
| Number of suspects | 12 | 0.5 | 7 | 0.3 | 493 | 10.8 |
| Number of victims | 12 | 0.5 | 131 | 5.9 | 75 | 1.6 |
| Defendant knew victim | 200 | 8.6 | 556 | 24.9 | 3,842 | 83.9 |
| Male victims | 190 | 8.2 | 574 | 25.7 | 3,835 | 83.7 |
| Female victims | 190 | 8.2 | 562 | 25.2 | 3,836 | 83.8 |
| Number of sexual assault victims | 0 | 0 | 0 | 0 | 3,816 | 83.3 |
| Race of victim | 653 | 28.3 | 667 | 30.3 | 4,091 | 89.3 |
| Number of elderly victims | 483 | 20.9 | 599 | 26,8 | 4,021 | 87.8 |
| Age of victim(s) | 753 | 32.6 | 679 | 30.4 | 4,158 | 90.8 |
| Injury to victim(s) | 65 | 2.8 | 525 | 23.5 | 4,077 | 89.0 |

Table A3.1 Availability of key data from system records, by site, 1984 (cont'd)

| | Dade County | | Maricopa County | | Boston Municipal Court | |
|---|---|---|---|---|---|---|
| Missing data | Number | Percent | Number | Percent | Number | Percent |
| Total | 2,308 | 100.0 | 2,232 | 100.0 | 4,580 | 100.0 |
| Forcible entry | 0 | 0 | 0 | 0 | 0 | 0 |
| Property stolen or damaged | 11 | 0.5 | 57 | 2.6 | 38 | 0.8 |
| Drug type | 9 | 0.4 | 62 | 2.8 | 3,572 | 78.0 |
| Drug quantity | 27 | 11.7 | 738 | 33.1 | 702 | 15.3 |
| Number of drugs | 5 | 0.5 | 617 | 27.6 | 24 | 0.5 |
| Prior record | | | | | | |
| Number of prior arrests | 42 | 1.8 | 4 | 0.2 | 946 | 20.6 |
| Number of recent prior arrests | 42 | 1.8 | 54 | 2.4 | 945 | 20.6 |
| Number of prior arrests for serious personal offenses | 40 | 1.7 | 15 | 0.7 | 952 | 20.8 |
| Number of prior arrests for serious property offenses | 40 | 1.7 | 18 | 0.8 | 958 | 20.9 |
| Number of prior arrests for drug offenses | 40 | 1.7 | 17 | 0.8 | 958 | 20.9 |
| Number of prior arrests for weapons offenses | 40 | 1.7 | 22 | 1.0 | 952 | 20.8 |
| Number of prior convictions | 48 | 2.1 | 35 | 1.6 | 952 | 20.8 |
| Number of prior felony convictions | 42 | 1.8 | 87 | 3.9 | 957 | 20.9 |
| Number of prior misdemeanor convictions | 48 | 2.1 | 108 | 4.8 | 958 | 20.9 |
| Number of prior convictions for serious personal offenses | 40 | 1.7 | 18 | 0.8 | 955 | 20.9 |
| Number of prior convictions for serious property offenses | 40 | 1.7 | 18 | 0.8 | 955 | 20.9 |
| Number of prior convictions for drug offenses | 42 | 1.8 | 35 | 1.6 | 955 | 20.9 |
| Number of prior convictions for weapons offenses | 43 | 1.9 | 18 | 0.8 | 958 | 20.9 |
| Probation/parole | 40 | 1.7 | 7 | 0.3 | 894 | 19.5 |
| Number of prior failures to appear on felonies | 53 | 2.3 | n/a | n/a | n/a | n/a |
| Number of prior failures to appear | n/a | n/a | 15 | 0.7 | 965 | 21.1 |
| Number of prior failures to appear on misdemeanors | 51 | 2.2 | n/a | n/a | n/a | n/a |
| Outstanding warrants | 28 | 1.2 | 8 | 0.4 | 918 | 20.0 |
| Pretrial release status | 34 | 1.5 | 18 | 0.8 | 848 | 18.5 |

[a]Based on a total weighted n of 4,210 cases.
[b]Based on a total n of 2,232 cases.
[c]Based on a total weighted n of 4,580 cases.

Table A4.1 Characteristics of sample defendants entering the criminal process during study period, 1984, by court

| Characteristics | Court system: Boston Municipal Court Number | Boston Municipal Court Percent[a] | Dade County: Circuit Court Number | Dade County: Circuit Court Percent[a] | Maricopa County: Superior Court Number | Maricopa County: Superior Court Percent[a] |
|---|---|---|---|---|---|---|
| Total[b] | 4,580 | 100.0 | 2,308 | 100.0 | 2,232 | 100.0 |
| **Demographics** | | | | | | |
| Age | | | | | | |
| Median years | 4,378 | 25 | 2,299 | 28 | 2,226 | 26 |
| Race/ethnicity | | | | | | |
| Total | 4,403 | 100.0 | 2,302 | 100.0 | 2,221 | 100.0 |
| White | 1,922 | 43.7 | 517 | 22.4 | 1,223 | 55.1 |
| Black | 2,062 | 46.8 | 908 | 39.3 | 334 | 15.0 |
| Hispanic | 275 | 6.2 | 801 | 34.7 | 574 | 25.8 |
| Other | 144 | 3.3 | 76 | 3.3 | 90 | 4.1 |
| Sex | | | | | | |
| Total | 4,580 | 100.0 | 2,308 | 100.0 | 2,229 | 100.0 |
| Male | 3,279 | 71.6 | 1,999 | 86.6 | 1,949 | 87.4 |
| Female | 1,301 | 28.4 | 309 | 13.4 | 280 | 12.6 |
| Marital status | | | | | | |
| Total | 4,580 | 100.0 | 935 | 100.0 | 2,158 | 100.0 |
| Single | 3,049 | 66.6 | 559 | 59.8 | 1,246 | 57.7 |
| Other | 1,531 | 33.4 | 376 | 40.2 | 912 | 42.3 |
| Education | | | | | | |
| Median years | 709 | 12 | 73 | 11 | 498 | 12 |
| Local resident | | | | | | |
| Total | 4,580 | 100.0 | 2,271 | 100.0 | 2,170 | 100.0 |
| No | 187 | 4.1 | 119 | 5.2 | 369 | 17.0 |
| Yes | 4,393 | 95.9 | 2,152 | 94.8 | 1,801 | 83.0 |
| Employed | | | | | | |
| Total | 3,528 | 100.0 | 1,324 | 100.0 | 2,170 | 100.0 |
| No | 1,863 | 53.0 | 438 | 33.0 | 867 | 40.0 |
| Yes | 1,655 | 47.0 | 886 | 67.0 | 1,303 | 60.0 |
| **Charge related** | | | | | | |
| Possible penalty | | | | | | |
| Total | 4,571 | 100.0 | 2,308 | 100.0 | 2,232 | 100.0 |
| < 5 years | 3,278 | 71.7 | 0 | 0 | 0 | 0 |
| > 5 years | 1,293 | 28.3 | 2,308 | 100.0 | 2,232 | 100.0 |
| Index charges | | | | | | |
| Total | 4,580 | 100.0 | 2,308 | 100.0 | 2,232 | 100.0 |
| Non-index | 3,977 | 86.8 | 1,542 | 66.8 | 1,457 | 65.3 |
| Index | 603 | 13.2 | 766 | 33.2 | 775 | 34.7 |

Table A4.1 Characteristics of sample defendants entering the criminal process during study period, 1984, by court (cont'd)

| Characteristics | Court system: Boston Municipal Court Number | Boston Municipal Court Percent[a] | Dade County: Circuit Court Number | Dade County: Circuit Court Percent[a] | Maricopa County: Superior Court Number | Maricopa County: Superior Court Percent[a] |
|---|---|---|---|---|---|---|
| Total[b] | 4,580 | 100.0 | 2,308 | 100.0 | 2,232 | 100.0 |
| Charge related (cont'd.) | | | | | | |
| Weapons charges | | | | | | |
| Total | 4,580 | 100.0 | 2,308 | 100.0 | 2,110 | 100.0 |
| No | 4,135 | 90.3 | 1,666 | 72.2 | 2,072 | 93.8 |
| Yes | 445 | 9.7 | 642 | 27.8 | 138 | 6.2 |
| Drug charges | | | | | | |
| Total | 4,579 | 100.0 | 2,308 | 100.0 | 2,215 | 100.0 |
| No | 3,761 | 82.1 | 1,703 | 73.8 | 1,524 | 68.8 |
| Yes | 818 | 17.9 | 605 | 26.2 | 691 | 31.2 |
| Person victim | | | | | | |
| Total | 4,527 | 100.0 | 2,308 | 100.0 | 2,230 | 100.0 |
| No | 3,736 | 82.5 | 1,519 | 65.8 | 1,651 | 74.0 |
| Yes | 791 | 17.5 | 789 | 34.2 | 579 | 26.0 |
| Sexual assault victim | | | | | | |
| Total | 4,516 | 100.0 | 2,277 | 100.0 | 2,003 | 100.0 |
| No | 4,477 | 99.1 | 2,260 | 99.3 | 1,928 | 96.3 |
| Yes | 39 | .9 | 17 | .7 | 75 | 3.7 |
| Injury to victim | | | | | | |
| Total | 4,403 | 100.0 | 2,243 | 100.0 | 2,232 | 100.0 |
| No | 4,055 | 92.1 | 1,833 | 81.7 | 2,123 | 95.1 |
| Yes | 348 | 7.9 | 410 | 18.3 | 109 | 4.9 |
| Prior criminal history | | | | | | |
| Recent arrests (within 3 years) | | | | | | |
| Total | 3,681 | 100.0 | 2,308 | 100.0 | 2,178 | 100.0 |
| None | 1,970 | 53.5 | 1,129 | 48.9 | 1,092 | 50.1 |
| 1 or more | 1,711 | 46.5 | 1,179 | 51.1 | 1,086 | 49.9 |
| Arrests for serious personal offenses | | | | | | |
| Total | 3,636 | 100.0 | 2,266 | 100.0 | 2,217 | 100.0 |
| None | 2,871 | 78.9 | 1,822 | 80.4 | 1,820 | 82.1 |
| 1 or more | 766 | 21.1 | 444 | 19.2 | 397 | 17.9 |
| Arrests for serious property offenses | | | | | | |
| Total | 3,525 | 100.0 | 2,268 | 100.0 | 2,214 | 100.0 |
| None | 3,284 | 90.6 | 1,830 | 80.7 | 1,850 | 83.6 |
| 1 or more | 341 | 9.4 | 438 | 19.3 | 364 | 16.4 |

Table A4.1 Characteristics of sample defendants entering the criminal process during study period, 1984, by court (cont'd)

| Characteristics | Court system: Boston Municipal Court Number | Boston Municipal Court Percent[a] | Dade County: Circuit Court Number | Dade County: Circuit Court Percent[a] | Maricopa County: Superior Court Number | Maricopa County: Superior Court Percent[a] |
|---|---|---|---|---|---|---|
| Total[b] | 4,580 | 100.0 | 2,308 | 100.0 | 2,232 | 100.0 |
| Prior criminal history (cont'd.) | | | | | | |
| Arrests for drug offenses | | | | | | |
| Total | 3,626 | 100.0 | 2,268 | 100.0 | 2,215 | 100.0 |
| None | 2,870 | 79.2 | 1,65 | 773.5 | 1,524 | 68.8 |
| 1 or more | 756 | 20.8 | 611 | 26.5 | 691 | 31.2 |
| Arrests for weapons offenses | | | | | | |
| Total | 3,635 | 100.0 | 2,268 | 100.0 | 2,210 | 100.0 |
| None | 2,967 | 81.6 | 1,853 | 81.7 | 2,072 | 93.8 |
| 1 or more | 668 | 18.4 | 415 | 18.3 | 138 | 6.2 |
| Prior convictions | | | | | | |
| Total | 3,753 | 100.0 | 2,261 | 100.0 | 2,197 | 100.0 |
| None | 2,110 | 56.2 | 1,303 | 57.6 | 1,150 | 52.3 |
| 1 or more | 1,643 | 43.8 | 958 | 42.4 | 1,047 | 47.7 |
| Prior felony convictions | | | | | | |
| Total | 3,627 | 100.0 | 2,308 | 100.0 | 2,145 | 100.0 |
| None | 2,967 | 81.8 | 1,847 | 80.0 | 1,478 | 68.9 |
| 1 or more | 660 | 18.2 | 461 | 20.0 | 667 | 31.1 |
| Prior misdemeanor convictions | | | | | | |
| Total | 3,640 | 100.0 | 2,308 | 100.0 | 2,124 | 100.0 |
| None | 2,138 | 58.7 | 1,491 | 64.6 | 1,552 | 73.1 |
| 1 or more | 1,502 | 41.3 | 817 | 35.4 | 572 | 26.9 |
| Prior convictions for serious personal offenses | | | | | | |
| Total | 3,631 | 100.0 | 2,268 | 100.0 | 2,214 | 100.0 |
| None | 3,219 | 88.6 | 2,161 | 95.3 | 1,987 | 89.7 |
| 1 or more | 412 | 11.4 | 107 | 4.6 | 227 | 10.3 |
| Prior convictions for serious property offenses | | | | | | |
| Total | 3,630 | 100.0 | 2,268 | 100.0 | 2,214 | 100.0 |
| None | 3,395 | 93.5 | 2,085 | 92.0 | 1,963 | 88.7 |
| 1 or more | 235 | 6.5 | 183 | 8.0 | 251 | 11.3 |
| Prior convictions for drug offenses | | | | | | |
| Total | 3,626 | 100.0 | 2,266 | 100.0 | 2,197 | 100.0 |
| None | 3,119 | 86.0 | 1,926 | 85.0 | 1,710 | 77.8 |
| 1 or more | 507 | 14.0 | 340 | 15.0 | 487 | 22.2 |

Table A4.1 Characteristics of sample defendants entering the criminal process during study period, 1984, by court (cont'd)

| Characteristics | Court system: Boston Municipal Court Number | Boston Municipal Court Percent[a] | Dade County: Circuit Court Number | Dade County: Circuit Court Percent[a] | Maricopa County: Superior Court Number | Maricopa County: Superior Court Percent[a] |
|---|---|---|---|---|---|---|
| Total[b] | 4,580 | 100.0 | 2,308 | 100.0 | 2,232 | 100.0 |
| Prior criminal history (cont'd.) | | | | | | |
| Prior convictions for weapons offenses | | | | | | |
| Total | 3,627 | 100.0 | 2,265 | 100.0 | 2,214 | 100.0 |
| None | 3,226 | 88.9 | 2,121 | 93.6 | 2,139 | 96.6 |
| 1 or more | 401 | 11.1 | 144 | 6.4 | 75 | 3.4 |
| On probation/parole | | | | | | |
| Total | 3,686 | 100.0 | 2,268 | 100.0 | 2,224 | 100.0 |
| No | 3,109 | 84.3 | 2,121 | 93.5 | 1,890 | 85.0 |
| Yes | 577 | 15.7 | 47 | 6.5 | 334 | 15.0 |
| Prior failures to appear | | | | | | |
| Total | 3,659 | 100.0 | 2,308 | 100.0 | 2,216 | 100.0 |
| None | 2,276 | 62.2 | 1,705 | 73.9 | 1,927 | 87.0 |
| 1 or more | 1,383 | 37.8 | 603 | 26.1 | 289 | 13.0 |
| Outstanding warrants | | | | | | |
| Total | 3,679 | 100.0 | 2,280 | 100.0 | 2,224 | 100.0 |
| None | 3,010 | 81.8 | 2,005 | 87.9 | 1,834 | 82.5 |
| 1 or more | 669 | 18.2 | 275 | 12.1 | 390 | 17.5 |
| On pretrial release at this arrest | | | | | | |
| Total | 3,731 | 100.0 | 2,275 | 100.0 | 2,113 | 100.0 |
| No | 3,316 | 88.9 | 2,239 | 98.4 | 2,020 | 91.3 |
| Yes | 415 | 11.1 | 36 | 1.6 | 193 | 8.7 |

[a]Percentages are adjusted for missing cases. Missing cases can be calculated by subtracting variable totals from sample total.
[b]Note that the Boston and Dade samples reflect weighted estimates of the defendant populations. The Maricopa sample is a "total" sample of entering felony defendants.

Table A4.2 Characteristics of sample defendants entering the criminal process during study period, 1984, by court

| Characteristics | Court system: Suffolk County: Superior Court Number | Percent[b] | Dade County Court Number | Percent[b] |
|---|---|---|---|---|
| Total[a] | 356 | 100.0 | 1,977 | 100.0 |
| **Demographics** | | | | |
| Age | | | | |
| Median years | 328 | 27 | 1,969 | 28 |
| Race/ethnicity | | | | |
| Total | 301 | 100.0 | 1,969 | 100.0 |
| White | 143 | 47.5 | 537 | 27.3 |
| Black | 114 | 37.9 | 682 | 34.6 |
| Hispanic | 37 | 12.3 | 610 | 31.0 |
| Other | 7 | 2.3 | 140 | 7.1 |
| Sex | | | | |
| Total | 354 | 100.0 | 1,577 | 100.0 |
| Male | 320 | 90.4 | 1,480 | 74.8 |
| Female | 34 | 9.6 | 497 | 25.2 |
| Marital status | | | | |
| Total | 281 | 100.0 | 32 | 100.0 |
| Single | 177 | 63.0 | 12 | 37.5 |
| Other | 104 | 37.0 | 20 | 62.5 |
| Education | | | | |
| Median years | 266 | 11 | | c |
| Local resident | | | | |
| Total | 139 | 100.0 | 1,897 | 100.0 |
| No | 6 | 4.3 | 88 | 4.7 |
| Yes | 133 | 95.7 | 1,809 | 95.3 |
| Employed | | | | |
| Total | 249 | 100.0 | 1,055 | 100.0 |
| No | 116 | 46.6 | 341 | 32.3 |
| Yes | 133 | 53.4 | 714 | 67.7 |
| **Charge Related** | | | | |
| Possible penalty | | | | |
| Total | 354 | 100.0 | 1,977 | 100.0 |
| < 5 years | 39 | 11.0 | 1,977 | 100.0 |
| > 5 years | 315 | 89.0 | 0 | 0 |
| Index charges | | | | |
| Total | 356 | 100.0 | 1,977 | 100.0 |
| Non-index | 211 | 59.3 | 1,973 | 99.8 |
| Index | 145 | 40.7 | 4 | .2 |

Table A4.2 Characteristics of sample defendants entering the criminal process during study period, 1984, by court (cont'd)

| | Court system | | | |
|---|---|---|---|---|
| | Suffolk County: Superior Court | | Dade County Court | |
| Characteristics | Number | Percent | Number | Percent |
| Total | 356 | 100.0 | 1,977 | 100.0 |
| **Charge related (cont'd.)** | | | | |
| Weapons charges | | | | |
| Total | 356 | 100.0 | 1,977 | 100.0 |
| No | 246 | 69.1 | 1,921 | 97.2 |
| Yes | 110 | 30.9 | 56 | 2.8 |
| Drug charges | | | | |
| Total | 356 | 100.0 | 1,976 | 100.0 |
| No | 267 | 75.0 | 1,788 | 90.5 |
| Yes | 89 | 25.0 | 188 | 9.5 |
| Person victim | | | | |
| Total | 273 | 100.0 | 1,977 | 100.0 |
| No | 96 | 71.8 | 1,905 | 96.3 |
| Yes | 77 | 28.2 | 72 | 3.7 |
| Sexual assault victim | | | | |
| Total | 259 | 100.0 | 1,977 | 100.0 |
| No | 247 | 95.4 | 1,973 | 99.8 |
| Yes | 12 | 4.6 | 4 | .2 |
| Injury to victim | | | | |
| Total | 241 | 100.0 | 1,965 | 100.0 |
| No | 209 | 86.7 | 1,925 | 98.0 |
| Yes | 32 | 13.3 | 40 | 2.0 |
| **Prior Criminal History** | | | | |
| Recent arrests (within 3 years) | | | | |
| Total | 316 | 100.0 | 1,977 | 100.0 |
| None | 91 | 28.8 | 866 | 43.8 |
| 1 or more | 225 | 71.2 | 1,111 | 56.2 |
| Prior arrests for serious personal offenses | | | | |
| Total | 316 | 100.0 | 1,949 | 100.0 |
| None | 158 | 49.8 | 1,624 | 83.3 |
| 1 or more | 159 | 50.2 | 325 | 16.7 |
| Prior arrests for serious property offenses | | | | |
| Total | 317 | 100.0 | 1,949 | 100.0 |
| None | 247 | 77.9 | 1,616 | 82.9 |
| 1 or more | 70 | 22.1 | 333 | 17.1 |

Table A4.2 Characteristics of sample defendants entering the criminal process during study period, 1984, by court (cont'd)

| | Court system | | | |
|---|---|---|---|---|
| | Suffolk County: Superior Court | | Dade County Court | |
| Characteristics | Number | Percent | Number | Percent |
| Total | 356 | 100.0 | 1,977 | 100.0 |
| Prior criminal history (cont'd) | | | | |
| Prior arrests for drug offenses | | | | |
| Total | 317 | 100.0 | 1,977 | 100.0 |
| None | 186 | 58.7 | 1,460 | 73.8 |
| 1 or more | 131 | 41.3 | 517 | 26.2 |
| Prior arrests for weapons offenses | | | | |
| Total | 317 | 100.0 | 1,949 | 100.0 |
| None | 172 | 54.3 | 1,688 | 86.6 |
| 1 or more | 145 | 45.7 | 261 | 13.4 |
| Prior convictions | | | | |
| Total | 319 | 100.0 | 1,949 | 100.0 |
| None | 118 | 36.9 | 930 | 47.7 |
| 1 or more | 202 | 63.1 | 1,019 | 52.3 |
| Prior felony convictions | | | | |
| Total | 317 | 100.0 | 1,977 | 100.0 |
| None | 204 | 64.4 | 1,664 | 84.2 |
| 1 or more | 113 | 35.6 | 313 | 15.8 |
| Prior misdemeanor convictions | | | | |
| Total | 317 | 100.0 | 1,977 | 100.0 |
| None | 135 | 42.6 | 1,011 | 51.1 |
| 1 or more | 182 | 57.4 | 966 | 48.9 |
| Prior convictions for serious personal offenses | | | | |
| Total | 317 | 100.0 | 1,949 | 100.0 |
| None | 215 | 67.8 | 1,857 | 95.3 |
| 1 or more | 102 | 32.2 | 92 | 4.7 |
| Prior convictions for serious property offenses | | | | |
| Total | 317 | 100.0 | 1,949 | 100.0 |
| None | 272 | 85.8 | 1,841 | 94.4 |
| 1 or more | 45 | 14.2 | 108 | 5.6 |
| Prior convictions for drug offenses | | | | |
| Total | 317 | 100.0 | 1,949 | 100.0 |
| None | 243 | 76.7 | 1,584 | 81.3 |
| 1 or more | 74 | 23.3 | 365 | 18.7 |
| Prior convictions for weapons offenses | | | | |
| Total | 317 | 100.0 | 1,949 | 100.0 |
| None | 220 | 69.4 | 1,841 | 94.4 |
| 1 or more | 97 | 30.6 | 108 | 5.6 |

Table A4.2 Characteristics of sample defendants entering the criminal process during study period, 1984, by court (cont'd)

| | Court system | | | |
|---|---|---|---|---|
| | Suffolk County: Superior Court | | Dade County Court | |
| Characteristics | Number | Percent | Number | Percent |
| Total | 356 | 100.0 | 1,977 | 100.0 |
| Prior criminal history (cont'd) | | | | |
| On probation or parole | | | | |
| Total | 206 | 100.0 | 1,949 | 100.0 |
| No | 261 | 85.3 | 1,917 | 98.4 |
| Yes | 45 | 14.7 | 32 | 1.6 |
| Prior failures to appear | | | | |
| Total | 317 | 100.0 | 1,977 | 100.0 |
| None | 175 | 55.2 | 1,640 | 83.0 |
| 1 or more | 142 | 44.8 | 337 | 17.0 |
| Outstanding warrants | | | | |
| Total | 317 | 100.0 | 1,948 | 100.0 |
| None | 253 | 79.8 | 1,724 | 88.5 |
| 1 or more | 64 | 20.2 | 224 | 11.5 |
| On pretrial release at this arrest | | | | |
| Total | 300 | 100.0 | 1,949 | 100.0 |
| No | 250 | 83.3 | 1,937 | 99.4 |
| Yes | 50 | 16.7 | 12 | .6 |

[a]Percentages are adjusted for missing cases. Missing cases can be calculated by subtracting variable totals from sample total.
[b]Note that the Suffolk County is a "total" sample of direct indictment cases. The Dade sample is a weighted estimate of misdemeanor cases.
[c]No information available.

Table A5.1 Comparison of case processing measures in the three research sites

| Processing measures | Court system: Boston Municipal Court Number | Boston Municipal Court Percent | Dade County Circuit Court Number | Dade County Circuit Court Percent | Maricopa County Superior Court Number | Maricopa County Superior Court Percent |
|---|---|---|---|---|---|---|
| Total[a] | 4,580 | 100.0 | 2,308 | 100.0 | 2,232 | 100.0 |
| Released at booking | | | | | | |
| Total | 4,387 | 100.0 | 2,276 | 100.0 | n/a | |
| Not released | 2,309 | 52.6 | 1,818 | 79.9 | n/a | |
| Released | 2,078 | 47.4 | 458 | 20.1 | n/a | |
| Released via bond schedule | | | | | | |
| Total | n/a | | 2,276 | 100.0 | n/a | |
| Not released | n/a | | 1,818 | 79.9 | n/a | |
| Released | n/a | | 458 | 20.1 | n/a | |
| Attending first appearance | | | | | | |
| Total | 4,580 | 100.0 | 2,276 | 100.0 | 2,232 | 100.0 |
| Not attending | 33 | 0.7 | 458 | 20.1 | 0 | 0 |
| Attending | 4,547 | 99.3 | 1,818 | 79.9 | 2,232 | 100.0 |
| Bail decision | | | | | | |
| Total | 4,484 | 100.0 | 1,818[b] | 100.0 | 2,229 | 100.0 |
| Nonfinancial | 3,130 | 68.8 | 1,217 | 66.9 | 892 | 40.0 |
| Financial | 1,293 | 28.2 | 554 | 0.5 | 1,296 | 58.1 |
| Denied bond | 61 | 1.3 | 47 | 2.6 | 41 | 1.8 |
| Bail/bond (ROR as $0) | | | | | | |
| Median ($) | 4,519 | 0 | 1,774[b] | 0 | 2,179 | 685 |
| Financial bail/bond | | | | | | |
| Median ($) | 1,296 | 100 | 557[b] | 3,775 | 1,288 | 2,000 |
| Released within 24 hours (of booking) | | | | | | |
| Total | 4,580 | 100.0 | 2,308 | 100.0 | 2,158 | 100.0 |
| Not released | 969 | 20.9 | 903 | 39.1 | 1,155 | 53.5 |
| Released | 3,611 | 79.1 | 1,405 | 60.9 | 1,003 | 46.5 |
| Released within 48 hours (of booking) | | | | | | |
| Total | 4,580 | 100.0 | 2,308 | 100.0 | 2,207 | 100.0 |
| Not released | 667 | 14.6 | 787 | 34.1 | 1,180 | 53.5 |
| Released | 3,913 | 85.4 | 1,521 | 65.9 | 1,027 | 46.5 |
| Financial defendants released within 48 hours (of booking) | | | | | | |
| Total | 1,293 | 100.0 | 557[b] | 100.0 | 1,295 | 100.0 |
| Not released | 441 | 34.1 | 478 | 85.8 | 1,141 | 8.1 |
| Released | 852 | 65.9 | 79 | 14.2 | 154 | 11.9 |
| Released within 90 days or prior to adjudication | | | | | | |
| Total | 4,580 | 100.0 | 2,294 | 100.0 | 2,228 | 100.0 |
| Not released | 262 | 5.7 | 438 | 19.2 | 1,017 | 45.6 |
| Released | 4,318 | 94.3 | 1,856 | 80.8 | 1,211 | 54.4 |
| Bail of released financial defendants | | | | | | |
| Median ($) | 1,110 | 100 | 285 | 4,000 | 318 | 1,644 |

Table A5.1 Comparison of case processing measures in the three research sites (cont'd.)

| Processing measures | Boston Municipal Court Number | Boston Municipal Court Percent | Dade County Circuit Court Number | Dade County Circuit Court Percent | Maricopa County Superior Court Number | Maricopa County Superior Court Percent |
|---|---|---|---|---|---|---|
| | Court system | | | | | |
| Total | 4,580 | 100.0 | 2,308 | 100.0 | 2,232 | 100.0 |
| Days in jail per defendant | | | | | | |
| Mean | 4,562 | 4.4 | 1,840 | 11.2 | 2,207 | 42.7 |
| Days in jail per 1,000 defendants | | | | | | |
| Mean | 4,562 | 4,400 | 1,840 | 11,200 | 2,207 | 42,700 |
| Cases disposed within 90 days | | | | | | |
| Total | 4,580 | 100.0 | 2,294 | 100.0 | 2,232 | 100.0 |
| Not disposed | 2,102 | 45.9 | 773 | 33.7 | 242 | 10.8 |
| Disposed | 2,479 | 54.1 | 1,521 | 66.3 | 1,990 | 89.2 |
| Cases dropped or dismissed within 90 days | | | | | | |
| Total | 4,580 | 100.0 | 2,308 | 100.0 | 2,232 | 100.0 |
| Not dropped | 3,986 | 87.0 | 1,222 | 51.5 | 1,043 | 46.7 |
| Dropped | 594 | 13.0 | 1,086 | 48.5 | 1,189 | 53.3 |
| Of released, failures to appear (with warrant) within 90 days | | | | | | |
| Total[c] | 4,318 | 100.0 | 1,840 | 100.0 | 1,205 | 100.0 |
| No FTA | 3,397 | 78.7 | 1,640 | 89.2 | 1,111 | 92.2 |
| FTA | 921 | 21.3 | 200 | 10.8 | 94 | 7.8 |
| Of released, rearrests within 90 days | | | | | | |
| Total[c] | 915[d] | 100.0 | 1,819 | 100.0 | 1,195 | 100.0 |
| Not rearrested | 785 | 85.8 | 1,706 | 93.8 | 1,068 | 88.7 |
| Rearrested | 129 | 14.2 | 113 | 6.2 | 136 | 11.3 |
| Of released, rearrests for serious personal offenses[e] within 90 days | | | | | | |
| Total[c] | 915[d] | 100.0 | 1,856 | 100.0 | 1,204 | 100.0 |
| Not rearrested | 903 | 98.7 | 1,819 | 98.0 | 1,171 | 97.3 |
| Rearrested | 12 | 1.3 | 37 | 2.0 | 33 | 2.7 |
| Of released, failures to appear or rearrest within 90 days | | | | | | |
| Total[c] | 915[d] | 100.0 | 1,856 | 100.0 | 1,211 | 100.0 |
| Not failing | 611 | 66.8 | 1,573 | 84.7 | 1,004 | 82.9 |
| Failing | 304 | 33.2 | 283 | 15.3 | 207 | 17.1 |
| Range of effective release | | | | | | |
| Total | 4,580 | 100.0 | 2,308 | 100.0 | 2,232 | 100.0 |
| FTA | 3,397 | 74.2 | 1,640 | 72.0 | 1,111 | 49.8 |
| Rearrest | 785[d] | 82.2 | 1,706 | 75.6 | 1,068 | 47.8 |
| Either/or | 611[d] | 64.0 | 1,573 | 68.6 | 1,004 | 45.0 |

[a]Note that the Boston and Dade samples reflect weighted estimates of the defendant populations. The Maricopa sample is a "total" sample of entering felony defendants.
[b]Includes defendants who posted bond before bond hearing.
[c]The number of defendants at risk (released) in each of the samples was: Boston Municipal Court (4,318), Dade Circuit Court (1,856) and Maricopa Superior Court (1,211). Actual totals may add to less than this number because of missing information.
[d]These numbers are estimates derived from a special subsample of cases (n = 414) which when weighted total 955.
[e]Serious personal offenses included assaults, kidnapping, rape, robbery, murder, manslaughter and arson with personal harm.

Table A5.2 Comparison of case processing measures in the three research sites

| Processing measures | Court system: Suffolk County Superior Court, Direct Indictment Sample, Number | Suffolk County Superior Court, Direct Indictment Sample, Percent | Dade County Court, Number | Dade County Court, Percent |
|---|---|---|---|---|
| Total | 356 | 100.0 | 1,977 | 100.0 |
| Released at booking | | | | |
| Total | n/a | | 1,977 | 100.0 |
| Not released | n/a | | 1,219[a] | 61.7 |
| Released | n/a | | 758[b] | 38.3 |
| Released via bond schedule | | | | |
| Total | n/a | | 1,977 | 100.0 |
| Not released | n/a | | 874 | 42.2 |
| Released | n/a | | 1,103 | 55.8 |
| Attending first appearance | | | | |
| Total | 356 | 100.0 | 1,977 | 100.0 |
| Not attending | 1 | 0.3 | 4 | .2 |
| Attending | 355 | 99.7 | 1,973 | 99.8 |
| Bail decision | | | | |
| Total | 345 | 100.0 | n/a | |
| Nonfinancial | 149 | 43.2 | n/a | |
| Financial | 179 | 51.9 | n/a | |
| No bond | 13 | 3.8 | n/a | |
| Other | 4 | 1.2 | n/a | |
| Bail/bond (ROR as $0) | | | | |
| Median ($) | 326 | 300 | 1,215 | 0 |
| Financial bail/bond | | | | |
| Median ($) | 177 | 2,500 | 489[a] | 495 |
| Released within 24 hours | | | | |
| Total | 249 | 100.0 | 1,219[a] | 100.0 |
| Not released | 33 | 13.3 | 277 | 22.7 |
| Released | 216 | 86.7 | 942 | 77.3 |
| Released within 48 hours | | | | |
| Total | 249 | 100.0 | 1,219[a] | 100.0 |
| Not released | 33 | 13.3 | 253 | 20.8 |
| Released | 216 | 86.7 | 966 | 79.2 |
| Financial defendants released within 24 hours | | | | |
| Total | 110 | 100.0 | 489 | 100.0 |
| Not released | 33 | 30.0 | 265 | 54.2 |
| Released | 77 | 70.0 | 224 | 45.8 |
| Financial defendants released within 48 hours | | | | |
| Total | 110 | 100.0 | 489 | 100.0 |
| Not released | 33 | 30.0 | 241 | 49.2 |
| Released | 77 | 70.0 | 248 | 50.8 |
| Released within 90 days or prior to adjudication | | | | |
| Total | 356 | 100.0 | 1,215 | 100.0 |
| Not released | 101 | 28.4 | 209 | 17.2 |
| Released | 255 | 71.6 | 1,007 | 82.8 |
| Bail of released financial defendants | | | | |
| Median ($) | 109 | 1,000 | 285 | 500 |

Table A5.2 Comparison of case processing measures in the three research sites (cont'd)

| Processing measures | Court system: Suffolk County Superior Court, Direct Indictment Sample | | Court system: Dade County Court | |
|---|---|---|---|---|
| | Number | Percent | Number | Percent |
| Total | 356 | 100.0 | 1,977 | 100.0 |
| Days in jail per defendant | | | | |
| Mean | 249 | 5.7 | 1,215 | 2.5 |
| Days in jail per 1,000 defendants | | | | |
| Mean | 249 | 5,700 | 1,215 | 2,500 |
| Cases dropped/dismissed within 90 days | | | | |
| Total | 356 | 100.0 | 1,219 | 100.0 |
| Not dropped | 354 | 99.4 | 750 | 61.5 |
| Dropped | 2 | 0.6 | 469 | 38.5 |
| Of released, failures to appear within 90 days | | | | |
| Total | 254 | 100.0 | 1,002 | 100.0 |
| No FTA | 251 | 98.8 | 846 | 84.4 |
| FTA | 3 | 1.2 | 156 | 15.6 |
| Of released, rearrests within 90 days | | | | |
| Total | n/a | | 982 | 100.0 |
| Not rearrested | n/a | | 846 | 86.1 |
| Rearrested | n/a | | 136 | 13.9 |
| Of released, rearrests for serious personal offenses within 90 days[c] | | | | |
| Total | n/a | | 1,006 | 100.0 |
| Not rearrested | n/a | | 998 | 99.2 |
| Rearrested | n/a | | 8 | .8 |
| Of released, failures to appear or rearrests within 90 days | | | | |
| Total | n/a | | 1,007 | 100.0 |
| Not failing | n/a | | 762 | 75.7 |
| Failing | n/a | | 245 | 24.3 |
| Range of effective release | | | | |
| Total | 356 | 100.0 | 1,007 | 100.0 |
| FTA | 255 | 71.6 | 846 | 69.4 |
| Rearrest | n/a | n/a | 846 | 69.4 |
| Either/or | n/a | n/a | 762 | 62.5 |

[a]Cases completed within 24 hours.
[b]Cases not completed within 24 hours.
[c]Serious personal offenses included assaults, kidnapping, rape, robbery, murder, manslaughter and arson with personal harm.

Table A6.2 Multivariate analysis of the pretrial services recommendations for nonfinancial release among entering felony defendants, Maricopa County Superior Court, June-July 1984.

| Dependent variable | Total n | Number receiving recommendation |
|---|---|---|
| Nonfinancial recommendation | 2,232 | 911 |

**Regression analysis:**

Independent variables:

- Recent prior arrests
- Length of residence
- Outstanding warrants
- Prior felony convictions
- Wage income
- Lives alone
- Prior misdemeanor convictions
- Robbery charge

Results:

$r^2 = .27$ $p = <.000$

(Missing: 113)

**Logit analysis:**

Variables in final model:

- Recent prior arrests
- Length of residence
- Outstanding warrants
- Prior felony convictions
- Lives alone
- Wage income
- Robbery charge
- Prior misdemeanor convictions

Goodness of fit Chi-sq = 128.24

DF = 124 P value = .38

Table A6.3 Multivariate analysis of bail decisions among entering felony defendants, Maricopa County Superior Court, June-July, 1984: The effect of the presiding commissioners

| Dependent variable | Total n | Number with nonfinancial release |
|---|---|---|
| Nonfinancial versus financial release | 2,188 | 892 |

**Regression analysis:**

Independent variables:

- Commissioner based severity
- Outstanding warrants
- Length of residence
- Recent prior arrests
- Police: risk of flight
- Wages reported
- Lives alone
- Weapons charges
- $r^2 = .32$
- Nonfinancial release recommended
- $r^2 = .90$
- Judges 4,3,2,1

Results:

$r^2 = .90$ $p = <.000$
(Missing = 157)

**Logit analysis:**

Variables in final model:

- Outstanding warrants
- Length of residence
- Recent prior failures to appear
- Police: risk of flight
- Nonfinancial release recommended

Goodness of fit Chi-sq = 83.69
DF = 127 P value = 1.00

| Dependent variable | Total n |
|---|---|
| Cash bail amount | 1,288 |

**Regression analysis:**

Independent variables:

- Commissioner based severity
- Any sexual assault victim
- Any robbery charges
- Police: risk of flight
- Number of charges
- Weapons charges
- Alcohol or drug related charges
- $r^2 = .32$
- Nonfinancial release recommended
- $r^2 = .32$
- Judges 2,4,3,1

Results:

$r^2 = .42$ $p = 0$
(Missing = 1)

Table A6.4 Multivariate analysis of release within 48 hours among entering felony defendants, Maricopa County Superior Court, June-July, 1984

| Dependent variable | Total n | Number released within 48 hours |
|---|---|---|
| Released within 48 hours | 2,207 | 1,027 |

Regression analysis:
Independent variables:

- Address verified
- Prior recent arrests
- Employment status
- Prior felony convictions
- Length of residence
- Drug charges
- Police: risk of flight
- Has a telephone
- Prior pretrial release
- Substance abuse
- $r^2 = .40$
- Nonfinancial release recommended[a]

Results:
$r^2 = .70$ $p = <.000$
(Missing = 237)

Logit analysis:
Variables in final model:

- Nonfinancial release recommended
- Employed full time
- Drug charges
- Prior felony convictions
- Has a telephone
- Recent prior arrests

Goodness of fit Chi-sq: = 382.62
DF = 448 P value = .99

(Model without nonfinancial release recommendation: results are not significant)

[a]Dominant independent variable

Table A6.5 Multivariate analysis of failure to appear among felony defendants released before trial, Maricopa County Superior Court, June-July 1984

| Dependent variable | Total n | Number with FTA |
|---|---|---|
| Failure to appear | 1,205 | 94 |

Regression analysis:
Independent variables:

- Police: risk of flight
- Lives alone
- Person victim
- Has a telephone
- Prior failures to appear
- Drug treatment

Results:
$r^2 = .12$ $p = <.000$
(Missing = 168)

Logit analysis:
Variables in final model:

- Police: risk of flight
- Lives alone
- Person victim
- Has a telephone
- Prior failures to appear

Goodness of fit Chi-sq = 33.39
DF = 27 P value = .19

Table A6.6 Multivariate analysis of rearrests for crimes during pretrial among entering felony defendants, Maricopa County Superior Court, June-July, 1984

| Dependent variable | Total n | Number rearrested |
|---|---|---|
| Rearrest during pretrial release | 1,193 | 132 |

**Regression analysis:**

Independent variables:

- Prior failures to appear
- Defendant only suspect
- Reported wages
- Prior pretrial release
- Person victim
- Age of defendant
- Prior arrest for serious personal offense
- Weapon involved
- Drug charge

Results:

$r^2 = .05$ $p = <.000$

(Missing = 7)

**Logit analysis:**

Variable in final model:

- Prior failures to appear
- Defendant only suspect
- Reported wages

Goodness of fit Chi-sq = 1.5

DF = 4 P value = .83

Table A6.7 Multivariate analysis of pretrial misconduct (failure to appear or rearrest) among felony defendants during pretrial release, Maricopa County Superior Court, June-July, 1984

| Dependent variable | Total n | Number with FTA/rearrest |
|---|---|---|
| FTA or arrest | 1,211 | 207 |

| Regression analysis: | Logit analysis: |
|---|---|
| Independent variables: | Variables in final model: |
| Police: risk of flight | Police: risk of flight |
| Person victim | Person victim |
| Lives alone | Lives alone |
| Robbery charge | Robbery charges |
| Prior arrests | Prior failures to appear, one v. two or more |
| Employment status | Police: risk of flight and lives alone |
| Outstanding warrants | Police: risk of flight and prior failures to appear, one v. two or more |
| Drug treatment | |
| Property stolen | |
| Results: | |
| $r^2 = .07$ $p = <.000$ | Goodness of fit Chi-sq = 13.73 |
| (Missing = 6) | DF = 17 P value = .69 |

Table A7.1 Multivariate analysis of release at booking among entering felony defendants, Dade County Circuit Court, April-October, 1984

| Dependent variable | Total n | Number gaining booking stage release |
|---|---|---|
| Released at booking stage | 2,276 | 458 |

**Regression analysis:**

Independent variables:

- Counsel appointed[a]
- Reported wages
- Lives with friend or relative
- Lives with spouse or child
- Lives alone
- Has a telephone
- Recent prior arrests
- $r^2 = .42$
- Seriousness of charge based on bail schedule

Results:

$r^2 = .45$ $p = <.000$

(Missing = 32)

**Logit analysis:**

Variables in final model:

- Counsel appointed
- Lives with friend or relative
- Lives with spouse or child
- Seriousness of charge based on bail shedule (level 5)
- Has a telephone
- Recent prior arrests

Goodness of fit Chi-sq = 181.84

DF = 252 P value = 1.00

Table A7.2 Multivariate analysis of early versus late release of felony defendants not released at booking stage, Dade County Circuit Court, April-October, 1984

| Dependent variable | Total n | Number gaining early release |
|---|---|---|
| Early v. late release | 1,852 | 459 |

**Regression analysis:**

Independent variables:

- Race, hispanic v. other
- Prior arrests
- Offense involved force
- Drug charges
- Stolen property
- Has a telephone
- Defendant knew victim
- $r^2 = .07$
- Seriousness of charge based on bond schedule

Results:

$r^2 = .09$ $p = <.000$

(Missing = 456)

**Logit analysis:**

Not significant

Table A7.3 Multivariate analysis of nonfinancial versus financial bail decisions for felony defendants reaching bond hearing stage, Dade County Circuit Court, April-October, 1984

| Dependent variable | Total n | Number with nonfinancial release |
|---|---|---|
| Nonfinancial v. financial | 1,772 | 1,217 |

| Regression analysis: | Logit analysis: |
|---|---|
| Independent variables: | |
| Trafficking in drugs, most serious charge at booking[a] | |
| Prior arrests for serious property offense | |
| Has a telephone | |
| Robbery, most serious charge at booking | |
| Any drug charges | |
| Felony 1 charge | |
| $r^2 = .11$ | |
| Judges 6,16,15 | |
| Results: | |
| $r^2 = .11$ $p = <.000$ | Not significant |
| (Missing = 79) | |

[a]Dominant independent variable.

Table A7.4 Multivariate analysis of nonfinancial decisions (pretrial services v. other disposition) given felony defendants reaching the bond hearing stage, Dade County Circuit Court, April-October, 1984

| Dependent variable | Total n | Number with pretrial services |
|---|---|---|
| Pretrial services v. other | 1,261 | 670 |

| Regression analysis: | Logit analysis: |
|---|---|
| Independent variables: | |
| Alcohol or drug charge | |
| Lives with spouse or child | |
| Lives with friend or relative | |
| Substance abuse | |
| Forcible entry charge | |
| Prior arrests on weapons charges | |
| Defendant is only suspect | |
| Counsel appointed | |
| Prior felony convictions $r^2 = .11$ | |
| Race, hispanic v. other[a] $r^2 = .18$ | |
| Seriousness of charge based on bond schedule $r^2 = .18$ | |
| Presiding judge: 20, 33, 16, 41, 37, 18, 15, 17, 26, 36 | |
| Results: | |
| $r^2 = .21$ $p = <.000$ (Missing = 70) | Not significant |

[a]Dominant independent variable

Table A7.5 Multivariate analysis of judges'cash bail decisions for felony defendants not given nonfinancial release, Dade County Circuit Court, April-October, 1984

| Dependent variable | Total n |
|---|---|
| Bond amount | 554 |

Regression analysis:

Independent variables

- Seriousness of charge based on bail schedule
- Trafficking in drugs
- Prior felony conviction
- Prior weapons conviction
- Recent prior arrests
- Lives with friend or relative

Results:

$r^2 = .82$ $p = <.000$

(Missing = 46)

Table A7.6 Multivariate analysis of pretrial release of defendants within 48 hours of booking, Dade County Circuit Court, April-October, 1984

| Dependent variable | Total n | Number released within 48 hours |
|---|---|---|
| Released within 48 hours | 2,308 | 1,521 |

Regression analysis:

Independent variables

- Recent prior arrests[a]
- Has a telephone
- Prior convictions on serious property offense
- Robbery charges
- Prior misdemeanor convictions
  - $r^2 = .12$
- Seriousness of charge based on bail schedule
  - $r^2 = .15$
- Presiding judge: 16

Results:

$r^2 = .16$ $p = <.000$

(Missing = 93)

Logit analysis:

Not significant

[a]Dominant independent variable

Table A7.7 Multivariate analysis of financial vs nonfinancial decisions for released defendants, Dade County Circuit Court, 1984

| Dependent variable | Total n | Number gaining financial release |
|---|---|---|
| Cash release | 1,856 | 679 |

**Regression analysis:**

Independent variables:

- Address verified[a]
- Race, black vs. other
- Prior failures to appear on misdemeanor charges
- Lives with friend or relative
- Lives alone
- Lives with spouse or child
- Person victim
- Property stolen
- Burglary charge
  - $r^2 = .28$
- Public defender
  - $r^2 = .40$
- Presiding judge: 41, 26

Results:

$r^2 = .41$ $p = <.000$
(missing = 68)

**Logit analysis:**

Variables in final model:

- Address verified
- Prior failures to appear on misdemeanor charges
- Race, black vs. other
- Person victim
- Property stolen
- Lives with friend or relative
- Lives alone
- Public defender
- Presiding judge: 41

Goodness of fit Chi-sq = 258.20
DF = 242 P value = .23

(Results of logit without public defender and presiding judge:
Goodness of fit Chi-sq =153.73
DF = 132 P value = .10)

[a]Dominant independent variable

Table A7.8 Multivariate analysis of failure to appear by felony defendants during pretrial release, Dade County Circuit Court, April-October, 1984

| Dependent variable | Total n | Number with FTA |
|---|---|---|
| Failure to appear | 1,840 | 200 |

**Regression analysis:**

Independent variables:

Prior failures to appear[a]
Has a telephone
Felony 2 charge
Weapon involved
$r^2 = .05$
Release before or after bond hearing
Paid own bond
Surety release
$r^2 = .05$
Presiding judge: 18,20,17,16,37,15, 6,41,26,36

Results:
$r^2 = .07$ $p = <.000$
(Missing = 26)

**Logit analysis:**

Variables in final model:

Prior failures to appear
Presiding judge: 36
Felony 2 charge
Has a telephone

Goodness of fit Chi-sq = 13.38
DF = 11 P value = .27

[a]Dominant independent variable

Table A7.9 Multivariate analysis of rearrest of felony defendants during pretrial release, Dade County Circuit Court, April-October, 1984

| Dependent variable | Total n | Number of rearrested |
|---|---|---|
| Rearrested | 1,819 | 113 |

**Regression analysis:**

Independent variables:

- Prior arrests
- Prior arrests on drug charges
- Recent prior arrests
- Prior felony convictions
- Felony 1 charge
- Property damage
- Grand theft, most serious charge at booking
- Carrying a concealed firearm
- Counsel appointed
- $r^2 = .11$
- Surety release
- Burglary or breaking and entering, most serious charge at booking
- Pretrial services release
- $r^2 = .13$
- Presiding judge: 17, 41

Results:

$r^2 = .14$ $p = <.000$
(Missing = 549)

**Logit analysis:**

Variables in final model:

- Recent prior arrests
- Prior felony convictions
- Presiding judge: 17
- Release before or after bond hearing

Goodness of fit Chi-sq = 68.03
DF = 83 P value = .88

(Model without last independent variables: goodness of fit Chi-sq = 53.8
DF = 56 P value = .56)

Table A7.10 Multivariate analysis of misconduct (failure to appear or rearrest) by felony defendants during pretrial release, Dade County Circuit Court, April-October, 1984

| Dependent variable | Total n | Number with FTA/rearrest |
|---|---|---|
| FTA or rearrest | 1,856 | 283 |

**Regression analysis:**

Independent variables:

- Prior failure to appear on misdemeanor charge
- Prior failure to appear on felony charge
- Has a telephone
- Grand theft, most serious charge at booking
- Prior convictions of felony charges
- Age of defendant
- Sale or possession of drugs, most serious charge at booking
- Serious personal offense
- Carrying a concealed firearm
- Substance abuse
- Force involved

Results:

$r^2 = .08$ $p = <.000$

(Missing = 52)

**Logit analysis:**

Variables in final model:

- Prior failure to appear
- Prior misdemeanor convictions
- Has a telephone
- Knew victim

Goodness of fit Chi-sq = 57.37

DF = 38 P value = .02

Table A8.1 Multivariate analysis of prearraignment release of entering defendants, Boston Municipal Court, April-October, 1984

| Dependent variable | Total n | Number released prior to arraignment |
|---|---|---|
| Released prior to arraignment | 4,475 | 2,078 |

| Regression analysis: | Logit analysis: |
|---|---|
| Independent variables: | |
| Severity of most serious charge | |
| Possession of drugs, most serious charge | |
| Prior arrests for serious personal offenses | |
| Failure to appear with bench warrant | |
| Number of charges | |
| $r^2 = .09$ | |
| Race, white vs. other | |
| Results: | |
| $r^2 = .10$ $p = <.000$ | Not significant |
| (Missing = 132) | |

Table A8.2 Multivariate analysis of DA's recommendation for nonfinancial release at the arraignment bail decision for entering criminal cases, Boston Municipal Court, April-October, 1984

| Dependent variable | Total n | Number with recommendation |
|---|---|---|
| DA recommendation | 4,580 | 503 |

| Regression analysis: | Logit analysis: |
|---|---|
| Independent variables: | |
| Severity of most serious charge[a] | |
| Substance abuse | |
| Serious personal offense | |
| Sex of defendant | |
| Sale of drugs, most serious charge | |
| Index charge | |
| Prior convictions, serious personal offense | |
| $r^2 = .18$ | |
| Prearraignment release | |
| Results: | |
| $r^2 = .19$ $p = <.000$ | Not significant |
| (Missing = 114) | |

[a]Dominant independent variable

Table A8.3 Multivariate analysis of judges' financial vs. nonfinancial decisions for defendants at the arraignment stage, Boston Municipal Court, April-October, 1984

| Dependent variable | Total n | Number with nonfinancial release |
|---|---|---|
| Nonfinancial v. financial | 4,424 | 3,130 |

| Regression analysis: | Logit analysis |
|---|---|
| Independent variables: | |
| Severity of most serious charge at booking | |
| Recent prior arrests | |
| Selling drugs, most serious charge at booking | |
| Prior pretrial release | |
| Larceny, most serious charge at booking | |
| Prior arrest for serious personal offense | |
| $r^2 = .11$ | |
| DA recommendation | |
| Public defender | |
| $r^2 = .12$ | |
| Judges 7,8,3,10,11,9 | |
| Results: | |
| $r^2 = .14$ $p = <.000$ | Not significant |
| (Missing = 166) | |

Table A8.4 Multivariate analysis of judges'choice of cash bail amounts for defendants not assigned nonfinancial release, Boston Municipal Court, April-October, 1984

| Dependent variable | Total n |
|---|---|
| Bail amount[a] | 1,293 |

Regression analysis:

Independent variables:

- Severity of most serious charge at booking
- Prior arrests, serious personal offense
- Selling drugs, most serious charge at booking
- Serious personal offense
- Index crime charge
- Substance abuse
  - $r^2 = .19$
- DA recommendation
  - $r^2 = .21$
- Judge 3,8,10,11,7

Results:

$r^2 = .23$ $p = <.000$

(Missing = 2)

[a]Dependent variable is log of cash bail

Table A8.5 Multivariate analysis of release of entering defendants within 48 hours, Boston Municipal Court, April-October, 1984

| Dependent variable | Total n | Number released within 48 hours |
|---|---|---|
| Released within 48 hours | 4,580 | 3,913 |

| Regression analysis: | Logit analysis: |
|---|---|
| Independent variables: | |
| Prior failures to appear | |
| Any robbery charges | |
| Force involved | |
| Prior arrests for serious personal offense, two or more | |
| Forcible entry charge | |
| Public defender appointed | |
| Outstanding bench warrants | |
| Has driver's license | |
| $r^2 = .13$ | |
| Prearraignment release[a] | |
| Results: | |
| $r^2 = .17$ p = <.000 | Not significant |
| (Missing = 123) | |

[a]Dominant independent variable

Table A8.6 Multivariate analysis of failure to appear among defendants during pretrial release, Boston Municipal Court, April-October, 1984

| Dependent variable | Total n | Number with FTA |
|---|---|---|
| Failure to appear | 4,318 | 1,265 |

| Regression analysis: | Logit analysis: |
|---|---|
| Independent variables: | Variables in final model: |
| Has a telephone | Has a telephone |
| Prior failures to appear | Unemployed |
| Unemployed | Recent prior failures to appear |
| Failure to appear with bench warrant | Has a telephone and recent prior failures to appear |
| $r^2 = .05$ | Unemployed and recent prior failures to appear |
| Prearraignment release | |
| $r^2 = .06$ | |
| Judges 10,8,3,7,9 | |
| Results: | |
| $r^2 = .07$ p = <.000 | Goodness of fit Chi-sq = 1.93 |
| (Missing = 122) | DF = 2 P value = .38 |

Table A8.7 Multivariate analysis of rearrest of defendants during pretrial release, Boston Municipal Court, April-October, 1984

| Dependent variable | Total n | Number rearrested |
|---|---|---|
| Rearrest | 915[a] | 130 |

**Regression analysis:**

Independent variables:

- Prior failures to appear
- Outstanding bench warrants
- Index charge
- Weapons charge
- Substance abuse
- Female victim
- Prior misdemeanor convictions
- $r^2 = .09$
- Race, black vs. other
- Race, white vs. other
- Race, hispanic vs. other

Results:

$r^2 = .09$ $p = <.000$

(Missing = 3)

**Logit analysis:**

Variables in final model:

- Outstanding bench warrants
- Female victim
- Substance abuse
- Prior misdemeanor conviction
- Outstanding bench warrants and female victim
- Substance abuse and female victim

Goodness of fit Chi-sq = 3.86

DF = 4 P value = .42

[a]These results are based on a special subsample of cases (n = 414) which when weighted total 955, with 40 cases missing.

Table A8.8 Multivariate analysis of misconduct (failure to appear or rearrest) among defendants during pretrial release, Boston Municipal Court, April-October, 1984

| Dependent variable | Total n | Number with FTA/rearrest |
|---|---|---|
| FTA or rearrest[a] | 915[b] | 304 |

| Regression analysis: | Logit analysis: |
|---|---|
| Independent variables: | |
| Unemployed | |
| Has a telephone | |
| Substance abuse | |
| Drug charges | |
| Sale of drugs, most serious charge at booking | |
| Possession of drugs, most serious charge at booking | |
| Female victim | |
| Index crime charges | |
| Prior arrests on weapons charges | |
| Damage to property | |
| Prior misdemeanor convictions | |
| Person victim | |
| Outstanding bench warrants | |
| Prostitution and disorderly conduct, most serious charge at booking | |
| $r^2 = .10$ | |
| OR release | |
| Surety release | |
| Prearraignment release | |
| $r^2 = .11$ | |
| DA recommendation | |
| $r^2 = .12$ | |
| Judges: 10, 9, 7, 3, 11[c] | |
| Results: | |
| $r^2 = .16$ $p = 0$ | Not significant |
| (Missing = 34) | |

[a]Using failure to appear with bench warrant.
[b]These results are based on a special subsample of cases (n = 414) which when weighted total 955, with 40 cases missing.
[c]Judge 10 was the dominant dependent variable, contributing .03 to the $r^2$.

Table A9.7 Comparison of correlations of predictor scores of bail decisions and predictor scores of defendant performance with actual defendant performance, by court

| Predictor scores | Defendant performance: Failure to appear r | Failure to appear p | Rearrest r | Rearrest p | Failure to appear and/or rearrest r | Failure to appear and/or rearrest p |
|---|---|---|---|---|---|---|
| **Maricopa County Superior Court[a]** | | | | | | |
| Predicted bail decisions | | | | | | |
| Nonfinancial v. financial | -.06 | .02 | -.07 | .01 | -.06 | .02 |
| Cash bail amount | .05 | .04 | -.02 | .27 | .02 | .27 |
| Predicted defendant performance | | | | | | |
| Failure to appear | .02 | .21 | n/a | n/a | n/a | n/a |
| Rearrest | n/a | n/a | .10 | <.00 | n/a | n/a |
| Failure to appear and/or rearrest | n/a | n/a | n/a | n/a | .04 | .10 |
| Burgess score | -.11 | <.00 | -.11 | <.00 | -.12 | <.00 |
| **Dade County Circuit Court[b]** | | | | | | |
| Predicted bail decisions | | | | | | |
| Nonfinancial v. financial | .07 | <.00 | -.03 | .07 | .04 | .03 |
| Cash bail amount | -.02 | .22 | -.03 | .08 | -.04 | .06 |
| Predicted defendant performance | | | | | | |
| Failure to appear | .21 | <.00 | n/a | n/a | n/a | n/a |
| Rearrest | n/a | n/a | .09 | <.00 | n/a | n/a |
| Failure to appear and/or rearrest | n/a | n/a | n/a | n/a | .05 | .02 |
| Burgess score | -.16 | <.00 | -.16 | <.00 | -.19 | <.00 |
| **Boston Municipal Court[c]** | | | | | | |
| Predicted bail decisions | | | | | | |
| Nonfinancial v. financial | -.00 | .46 | .20 | <.00 | .01 | .39 |
| Cash bail amount | -.04 | .01 | .04 | .10 | -.02 | .37 |
| Predicted defendant performance | | | | | | |
| Failure to appear | .15 | <.00 | n/a | n/a | n/a | n/a |
| Rearrest | n/a | n/a | .17 | <.00 | n/a | n/a |
| Failure to appear and/or rearrest | n/a | n/a | n/a | n/a | .23 | <.00 |
| Burgess score | -.08 | <.00 | -.24 | <.00 | -.13 | <.00 |

[a]Based on released and at risk defendants, n=1211.
[b]Based on released and at risk defendants, n=1856.
[c]Based on released and at risk defendants. For failure to appear, n=4318. Rearrest and failure correlations are based on a subsample of cases for which rearrest data were available, n=915.

Figure A9.1 Comparison of effective pretrial release in Boston Municipal Court, Dade County Circuit Court and Maricopa County Superior Court, index offenses only (failure)

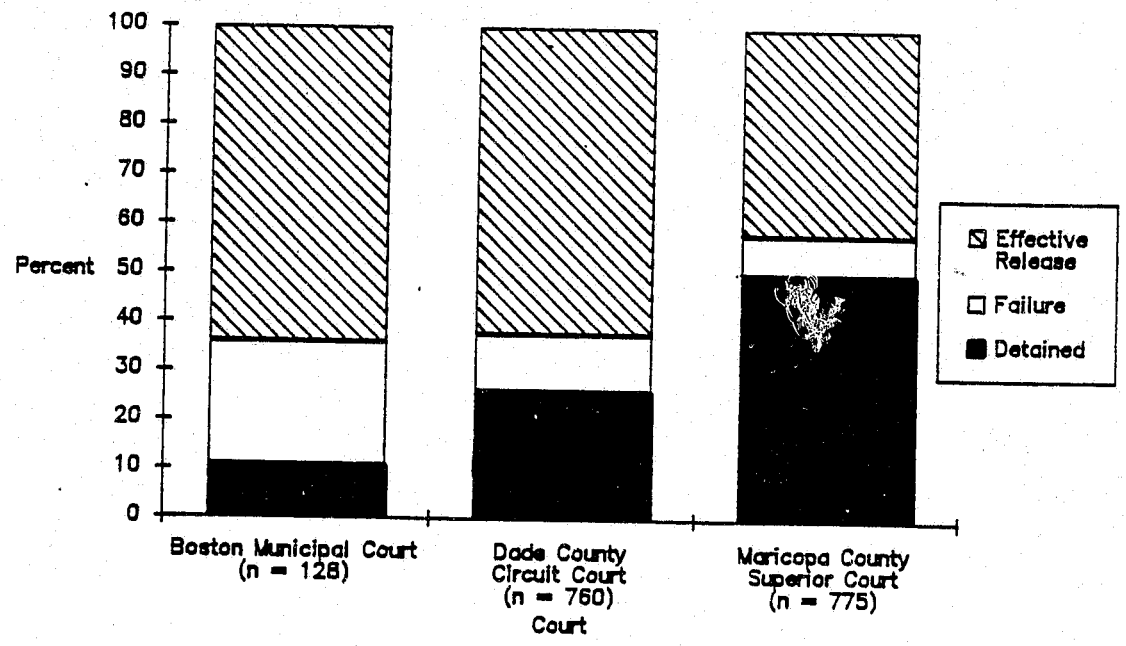


Figure A9.2 Comparison of effective pretrial release in Boston Municipal Court, Dade County Circuit Court and Maricopa County Superior Court, index offenses only (FTA)

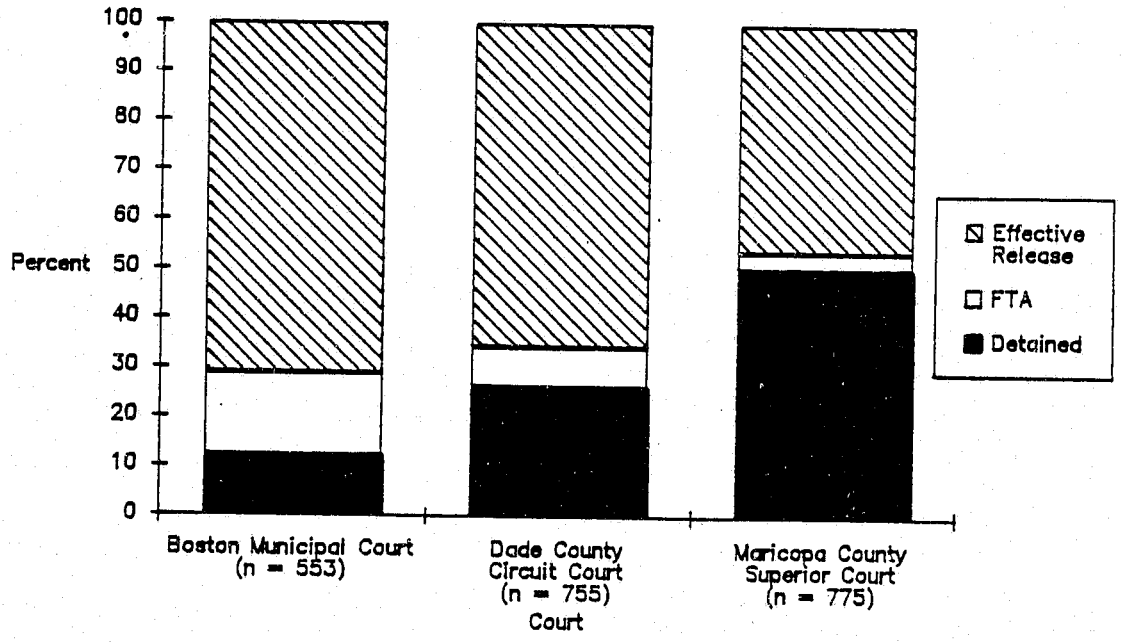

Figure A9.3 Comparison of effective pretrial release in Boston Municipal Court, Dade County Circuit Court and Maricopa County Superior Court, index offenses only (rearrest)

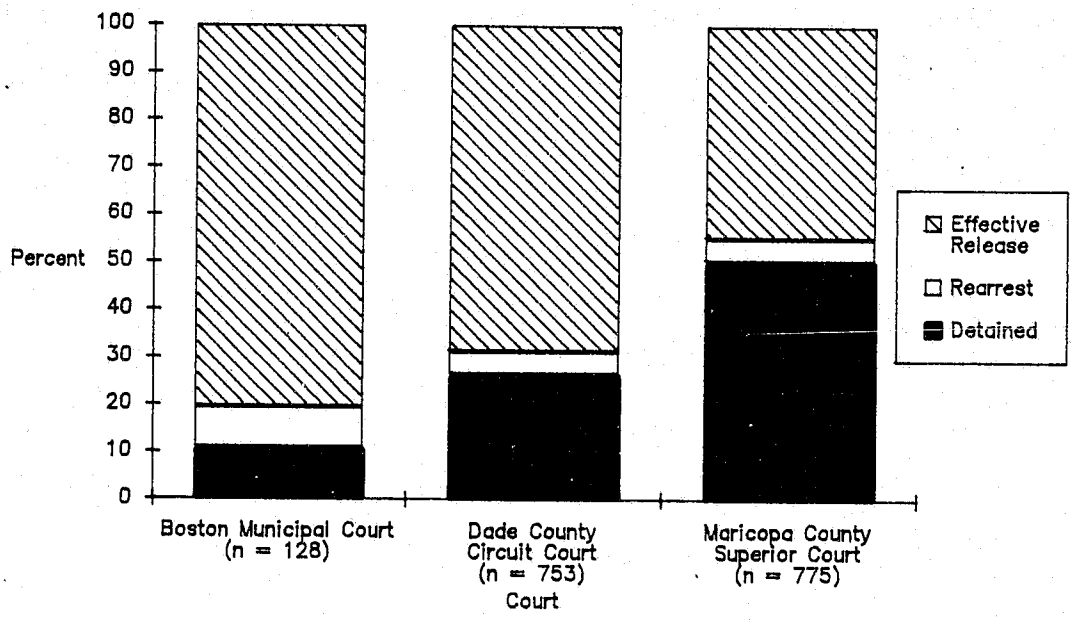

Table A9.4 Classification of persons awaiting trial in pretrial detention on study date (Fall, 1985)[a], according to risk of flight/crime[b], by site

| Risk group | | Number | Percent |
|---|---|---|---|
| Maricopa County | | | |
| Total | | 177 | 100.0 |
| Lowest | 1 | 23 | 13.0 |
| | 2 | 43 | 24.3 |
| | 3 | 72 | 40.7 |
| Highest | 4 | 39 | 22.0 |
| Dade County | | | |
| Total | | 203 | 100.0 |
| Lowest | 1 | 13 | 6.4 |
| | 2 | 45 | 22.2 |
| | 3 | 103 | 50.7 |
| Highest | 4 | 42 | 20.7 |
| Boston Suffolk County | | | |
| Total | | 311 | 100.0 |
| Lowest | 1 | 4 | 1.3 |
| | 2 | 129 | 41.5 |
| | 3 | 139 | 44.7 |
| Highest | 4 | 39 | 12.5 |

[a]The dates of the "on-a-given-day" population studies were the following: Suffolk County--November 18, 1985; Dade County--September 19, 1985; Maricopa County--September 21, 1985.
[b]Note that each risk classification coincidentally involves four risk groupings. Risk attributes forming the classification were similar in Boston and Dade Counties.

Table A11.2a Background data for guidelines formulation: classification of Maricopa felony defendants according to draft release guidelines, by bail decisions, detention, defendant performance, and case processing outcomes, June-July, 1984

Least serious — Most serious

Charge severity

| Probability of flight and/or crime | 1 | 2 | 3 | 4 | 5 | 6 |
|---|---|---|---|---|---|---|
| Lowest Risk | Cell 1 (n=6) | Cell 2 (n=14) | Cell 3 (n=28) | Cell 4 (n=157) | Cell 5 (n=67) | Cell 6 (n=34) |
| | % ROR 100 | % ROR 43 | % ROR 64 | % ROR 61 | % ROR 24 | % ROR 50 |
| | Mdn $ (0)[a] $ 0 | Mdn $ (0)[a] $ 68 | Mdn $ (0)[a] $ 0 | Mdn $ (0)[a] $ 0 | Mdn $ (0)[a] $ 1,507 | Mdn $ w(0)[a] $ 0 |
| | IQ (0,0) $ 0 | IQ (0,1781) $ 1,781 | IQ (0,1096) $ 1,096 | IQ (0,1370) $ 1,370 | IQ (0,2740) $ 2,740 | IQ (0,13700) $13,700 |
| | % Det > 1 day 0 | % Det > 1 day 50 | % Det > 1 day 32 | % Det > 1 day 36 | % Det > 1 day 60 | % Det > 1 day 47 |
| | % FTA 17 | % FTA 0 | % FTA 0 | % FTA 1 | % FTA 3 | % FTA 0 |
| | % Rearrest 0 | % Rearrest 25 | % Rearrest 10 | % Rearrest 5 | % Rearrest 0 | % Rearrest 5 |
| | % Failure 17 | % Failure 25 | % Failure 10 | % Failure 6 | % Failure 3 | % Failure 5 |
| | % Dropped 67 | % Dropped 79 | % Dropped 79 | % Dropped 77 | % Dropped 70 | % Dropped 82 |
| | Cell 7 (n=30) | Cell 8 (n=229) | Cell 9 (n=328) | Cell 10 (n=369) | Cell 11 (n=143) | Cell 12 (n=116) |
| | % ROR 80 | % ROR 62 | % ROR 55 | % ROR 48 | % ROR 41 | % ROR 20 |
| | Mdn $ (0)[a] $ 0 | Mdn $ (0)[a] $ 0 | Mdn $ (0)[a] $ 0 | Mdn $ (0)[a] $ 206 | Mdn $ (0)[a] $ 822 | Mdn $ (0)[a] $ 3,425 |
| | IQ (0,0) $ 0 | IQ (0,411) $ 411 | IQ (0,842) $ 842 | IQ (0,1370) $ 1,370 | IQ (0,2740) $ 2,740 | IQ (685,12330) $11,645 |
| | % Det > 1 day 13 | % Det > 1 day 30 | % Det > 1 day 38 | % Det > 1 day 48 | % Det > 1 day 55 | % Det > 1 day 76 |
| | % FTA 4 | % FTA 4 | % FTA 4 | % FTA 5 | % FTA 5 | % FTA 10 |
| | % Rearrest 8 | % Rearrest 10 | % Rearrest 10 | % Rearrest 12 | % Rearrest 8 | % Rearrest 15 |
| | % Failure 11 | % Failure 13 | % Failure 13 | % Failure 16 | % Failure 13 | % Failure 20 |
| | % Dropped 60 | % Dropped 65 | % Dropped 65 | % Dropped 69 | % Dropped 51 | % Dropped 59 |
| | Cell 13 (n=4) | Cell 14 (n=60) | Cell 15 (n=110) | Cell 16 (n=163) | Cell 17 (n=71) | Cell 18 (n=68) |
| | % ROR 25 | % ROR 35 | % ROR 26 | % ROR 22 | % ROR 18 | % ROR 13 |
| | Mdn $ (0)[a] $ 685 | Mdn $ (0)[a] $ 500 | Mdn $ (0)[a] $ 959 | Mdn $ (0)[a] $ 1,370 | Mdn $ (0)[a] $ 1,791 | Mdn $ (0)[a] $ 4,110 |
| | IQ (0,959) $ 959 | IQ (0,1370) $ 1,370 | IQ (0,2055) $ 2,055 | IQ (274,3000) $ 2,726 | IQ (479,3836) $ 3,357 | IQ (1100,20550) $19,450 |
| | % Det > 1 day 75 | % Det > 1 day 52 | % Det > 1 day 64 | % Det > 1 day 71 | % Det > 1 day 77 | % Det > 1 day 85 |
| | % FTA 33 | % FTA 3 | % FTA 10 | % FTA 20 | % FTA 28 | % FTA 5 |
| | % Rearrest 68 | % Rearrest 9 | % Rearrest 12 | % Rearrest 13 | % Rearrest 21 | % Rearrest 0 |
| | % Failure 68 | % Failure 9 | % Failure 79 | % Failure 29 | % Failure 38 | % Failure 5 |
| | % Dropped 25 | % Dropped 33 | % Dropped 24 | % Dropped 34 | % Dropped 28 | % Dropped 35 |
| | Cell 19 (n=1) | Cell 20 (n=18) | Cell 21 (n=31) | Cell 22 (n=73) | Cell 23 (n=36) | Cell 24 (n=76) |
| | % ROR 100 | % ROR 33 | % ROR 10 | % ROR 3 | % ROR 6 | % ROR 4 |
| | Mdn $ (0)[a] $ 0 | Mdn $ (0)[a] $ 548 | Mdn $ (0)[a] $ 1,370 | Mdn $ (0)[a] $ 2,740 | Mdn $ (0)[a] $ 2,055 | Mdn $ (0)[a] $ 9,042 |
| | IQ (0,0) $ 0 | IQ (0,1370 $ 1,370 | IQ (411,2055) $ 1,644 | IQ (1370,3425) $ 2,055 | IQ (1027,5480) $ 4,453 | IQ (2055,21920) $19,865 |
| | % Det > 1 day 0 | % Det > 1 day 50 | % Det > 1 day 84 | % Det > 1 day 92 | % Det > 1 day 86 | % Det > 1 day 85 |
| | % FTA 100 | % FTA 46 | % FTA 27 | % FTA 44 | % FTA 50 | % FTA 18 |
| | % Rearrest 0 | % Rearrest 39 | % Rearrest 27 | % Rearrest 22 | % Rearrest 20 | % Rearrest 29 |
| | % Failure 100 | % Failure 62 | % Failure 54 | % Failure 56 | % Failure 45 | % Failure 39 |
| Highest risk | % Dropped 0 | % Dropped 28 | % Dropped 10 | % Dropped 10 | % Dropped 3 | % Dropped 22 |

[a] Median bail calculated including $0

Table A11.2b Background data for guidelines formulation: classification of Dade felony defendants according to draft release guidelines, by bail decisions, detention, defendant performance, and case processing outcomes, 1984

Least serious — Most serious

Charge severity

| Probability of flight and/or crime | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 |
|---|---|---|---|---|---|---|---|---|
| Lowest risk | Cell 1 (n=31) | Cell 2 (n=67) | Cell 3 (n=29) | Cell 4 (n=28) | Cell 5 (n=32) | Cell 6 (n=39) | Cell 7 (n=39) | Cell 8 (n=28) |
| | % Nonfinancial 90 | % Nonfinancial 87 | % Nonfinancial 79 | % Nonfinancial 93 | % Nonfinancial 91 | % Nonfinancial 87 | % Nonfinancial 88 | % Nonfinancial 22 |
| | Mdn $ (0)[a] $ 0 | Mdn $ (0)[a] $ 0 | Mdn $ (0)[a] $ 0 | Mdn $ (0)[a] $ 0 | Mdn $ (0)[a] $ 0 | Mdn $ (0)[a] $ 0 | Mdn $ (0)[a] $ 0 | Mdn $ (0)[a] $50,000 |
| | % Det > 2 days 15 | % Det > 2 days 9 | % Det > 2 days 16 | % Det > 2 days 6 | % Det > 2 days 19 | % Det > 2 days 16 | % Det > 2 days 20 | % Det > 2 days 44 |
| 1 | % FTA 12 | % FTA 2 | % FTA 6 | % FTA 6 | % FTA 11 | % FTA 0 | % FTA 5 | % FTA 6 |
| | % Rearrest 0 | % Rearrest 0 | % Rearrest 0 | % Rearrest 6 | % Rearres 10 | % Rearrest 5 | % Rearrest 0 | % Rearrest 0 |
| | % Failure 11 | % Failure 2 | % Failure 6 | % Failure 11 | % Failure 15 | % Failure 5 | % Failure 5 | % Failure 6 |
| | % Bound down 10 | % Bound down 23 | % Bound down 32 | % Bound down 22 | % Bound down 10 | % Bound down 0 | % Bound down 12 | % Bound down 0 |
| | % Dropped 45 | % Dropped 35 | % Dropped 58 | % Dropped 44 | % Dropped 52 | % Dropped 56 | % Dropped 36 | % Dropped 33 |
| | Cell 9 (n=45) | Cell 10 (n=131) | Cell 11 (n=70) | Cell 12 (n=71) | Cell 13 (n=127) | Cell 14 (n=79) | Cell 15 (n=56) | Cell 16 (n=63) |
| | % Nonfinancial 89 | % Nonfinancial 77 | % Nonfinancial 78 | % Nonfinancial 72 | % Nonfinancial 76 | % Nonfinancial 86 | % Nonfinancial 77 | % Nonfinancial 40 |
| | Mdn $ (0)[a] $ 0 | Mdn $ (0)[a] $ 0 | Mdn $ (0)[a] $ 0 | Mdn $ (0)[a] $ 0 | Mdn $ (0)[a] $ 0 | Mdn $ (0)[a] $ 0 | Mdn $ (0)[a] $ 0 | Mdn $ (0)[a] $20,000 |
| | % Det > 2 days 28 | % Det > 2 days 31 | % Det > 2 days 42 | % Det > 2 days 33 | % Det > 2 days 34 | % Det > 2 days 29 | % Det > 2 days 31 | % Det > 2 days 58 |
| 2 | % FTA 15 | % FTA 6 | % FTA 11 | % FTA 11 | % FTA 8 | % FTA 11 | % FTA 9 | % FTA 14 |
| | % Rearrest 4 | % Rearrest 4 | % Rearrest 6 | % Rearrest 6 | % Rearrest 8 | % Rearrest 4 | % Rearrest 6 | % Rearrest 0 |
| | % Failure 19 | % Failure 10 | % Failure 14 | % Failure 16 | % Failure 15 | % Failure 13 | % Failure 13 | % Failure 14 |
| | % Bound down 17 | % Bound down 28 | % Bound down 42 | % Bound down 37 | % Bound down 21 | % Bound down 8 | % Bound down 14 | % Bound down 5 |
| | % Dropped 45 | % Dropped 57 | % Dropped 51 | % Dropped 54 | % Dropped 56 | % Dropped 51 | % Dropped 39 | % Dropped 20 |
| | Cell 17 (n=37) | Cell 18 (n=105) | Cell 19 (n=67) | Cell 20 (n=67) | Cell 21 (n=102) | Cell 22 (n=50) | Cell 23 (n=73) | Cell 24 (n=73) |
| | % Nonfinancial 59 | % Nonfinancial 64 | % Nonfinancial 76 | % Nonfinancial 67 | % Nonfinancial 69 | % Nonfinancial 72 | % Nonfinancial 66 | % Nonfinancial 50 |
| | Mdn $ (0)[a] $ 0 | Mdn $ (0)[a] $ 0 | Mdn $ (0)[a] $ 0 | Mdn $ (0)[a] $ 0 | Mdn $ (0)[a] $ 0 | Mdn $ (0)[a] $ 0 | Mdn $ (0)[a] $ 0 | Mdn $ (0)[a] $ 0 |
| | % Det > 2 days 54 | % Det > 2 days 47 | % Det > 2 days 46 | % Det > 2 days 49 | % Det > 2 days 45 | % Det > 2 days 37 | % Det > 2 days 47 | % Det > 2 days 47 |
| 3 | % FTA 22 | % FTA 8 | % FTA 31 | % FTA 27 | % FTA 11 | % FTA 13 | % FTA 16 | % FTA 13 |
| | % Rearrest 18 | % Rearrest 10 | % Rearrest 10 | % Rearrest 13 | % Rearrest 9 | % Rearrest 4 | % Rearrest 3 | % Rearrest 3 |
| | % Failure 39 | % Failure 18 | % Failure 40 | % Failure 37 | % Failure 17 | % Failure 17 | % Failure 16 | % Failure 16 |
| | % Bound down 8 | % Bound down 13 | % Bound down 37 | % Bound down 30 | % Bound down 29 | % Bound down 31 | % Bound down 13 | % Bound down 9 |
| | % Dropped 58 | % Dropped 60 | % Dropped 40 | % Dropped 42 | % Dropped 53 | % Dropped 41 | % Dropped 62 | % Dropped 51 |
| | Cell 25 (n=17) | Cell 26 (n=42) | Cell 27 (n=39) | Cell 28 (n=42) | Cell 29 (n=67) | Cell 30 (n=31) | Cell 31 (n=34) | Cell 32 (n=59) |
| | % Nonfinancial 64 | % Nonfinancial 70 | % Nonfinancial 56 | % Nonfinancial 65 | % Nonfinancial 48 | % Nonfinancial 37 | % Nonfinancial 48 | % Nonfinancial 36 |
| | Mdn $ (0)[a] $ 0 | Mdn $ (0)[a] $ 0 | Mdn $ (0)[a] $ 0 | Mdn $ (0)[a] $ 0 | Mdn $ (0)[a] $ 2,000 | Mdn $ (0)[a] $ 4,500 | Mdn $ (0)[a] $1,500 | Mdn $[a] (0)a $ 9,000 |
| | % Det > 2 days 64 | % Det > 2 days 44 | % Det > 2 days 84 | % Det > 2 days 74 | % Det > 2 days 72 | % Det > 2 days 70 | % Det > 2 days 64 | % Det > 2 days 81 |
| 4 | % FTA 67 | % FTA 6 | % FTA 40 | % FTA 23 | % FTA 19 | % FTA 29 | % FTA 11 | % FTA 14 |
| | % Rearrest 40 | % Rearrest 18 | % Rearrest 40 | % Rearrest 15 | % Rearrest 12 | % Rearrest 14 | % Rearrest 22 | % Rearrest 0 |
| | % Failure 83 | % Failure 18 | % Failure 53 | % Failure 31 | % Failure 26 | % Failure 36 | % Failure 33 | % Failure 13 |
| | % Bound down 46 | % Bound down 15 | % Bound down 44 | % Bound down 19 | % Bound down 16 | % Bound down 10 | % Bound down 5 | % Bound down 3 |
| Highest risk | % Dropped 55 | % Dropped 59 | % Dropped 36 | % Dropped 30 | % Dropped 56 | % Dropped 35 | % Dropped 68 | % Dropped 41 |

[a] Median bail calculated including $0.

Table A11.2c Background data for guidelines formulation: classification of Boston Municipal Court defendants according to draft guidelines, by bail decisions, detention, defendant performance and case processing outcomes, April-October, 1984

Least serious — Most serious

Charge severity

| Probability of flight and/or crime | 1 | 2 | 3 | 4 |
|---|---|---|---|---|
| Lowest risk | Cell 1 (n=668) | Cell 2 (n=95) | Cell 3 (n=10) | Cell 4 (n=7) |
| | % Nonfinancial 89 | % Nonfinancial 70 | % Nonfinancial 100 | % Nonfinancial 0 |
| | Mdn $ $100 | Mdn $ $100 | Mdn $ $- | Mdn $ $300 |
| | Mdn $[a] (0) $ 0 | Mdn $[a] (0) $ 0 | Mdn $[a] (0) $0 | Mdn $[a] (0) $300 |
| 1 | % Det > 1 day 7 | % Det > 1 day 25 | % Det > 1 day 0 | % Det > 1 day 15 |
| | % FTA 16 | % FTA 17 | % FTA 30 | % FTA 42 |
| | % DA Rec. 3 | % DA Rec. 27 | % DA Rec. 0 | % DA Rec. 44 |
| | % Bindover 0 | % Bindover 6 | % Bindover 0 | % Bindover 44 |
| | % Dropped (90 days) 14 | % Dropped (90 days) 8 | % Dropped (90 days) 30 | % Dropped (90 days) 15 |
| | Cell 5 (n=1,800) | Cell 6 (n=470) | Cell 7 (n=53) | Cell 8 (n=77) |
| | % Nonfinancial 81 | % Nonfinancial 61 | % Nonfinancial 36 | % Nonfinancial 18 |
| | Mdn $ $100 | Mdn $ $200 | Mdn $ $200 | Mdn $ $250 |
| | Mdn $[a] (0) $ 0 | Mdn $[a] (0) $ 0 | Mdn $[a] (0) $100 | Mdn $[a] (0) $200 |
| 2 | % Det > 1 day 13 | % Det > 1 day 25 | % Det > 1 day 35 | % Det > 1 day 40 |
| | % FTA 28 | % FTA 31 | % FTA 19 | % FTA 24 |
| | % DA Rec. 6 | % DA Rec. 26 | % DA Rec. 27 | % DA Rec. 43 |
| | % Bindover 0 | % Bindover 4 | % Bindover 15 | % Bindover 45 |
| | % Dropped (90 days) 13 | % Dropped (90 days) 12 | % Dropped (90 days) 28 | % Dropped (90 days) 21 |
| | Cell 9 (n=780) | Cell 10 (n=199) | Cell 11 (n=76) | Cell 12 (n=64) |
| | % Nonfinancial 69 | % Nonfinancial 41 | % Nonfinancial 40 | % Nonfinancial 41 |
| | Mdn $ $100 | Mdn $ $200 | Mdn $ $100 | Mdn $ $300 |
| | Mdn $[a] (0) $ 0 | Mdn $[a] (0) $100 | Mdn $[a] (0) $100 | Mdn $[a] (0) $100 |
| 3 | % Det > 1 day 27 | % Det > 1 day 41 | % Det > 1 day 43 | % Det > 1 day 45 |
| | % FTA 44 | % FTA 33 | % FTA 29 | % FTA 33 |
| | % DA Rec. 11 | % DA Rec. 28 | % DA Rec. 43 | % DA Rec. 53 |
| | % Bindover 1 | % Bindover 10 | % Bindover 12 | % Bindover 32 |
| | % Dropped (90 days) 9 | % Dropped (90 days) 18 | % Dropped (90 days) 21 | %$ Dropped (90 days) 21 |
| | Cell 13 (n=125) | Cell 14 (n=66) | Cell 15 (n=29) | Cell 16 (n=43) |
| | % Nonfinancial 68 | % Nonfinancial 37 | % Nonfinancial 15 | % Nonfinancial 3 |
| | Mdn $ $250 | Mdn $ $150 | Mdn $ $300 | Mdn $ $500 |
| | Mdn $[a] (0) $ 0 | Mdn $[a] (0) $100 | Mdn $[a] (0) $300 | Mdn $[a] (0) $500 |
| 4 | % Det > 1 day 32 | % Det > 1 day 41 | % Det > 1 day 69 | % Det > 1 day 79 |
| | % FTA 2 | % FTA 36 | % FTA 41 | % FTA 30 |
| | % DA Rec. 13 | % DA Rec 16 | % DA Rec. 34 | % DA Rec. 49 |
| | % Bindover 2 | % Bindover 12 | % Bindover 31 | % Bindover 58 |
| Highest risk | % Dropped (90 days) 13 | % Dropped (90 days) 14 | % Dropped (90 days) 10 | % Dropped (90 days) 9 |

[a]Median bail calculated including $0.

Table A12.9 The distribution of 1984 Dade County felony defendants within guidelines categories (Version I): defendants at bond hearing

Least serious — Most serious

Charge severity

| Probability of flight and/or crime | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 |
|---|---|---|---|---|---|---|---|---|
| Lowest risk 1 | 2% (n = 31) PTS/Standard | 4% (n = 67) PTS/Standard | 2% (n = 29) PTS/Standard | 1% (n = 28) PTS/Standard | 2% (n = 32) PTS/Standard | 2% (n = 39) PTS/Standard | 2% (n = 39) PTS/Standard | 1% (n = 28) $500 to $2,000 |
| 2 | 2% (n = 45) PTS/Standard | 7% (n = 131) PTS/Standard | 4% (n = 70) PTS/Standard | 4% (n = 71) PTS/Standard | 7% (n = 127) PTS/Standard | 4% (n = 79) PTS/Special | 3% (n = 56) PTS/Special | 3% (n = 63) $1,500 to $3,000 |
| 3 | 2% (n = 37) PTS/Special | 6% (n = 105) PTS/Special | 4% (n = 67) PTS/Special | 4% (n = 67) PTS/Special | 5% (n = 102) PTS/Special | 3% (n = 50) PTS/Special to $500 | 4% (n = 73) PTS/Special to $1,000 | 4% (n = 73) $2,500 to $5,000 |
| 4 Highest risk | 1% (n = 17) PTS/Special to $750 | 2% (n = 42) PTS/Special to $1,000 | 2% (n = 39) $500 to $1,500 | 2% (n = 42) $750 to $2,500 | 4% (n = 67) $1,500 to $3,500 | 2% (n = 31) $2,500 to $4,500 | 2% (n = 34) $3,000 to $5,000 | 3% (n = 59) $6,000 to $11,000 |

Total n = 1,840

Table A12.10 The distribution of 1984 Dade County felony defendants within guidelines categories (Version II): defendants at bond hearing

Least serious — Most serious

Charge severity

| Probability of flight and/or crime | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 |
|---|---|---|---|---|---|---|---|---|
| Lowest risk 1 | 2% (n = 31) PTS/Standard | 4% (n = 67) PTS/Standard | 2% (n = 29) PTS/Standard | 1% (n = 28) PTS/Standard | 2% (n = 32) PTS/Standard | 2% (n = 39) PTS/Standard | 2% (n = 39) PTS/Standard | 1% (n = 28) $500 to $2,000 |
| 2 | 2% (n = 45) PTS/Standard | 7% (n = 131) PTS/Standard | 4% (n = 70) PTS/Standard | 4% (n = 71) PTS/Standard | 7% (n = 127) PTS/Standard | 4% (n = 79) PTS/Special | 3% (n = 56) PTS/Special | 3% (n = 63) $1,500 to $3,000 |
| 3 | 2% (n = 37) PTS/Special | 6% (n = 105) PTS/Special | 4% (n = 67) PTS/Special | 4% (n = 67) PTS/Special | 5% (n = 102) PTS/Special | 3% (n = 50) PTS/Special to $500 | 4% (n = 73) PTS/Special to $1,000 | 4% (n = 73) $2,500 to $5,000 |
| 4 Highest risk | 1% (n = 17) PTS/Special | 2% (n = 42) PTS/Special | 2% (n = 39) Special to $750 | 2% (n = 42) PTS/Special to $1,500 | 4% (n = 67) $1,500 to $3,500 | 2% (n = 31) $1,500 to $4,500 | 2% (n = 34) $3,000 to $5,000 | 3% (n = 59) $6,000 to $11,000 |

Total n = 1,840

Table A12.11 Estimating the impact of guidelines: comparison of bond hearing decisions projected under versions of guidelines with past decisions for Dade County felony defendants, 1984

| Decision approach | Decision category: Financial Percent | Nonfinancial Total[a] Percent | Nonfinancial Standard Percent | Nonfinancial Special Percent | Special to bond Percent |
|---|---|---|---|---|---|
| Past (1984)[b] | 31 | 69 | 49 | 20 | n/a |
| Version I guidelines[b] | 23 | 77 | 39 | 28 | 10 |
| Version II guidelines[b] | 19 | 81 | 39 | 31 | 11 |
| Detention population (1985) Under Version I guideline[c] | 50 | 50 | 12 | 25 | 13 |

[a]This category represents the total of cases receiving or possibly receiving nonfinancial bond, whether "special" or "standard." Included as well are the guidelines categories which suggest a choice of either special conditions of release or low amounts of bond. In practice, in these categories, bond could be decided as either nonfinancial or secured financial.

[b]n = 1840

[c]n = 203

Table A12.14 The distribution of 1985 Dade County pretrial detainees within guidelines categories (Version I)

Least serious — Most serious

Charge severity →

| Probability of flight and/or crime (Lowest risk → Highest risk) | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 |
|---|---|---|---|---|---|---|---|---|
| 1 | 0.5% (n = 1) PTS/Standard | 0% (n = 0) PTS/Standard | 0% (n = 0) PTS/Standard | 1.5% (n = 3) PTS/Standard | 0.5% (n = 1) PTS/Standard | 0.5% (n = 1) PTS/Standard | 0% (n = 0) PTS/Standard | 3.4% (n = 7) $500 to $2,000 |
| 2 | 2.5% (n = 5) PTS/Standard | 1.0% (n = 2) PTS/Standard | 1.5% (n = 3) PTS/Standard | 1.5% (n = 3) PTS/Standard | 2.5% (n = 5) PTS/Standard | 2.5% (n = 5) PTS/Special | 0.5% (n = 1) PTS/Special | 10.3% (n = 21) $1,500 to $3,000 |
| 3 | 7.4% (n = 15) PTS/Special | 2.5% (n = 5) PTS/Special | 2.0% (n = 4) PTS/Special | 4.9% (n = 10) PTS/Special | 5.4% (n = 11) PTS/Special | 4.9% (n = 10) PTS/Special to $500 | 1.5% (n = 3) PTS/Special to $1,000 | 22.2% (n = 45) $2,500 to $5,000 |
| 4 | 5.4% (n = 11) PTS/Special to $750 | 1.0% (n = 2) PTS/Special to $1,000 | 1.0% (n = 2) $500 to $1,500 | 0.5% (n = 1) $750 to $2,500 | 3.4% (n = 7) $1,500 to $3,500 | 1.5% (n = 3) $2,500 to $4,500 | 1.0% (n = 2) $3,000 to $5,000 | 6.9% (n = 14) $6,000 to $11,000 |

Total n = 203

Table A12.15 Estimating the impact of guidelines: comparison of arraignment decisions projected under guidelines with past decisions for Boston Municipal Court defendants, 1984

| Decisions approach | Decision Category | | | |
|---|---|---|---|---|
| | Financial | Nonfinancial Total | Nonfinancial Standard | Nonfinancial Special |
| | Percent | Percent | Percent | Percent |
| Past (1984) | 29 | 71 | 71 | 0 |
| Guidelines | 5 | 95 | 56 | 39 |
| | 8[a] | 92[a] | 56 | 36[a] |

[a]Percentages treating ROR/special to low bail categories as financial.

Table A12.16 Estimating the impact of guidelines on the use of pretrial detention among entering defendants in Boston Municipal Court

| | N | Percent | N | Percent | N | Percent | N | Percent |
|---|---|---|---|---|---|---|---|---|
| 1984 | > 1 Day ( 45) | 6.8 | > 1 Day ( 23) | 24.5 | > 1 Day ( 0) | 0 | > 1 Day ( 1) | 14.5 |
| | > 2 Days ( 7) | 2.0 | > 2 Days ( 3) | 3.0 | > 2 Days ( 0) | 0 | > 2 Days ( 0) | 0 |
| | 90 Days ( 4) | 1.0 | 90 Days ( 3) | 3.0 | 90 Days ( 0) | 0 | 90 Days ( 0) | 0 |
| Projected | > 1 Day ( 0) | 0 | > 1 Day ( 0) | 0 | > 1 Day ( 0) | 0 | > 1 Day ( 2.7) | 39.1 |
| | > 2 Days ( 0) | 0 | > 2 Days ( 0) | 0 | > 2 Days ( 0) | 0 | > 2 Days ( .9) | 12.2 |
| | 90 Days ( 0) | 0 | 90 Days ( 0) | 0 | 90 Days ( 0) | 0 | 90 Days ( 2.1) | 30.6 |
| | Cell (668) | 100.0 | Cell (95) | 100.0 | Cell (10) | 100.0 | Cell ( 7) | 100.0 |
| | | ROR/Standard | | ROR/Standard | | ROR/Standard | | $300 |
| 1984 | > 1 Day (238) | 13.2 | > 1 Day (119) | 25.3 | > 1 Day ( 19) | 35.1 | > 1 Day (31) | 39.9 |
| | > 2 Days (150) | 8.3 | > 2 Days ( 92) | 19.5 | > 2 Days ( 12) | 22.3 | > 2 Days (24) | 30.9 |
| | 90 Days ( 60) | 3.6 | 90 Days ( 26) | 5.6 | 90 Days ( 7) | 12.8 | 90 Days ( 6) | 7.8 |
| Projected | > 1 Day ( 0) | 0 | > 1 Day ( 0) | 0 | > 1 Day ( 0) | 0 | > 1 Day (30.1) | 39.1 |
| | > 2 Days ( 0) | 0 | > 2 Days ( 0) | 0 | > 2 Days ( 0) | 0 | > 2 Days (23.6) | 30.6 |
| | 90 Days ( 0) | 0 | 90 Days ( 0) | 0 | 90 Days ( 0) | 0 | 90 Days ( 9.4) | 12.2 |
| | Cell (1,800) | 100.0 | Cell (470) | 100.0 | Cell (53) | 100.0 | Cell (77) | 100.0 |
| | | ROR/Standard | | ROR/Special | | ROR/Special | | $450 |
| 1984 | > 1 Day (214) | 27.4 | > 1 Day ( 81) | 40.7 | > 1 Day ( 33) | 42.9 | > 1 Day (29) | 44.7 |
| | > 2 Days (139) | 17.8 | > 2 Day ( 55) | 27.5 | > 2 Days ( 27) | 35.0 | > 2 Days (27) | 41.6 |
| | 90 Days ( 58) | 7.4 | 90 Day ( 18) | 8.8 | 90 Days ( 11) | 14.4 | 90 Days ( 8) | 12.4 |
| Projected | > 1 Day ( 0) | 0 | > 1 Day ( 0) | 0 | > 1 Day (29.7) | 39.1 | > 1 Day (44.5) | 69.6 |
| | > 2 Days ( 0) | 0 | > 2 Days ( 0) | 0 | > 2 Days (23.3) | 30.6 | > 2 Days (42.2) | 65.9 |
| | 90 Days ( 0) | 0 | 90 Days ( 0) | 0 | 90 Days ( 9.3) | 12.2 | 90 Days (20.3) | 31.7 |
| | Cell (780) | 100.0 | Cell (199) | 100.0 | Cell (76) | 100.0 | Cell (64) | 100.0 |
| | | ROR/Special | | ROR/Special | | ROR/Special to $200 | | $600 |
| 1984 | > 1 Day ( 40) | 31.8 | > 1 Day ( 27) | 40.5 | > 1 Day ( 20) | 68.8 | > 1 Day (34) | 79.2 |
| | > 2 Days ( 34) | 27.2 | > 2 Days ( 27) | 40.5 | > 2 Day ( 17) | 58.5 | > 2 Days (33) | 76.8 |
| | 90 Days ( 15) | 11.7 | 90 Days ( 12) | 18.0 | 90 Days ( 7) | 24.2 | 90 Days (13) | 30.5 |
| Projected | > 1 Day ( 0) | 0 | > 1 Day (25.8) | 39.1 | > 1 Day (20.2) | 69.6 | > 1 Day (29.9) | 69.6 |
| | > 2 Days ( 0) | 0 | > 2 Days (20.2) | 30.6 | > 2 Days (19.1) | 65.9 | > 2 Days (28.3) | 65.9 |
| | 90 Days ( 0) | 0 | 90 Days ( 8.1) | 12.2 | 90 Days ( 9.2) | 31.7 | 90 Days (13.6) | 31.7 |
| | Cell (125) | 100.0 | Cell (66) | 100.0 | Cell (29) | 100.0 | Cell (43) | 100.0 |
| | | ROR/Special | | ROR/Special to $200 | | $600 | | $1,000 |

| | N | Percent |
|---|---|---|
| 1984 Total | (4,562) | 100.0 |
| Det > 1 day | (954) | 20.9 |
| Det > 2 days | (647) | 14.2 |
| Det 90 days | (248) | 5.4 |

| | N | Percent |
|---|---|---|
| Projected total | (4,562) | 100.0 |
| Det > 1 day | (182.9) | 4.0 |
| Det > 2 days | (158.8) | 3.5 |
| Det 90 days | ( 70.8) | 1.6 |
| Treating 2 ROR/Special to cash cells as non-cash | | |
| Det > 1 day | (127.4) | 2.8 |
| Det > 2 days | (115.3) | 2.6 |
| Det 90 days | ( 53.4) | 1.2 |

Key
> 1 Day = Detained more than 1 day
> 2 Days = Detained more than 2 days
90 Days = Detained throughout

Guidelines ranges
ROR/Standard = OR with routine conditions
ROR/Special = OR with restrictive conditions
ROR/Special to $750 = choice: OR or low bond

[Note: The estimates of the impact of guidelines assumes 100 percent compliance with guidelines and that judges would select maximum bail amounts permitted in each category.]

Table A12.17 Estimating the impact of guidelines on jail days associated with the processing of entering defendants in Boston Municipal Court

| | | | | |
|---|---|---|---|---|
| 1984 | Mn = 1.3<br>Sum = 889.1 | Mn = 0.6<br>Sum = 57.0 | Mn = 0.3<br>Sum = 2.9 | Mn = 0.4<br>Sum = 3.0 |
| Projected | Mn = 0<br>Sum = 0 | Mn = 0<br>Sum = 0 | Mn = 0<br>Sum = 0 | Mn = 5.7<br>Sum = 40.6 |
| | (n = 668) | (n = 95) | (n = 10) | (n = 7) |
| | ROR/Standard | ROR/Standard | ROR/Standard | $300 |
| 1984 | Mn = 3.3<br>Sum = 5,938.3 | Mn = 5.2<br>Sum = 2,462.1 | Mn = 3.2<br>Sum = 168.9 | Mn = 7.6<br>Sum = 582.3 |
| Projected | Mn = 0<br>Sum = 0 | Mn = 0<br>Sum = 0 | Mn = 0<br>Sum = 0 | Mn = 5.7<br>Sum = 446.6 |
| | (n = 1,800) | (n = 470) | (n = 53) | (n = 77) |
| | ROR/Standard | ROR/Special | ROR/Special | $450 |
| 1984 | Mn = 3.7<br>Sum = 2,880.6 | Mn = 6.8<br>Sum = 1,347.9 | Mn = 10.1<br>Sum = 768.4 | Mn = 15.6<br>Sum = 1,003.9 |
| Projected | Mn = 0<br>Sum = 0 | Mn = 0<br>Sum = 0 | Mn = 5.7<br>Sum = 440.8 | Mn = 19.5<br>Sum = 1,248.0 |
| | (n = 125) | (n = 199) | (n = 76) | (n = 64) |
| | ROR/Special | ROR/Special | ROR/Special to $200 | $600 |
| 1984 | Mn = 8.8<br>Sum = 1,101.2 | Mn = 9.8<br>Sum = 642.0 | Mn = 14.3<br>Sum = 414.2 | Mn = 36.7<br>Sum = 1,563.9 |
| Projected | Mn = 0<br>Sum = 0 | Mn = 5.7<br>Sum = 382.8 | Mn = 19.5<br>Sum = 565.5 | Mn = 19.5<br>Sum = 838.5 |
| | (n = 125) | (n = 66) | (n = 29) | (n = 43) |
| | ROR/Special | ROR/Special to $200 | $600 | $1,000 |

1984 Total defendants (n = 4,562)
Total jail days = 19,825.7
Mean jail days = 4.3

Projected total defendants (n = 4,562)
Projected total jail days = 3,962.8
Projected mean jail days = 0.9
Using ROR/Special to cash categories as non-cash
Projected total jail days = 3,139.2
Projected mean jail days = 0.7

[Note: The estimates of the impact of guidelines assume 100 percent compliance with guidelines and that judges would select the maximum bail amounts permitted in each category. Sums of jail days were calculated on unrounded means.]

Table A12.18 The distribution of 1985 Suffolk County pretrial detainees within guidelines categories

Least serious — Most serious

Charge severity

| Probability of flight and/or crime | 1 | 2 | 3 | 4 |
|---|---|---|---|---|
| Lowest risk 1 | 0.3% (n = 1) ROR/Standard | 0.7% (n = 2) ROR/Standard | 0% (n = 0) ROR/Standard | 0.3% (n = 1) $100 to $300 |
| 2 | 6.9% (n = 5) ROR/Standard | 17.0% (n = 2) ROR/Special | 3.1% (n = 3) ROR/Special | 14.1% (n = 3) $250 to $450 |
| 3 | 4.8% (n = 14) ROR/Special | 14.8% (n = 43) ROR/Special | 5.2% (n = 15) ROR/Special to $200 | 19.6% (n = 57) $300 to $600 |
| 4 Highest risk | 1.4% (n = 4) ROR/Special | 3.4% (n = 10) ROR/Special to $200 | 1.4% (n = 4) $300 to $600 | 6.2% (n = 18) $500 to $1,000 |

Total n = 291

# APPENDIX B

MARICOPA COUNTY

Coder _____

CARD ONE: START

IDENTIFICATION NUMBERS

____ (1-5) Sequence number [ ][ ][ ][ ][1]

01 (6-11) Booking number [ ][ ][ ][ ][ ][ ]

02 (12-17) Superior Court number [ ][ ][ ][ ][ ][ ]

03 (18-19) Precinct number [ ][ ]

04 (20-28) Social security number [ ][ ][ ][ ][ ][ ][ ][ ][ ]

05 (29-32) (Open) [ ][ ] a [ ] b [ ] c

CHARGE INFORMATION

| | | Statute number | Severity | *A/C/S | No. Counts | **Weapons | ***Force |
|---|---|---|---|---|---|---|---|
| 6-11 (33-44) | First charge | [ ][ ][ ][ ][ ][ ] | [ ] | [ ] | [ ][ ] | [ ] | [ ] |
| 12-17 (45-56) | Second charge | [ ][ ][ ][ ][ ][ ] | [ ] | [ ] | [ ][ ] | [ ] | [ ] |
| 18-23 (57-68) | Third charge | [ ][ ][ ][ ][ ][ ] | [ ] | [ ] | [ ][ ] | [ ] | [ ] |
| 24-28 (69-80) | Fourth charge | [ ][ ][ ][ ][ ][ ] | [ ] | [ ] | [ ][ ] | [ ] | [ ] |

CARD TWO

____ (1-5) Sequence number [ ][ ][ ][ ][2]

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| 29-34 (6-17) | Fifth charge | [ ][ ][ ][ ][ ][ ] | [ ] | [ ] | [ ][ ] | [ ] | [ ] |
| 35-40 (18-29) | Sixth charge | [ ][ ][ ][ ][ ][ ] | [ ] | [ ] | [ ][ ] | [ ] | [ ] |
| 41-46 (30-41) | Seventh charge | [ ][ ][ ][ ][ ][ ] | [ ] | [ ] | [ ][ ] | [ ] | [ ] |
| 47-52 (42-53) | Eighth charge | [ ][ ][ ][ ][ ][ ] | [ ] | [ ] | [ ][ ] | [ ] | [ ] |
| 53-58 (54-65) | Ninth charge | [ ][ ][ ][ ][ ][ ] | [ ] | [ ] | [ ][ ] | [ ] | [ ] |
| 59-64 (66-77) | Tenth charge | [ ][ ][ ][ ][ ][ ] | [ ] | [ ] | [ ][ ] | [ ] | [ ] |

*0=no
1=attempt
2=conspiracy
3=solicit

**0=no
1=yes,threat
2=yes,use
9=missing information

***0=no
1=verbal
2=physical,threat
3=physical,use
9=missing information

65 (78-79) If more than 10 charges, how many? [ ][ ]

00 to
96 = number of charges
98 = n/a, less than 10
99 = missing information

66 (80) Number of suspects [ ]

1 to
5 = self evident
6 = more than 5
7 = more than 1, number unknown
9 = missing information

CARD THREE

____ (1-5) Sequence number [ ][ ][ ][ ][3]

VICTIMS

67 (6-7) Number of victims [ ][ ]

00 to
96 = number of victims
97 = victims noted, number unknown
99 = missing information

If item 67 is 00, enter 8 or 98 in items 68-82.

68 (8) Does defendant know victim(s) [ ]

0 = no
1 = yes
9 = missing information

69 (9) Defendant's relationship to victim(s)
Spouse [ ]

70 (10) Child [ ]

71 (11) Parent [ ]

72 (12) Sibling [ ]

73 (13) Relative

[ ]

74 (14) Friend

[ ]

75 (15) Acquaintance

[ ]

76 (16-17) Number of male victims

[ ][ ]

00 to
96 = number of male victims
97 = male victims noted, number unknown
99 = missing information

77 (18-19) Number of female victims

[ ][ ]

00 to
96 = number of female victims
97 = female victims noted, number unknown
99 = missing information

78 (20-21) Number of victims of sexual assault

[ ][ ]

00 to
96 = number of victims of sexual assualt
97 = sexual assault victims noted, number unknown
99 = missing information

79 (22) Race of victims

[ ]

0 = white
1 = black
2 = Hispanic
3 = Native American
4 = other
5 = multiple victims, more than one race
9 = missing information

80 (23-24) Number of elderly victims

[ ][ ]

00 to
96 = number of elderly victims
97 = elderly victims noted, number unknown
[redacted]miss[redacted]nfor[redacted]n [redacted]

81 (25-26) Age of most serious victim

[ ][ ]

(Code in years, round to nearest year).
00 to
94 = age in years
95 = 95 years or older
96 = other (specify _____)
99 = missing information

82 (27) Injury to the most serious victim

[ ]

0 = no injury
1 = minor harm
2 = treated and discharged
3 = hospitalized
4 = death
8 = n/a, no person victim
9 = missing information

LOSS/DAMAGE

83 (28-29) Number of premises forcibly entered

[ ][ ]

00 to
96 = number of premises forcibly entered
97 = forcible entry noted, number unknown
98 = n/a
99 = missing information

84 (30) Property stolen and/or damaged

[ ]

0 = no
1 = property stolen 8 = n/a
2 = property damaged
3 = property stolen and damaged
4 = property crime noted, whether stolen or damaged unknown
9 = missing information

85 (31-36) Estimated value of property stolen and/or damaged

[ ][ ][ ][ ][ ][ ]

000001 to
999996 = estimated dollar value
999997 = more than $999,996
999998 = n/a
999999 = missing information
(Specify property _____)

DRUG CHARGES

86 (37) Type of drug involved

[ ]

0 = alcohol
1 = marijuana
2 = cocaine
3 = heroin/opiate
4 = barbituate/sedative
5 = amphetamine
6 = other (specify _____)
8 = n/a, no drugs involved
9 = missing information

87 (38-42) Number of drug units (pills, dosage, cigarettes)

[ ][ ][ ][ ][ ]
a b
(see instructions)

b) more than 1 drug
0 = no 1 = yes

BOOKING/BEFORE INITIAL APPEARANCE

88 (43-48) Date of booking (admission)

[ ][ ][ ][ ][ ][ ]
month day year

89 (49) Defendant interviewed by AID

[ ]

0 = no
1 = yes

90 (50) AID recommendation recorded

[ ]

0 = none shown
1 = OR
2 = OR with conditions
3 = third party custody
4 = AID supervision
5 = secured bond
6 = secured bond with conditions
7 = potentially nonbondable

INITIAL APPEARANCE

91 (51-56) Date of initial appearance

month day year

92 (57-58) Judge (see code)

93 (59)

0 = no bond
1 = OR
2 = unsecured appearance bond
3 = unsecured appearance bond with conditions
4 = secured appearance bond
5 = secured appearance bond with conditions
6 = other (specify _____)
9 = missing information

94 (60-65) If item 93 is (2,3,4,5) then code amount to be paid (in dollars)

000001 to
999995 = bond amount
999996 = more than $999,995
999997 = nonbondable case
999998 = n/a, no bond amount
999999 = missing information

Conditions of release set at initial appearance. Code 0 = no, 1 = yes

95 (66) AID supervision

96 (67) Third party custody

97 (68) Prohibition of return to scene of crime

98 (69) Restrictions on residence

99 (70) Restrictions on travel/driving

100 (71) Restrictions on associations

101 (72) Restrictions on employment

102 (73) Restrictions on education

103 (74) Prohibition of indulging in intoxicating liquors or certain drugs

104 (75) Prohibition of possession of weapons

105 (76) Other (specify _____)

Arresting officer's comments (Form 4)
Code 0 = no, 1 = yes

106 (77) Defendant attempted to avoid or resist arrest

107 (78) Evidence of the crime was found in defendant's possession

108 (79) Defendant admitted involvement in crime

109 (80) Defendant made threats against witnesses or others

CARD FOUR

(1-5) Sequence number

4

110 (6) Information indicated the defendant might flee if released

111 (7) Officer opposed an unsecured release

JUSTICE OF THE PEACE COURT

112 (8-14) Justice court number

113 (15) Case disposed at justice court

0 = no
1 = yes, dismissal
2 = yes, pled guilty
3 = other, scratched by county attorney
8 = n/a, not a justice court case
9 = missing information

ARRAIGNMENT

114 (16-21) Date of arraignment

month day year

115 (22) Arraignment disposition

Refer to codes listed for 93.

116 (23) Prior bond disposition changed at arraignment

0 = no
1 = less restrictive
2 = more restrictive
9 = missing information

117 (24-29) If item 115 is (4,5) then code amount to be paid (in dollars)

Refer to codes listed for item 94.

CHARGES AT ARRAIGNMENT

| Item | | Statute number | Severity | *A/C/S |
|---|---|---|---|---|
| 118-120 (30-37) | First charge | | | |
| 121-123 (38-45) | Second charge | | | |
| 124-126 (46-53) | Third charge | | | |
| 127-129 (54-61) | Fourth charge | | | |
| 130-132 (62-69) | Fifth charge | | | |
| 133-135 (70-77) | Sixth charge | | | |
| 136 (78-80) | bonding agency | (see item 153) | | |

CARD FIVE

| | | | | |
|---|---|---|---|---|
| (1-5) | Sequence number | 5 | | |
| 137-139 (6-13) | Seventh charge | | | |
| 140-142 (14-21) | Eighth charge | | | |
| 143-145 (22-29) | Ninth charge | | | |
| 146-148 (30-37) | Tenth charge | | | |

*0=no
1=attempt
2=conspiracy
3=solicit

149 (38) Disposition of case at arraignment?

0 = no
1 = yes, dismissal
2 = yes, pled guilty or no contest

8 = n/a
9 = missing information

RELEASE INFORMATION

150 (39-44) Date of release

month day year

888888 = not released prior to disposition or within 90 days

151 (45-47) Length of detention

000 to
996 = days detained
999 = missing information

152 (48) Obtained release at which stage?

0 = not released
1 = before initial appearance
2 = on date of initial appearance
3 = after initial appearance and before arraignment
4 = on date of arraignment
5 = more than one day after arraignment
9 = missing information

153 (49) Means of release

0 = OR
1 = paid own bond
2 = surety release
3 = third party custody
4 = other (specify _____)
8 = n/a, not released
9 = missing information

If item 153 is (2) then code bonding agency in item 136, otherwise use n/a codes.

DEMOGRAPHICS/TIES

154 (50) Sex

0 = male
1 = female

155 (51) Race

0 = white
1 = black
2 = Hispanic
3 = Native American
4 = Oriental
5 = other (specify _____)
9 = missing information

156 (52-57) Birthdate

month day year

157 (58) Present address: Maricopa County

0 = no
1 = yes
9 = missing information

158 (59) Address was verified

0 = no
1 = yes
9 = missing information

159 (60-62) Length of residence in the area (code in months)

000 to
996 [redacted]
999 = missing information

160 (63) Defendant's living arrangement

0 = alone
1 = spouse/child
2 = relative/friend
3 = other (includes institutionalized)
9 = missing information

161 (64) Phone

0 = no
1 = yes
9 = missing information

163 (66) Marital status

1 = single, never married
2 = married
3 = widowed
4 = divorced
5 = common law
6 = separated
7 = other
9 = missing information

164 (67-68) Number of children

00 to
96 = number of children
97 = children noted, number unknown
99 = missing information

FINANCIAL STATUS

165 (69) Employment status

0 = unemployed
1 = disabled
2 = retired
3 = part-time
4 = full-time
9 = missing information

166 (70-72) Length of employment (code in months)

000 = unemployed
999 = missing
001 to
995 = number of months employed
996 = employed, length unknown
997 = not applicable (housewife, student, retired, disabled, inmate, other)

167 (73) Student

0 = no
1 = yes
9 = missing information

168 (74-75) Number of years in school completed

00 to
12 = number of years schooling
13 = some college/technical training
14 = 2-year/associate degree
15 = college degree
16 = post college education
99 = missing information

169 (76) Veteran

0 = no
1 = yes
9 = missing information

170 (77) Means of support

1 = wages
2 = unemployment compensation
3 = welfare
4 = social security, disability, retirement, V.A.
5 = savings
6 = family/friends
7 = other

HEALTH

171 (78) Physical problems

0 = no
1 = yes
9 = missing information

172 (79) Hospitalized for mental problems

0 = no
1 = yes
9 = missing information

173 (80) Substance abuse

0 = no
1 = yes, past
2 = yes, present
3 = yes, past and present
4 = yes, unspecified
9 = missing information

CARD SIX

(1-5) Sequence number

6

Type of drug used.
If no drug used, i.e. item 173 = 0, code as an 8. If defendant uses drug specified, code 1 (yes), if not, code 0 (no), and if no information is provided, 9 (missing). See coding manual for classification scheme.

174 (6) Alcohol

175 (7) Marijuana

176 (8) Cocaine

177 (9) Heroin/Opiate

178 (10) Barbituate, sedative or tranquilizer

179 (11) Amphetamine

180 (12) Other (specify _____)

[ ]

181 (13) Treatment for alcoholism

[ ]

0 = no 8 = n/a
1 = yes
9 = missing information

182 (14) Treatment for drug addiction

[ ]

0 = no 8 = n/a
1 = yes
9 = missing information

PRIOR CRIMINAL RECORD

183 (15-16) Number of prior arrests

[ ][ ]

00 to
96 = number of prior arrests
97 = noted, number unknown
99 = missing information

184 (17-18) Number of recent prior arrests (within past three years of this case)

[ ][ ]

00 to
96 = number of recent prior arrests
97 = noted, number unknown
99 = missing information

185 (19-20) Number of prior arrests for serious personal offenses

[ ][ ]

00 to
96 = number of prior arrests for serious personal offenses
97 = noted, number unknown
99 = missing information

186 (21-22) Number of prior arrests for serious property offenses

[ ][ ]

00 to
96 = number of prior arrests for serious property offenses
97 = noted, number unknown
99 = missing information

187 (23-24) Number of prior arrests for drug offenses

[ ][ ]

00 to
96 = number of prior arrests for drug offenses
97 = noted, number unknown
99 = missing information

188 (25-26) Number of prior arrests for weapon offenses

[ ][ ]

00 to
96 = number of prior arrests for weapon offenses
97 = noted, number unknown
99 = missing information

189 (27-28) Number of prior convictions

[ ][ ]

00 to
96 = number of prior convictions
97 = noted, number unknown
99 = missing information

190 (29-30) Number of prior felony convictions

[ ][ ]

00 to
96 = number of prior felony convictions
97 = noted, number unknown
99 = missing information

191 (31-32) Number of prior misdemeanor convictions

[ ][ ]

00 to
96 = number of prior misdemeanor convictions
97 = noted, number unknown
99 = missing information

192 (33-34) Number of prior convictions for serious personal offenses

[ ][ ]

00 to
96 = number of prior convictions for serious personal offenses
97 = noted, number unknown
99 = missing information

193 (35-36) Number of prior convictions for serious property offenses

[ ][ ]

00 to
96 = number of prior convictions for serious property offenses
97 = noted, number unknown
99 = missing information

194 (37-38) Number of prior convictions for drug offenses

[ ][ ]

00 to
96 = number of prior convictions for drug offenses
97 = noted, number unknown
99 = missing information

195 (39-40) Number of prior convictions for weapon offenses

[ ][ ]

00 to
96 = number of prior convictions for weapon offenses
97 = noted, number unknown

196 (41-42) On probation or parole at time of arrest

[ ][ ]

0 = no
1 = yes
9 = missing information

197 (43-44) Record of non appearance at prior court proceedings. (number of FTA's)

[ ][ ]

00 to
96 = number of FTA's
97 = noted, number unknown
99 = missing information

198 (45-46) Number of outstanding warrants or holds

[ ][ ]

00 to
96 = number of outstanding warrants or detainers
97 = noted, number unknown
99 = missing information

199 (47) Defendant is on pretrial release for a previous charge

[ ]

0 = no
1 = yes, felony
2 = yes, misdemeanor
3 = yes, charge unknown
9 = missing information

200 (48) Counsel appointed

[ ]

0 = no
1 = yes, public defender appointed outright
2 = yes, public defender with weekly fee required
3 = yes, private counsel
9 = missing information

201 (49-50) If item 200 is (2) then specify in dollars the weekly contribution required of the defendant, otherwise code n/a = 98

[ ][ ]

FOLLOW-UP INFORMATION

202 (51) Review: current case disposed before 90 days?

[ ]

0 = no
1 = case dismissed
2 = yes, pled guilty or no contest
3 = yes, acquitted
4 = yes, found guilty
9 = missing information

203 (52-57) If item 202 is (1-4), then code date of disposition. Otherwise code 888888 for not applicable (n/a)

[ ][ ][ ][ ][ ][ ]
month day year

204 (58) Failed to appear within 90 days

[ ]

0 = no
1 = yes
8 = not released
9 = missing information

205 (59-64) Date of first nonappearance in court

[ ][ ][ ][ ][ ][ ]
month day year

206 (65) Rearrested within 90 days of release

[ ]

0 = no
1 = yes
8 = not released
9 = missing information

207 (66-67) Most serious offense for which rearrested (see coding manual)

[ ][ ]

01 = miscellaneous
02 = public order
03 = weapons
04 = public administration
05 = other personal
06 = other property
07 = drugs (manufacture, delivery, sale)
08 = aggravated assault
09 = burglary
10 = robbery
11 = serious personal
97 = not released
98 = not rearrested
99 = missing information

208 (68-74) Statute and severity ranking of most serious offense

a [ ][ ][ ][ ][ ][ ] b [ ]

209 (75-80) Date of first rearrest

[ ][ ][ ][ ][ ][ ]
month day year

ADDRESS ADDENDUM

210 (____) 1. Print defendant's address (No., street, town, zip)

211 (____) Print address of scene of crime

CARD SEVEN

____ Sequence number
(1-5)

| | | | | |
|---|---|---|---|---|
| | | | | 7 |

CASE DISPOSITION

212 (6) If case was completed eight months from I.A., at what stage?

| |
|---|
| |

0 = not completed
1 = all charges dismissed or dropped
2 = case diverted
3 = conviction: pled guilty
4 = conviction: found guilty (trial)
5 = acquitted on all charges
6 = sentenced

213 (7) If item 212 is (6) then code type of sentence, otherwise use n/a code

| |
|---|
| |

0 = suspended sentence
1 = probation only
2 = fine or restitution only
3 = incarceration only
4 = probation and fine or restitution
5 = probation and incarceration
6 = fine or restitution and incarceration
7 = probation, fines or restitution, and incarceration

214 (8-9) If item 213 is (1,4,5,7) code length of probation in months

| | |
|---|---|
| | |

95 = more than 94 months
98 = n/a

215 (10-12) If item 213 is (3,5,6,7) code length of incarceration in months

| | | |
|---|---|---|
| | | |

994 = more than 993 months
995 = part-time sentence only
(specify length _____)
996 = life sentence
997 = capital sentence
998 = n/a

Jail Population Study
Maricopa County

Coder _____

CARD ONE

Sequence number
(1-4)

| | | | |
|---|---|---|---|
| | | | 1 |

1 Booking number
(5-10)

2 Arrest precinct number
(11-12)

3 Superior court number
(13-18) (most recent)

4 Date of study
(19-24)

| month | | day | | year | |
|---|---|---|---|---|---|
| 0 | 9 | 2 | 1 | 8 | 5 |

5 Date admitted to jail
(25-30)

| month | | day | | year | |
|---|---|---|---|---|---|
| | | | | | |

6-9 Which of the following reasons are holding the defendant in jail? (If there are less than four reasons, write 98 in all unused spaces).

6
(31-32)

7
(33-34)

8
(35-36)

9
(37-38)

01 = bail or awaiting IA
02 = bench warrant
03 = probation violation
04 = parole violation
05 = awaiting sentencing
06 = sentenced inmate
08 = awaiting transport to prison
09 = appeal
10 = request from another jurisdiction
12 = held for Federal government
98 = n/a
99 = missing

BAIL INFORMATION

10 Date of arrest
(39-44)

| month | | day | | year | |
|---|---|---|---|---|---|
| | | | | | |

11 Is defendant being held on new charges for which s/he has not posted bail?
(45)

0 = no
1 = yes
9 = missing

12 Date of initial appearance (most recent)
(46-51)

| month | | day | | year | |
|---|---|---|---|---|---|
| | | | | | |

13 What was the original (IA) bail amount for these charges? (sum of all cases)
(52-57)

000000 = ROR
000001 to
999996 = cash amount
777777 = held without bail
999998 = n/a, not held on bail
999999 = missing

14 What is the total bail amount now holding the defendant? (sum of all cases)
(58-63)

000000 = ROR
000001 to
999996 = cash amount
777777 = held without bail
999998 = n/a, not held on bail
999999 = missing

15 Total number of JP court numbers
(64)

0 to
5 = number of JP court numbers
6 = more than 5
7 = Grand Jury indictment
8 = n/a, no new charges
9 = missing

16 JP court number (first case)
(65-71)

17 JP court number (second case)
(72-78)

18 Total number of all cases
(79-80)

0 to
5 = number
6 = more than five
7 = Grand Jury indictment
8 = n/a, no new charges
9 = missing

CARD TWO

Sequence number
(1-4)

| | | | |
|---|---|---|---|
| | | | 2 |

19 JP court number (third case)
(5-11)

20 JP court number (fourth case)
(12-18)

21 JP court number (fifth case)
(19-25)

22 If held on bail, defendant is at what stage of processing?
(26)

0 = before IA (M or F)
1 = M: between IA and JP arraignment
2 = M: between JP arr. and adjudication
3 = F: between IA and JP preliminary hearing
4 = F: between JP prel. hr. and SC arraignment
5 = F: between SC arr. and adjudication
8 = n/a, not held on bail
9 = missing

23 (27) Total number of charges (sum of all cases)

1 to
5 = number
6 = more than 5
8 = n/a, not held on bail
9 = missing

24 (28-33) Statute number (most serious charge)

25 (34) Seriousness level (item 24)

26 (35) Offense type (item 24)

1 = crime against person
2 = robbery
3 = burglary
4 = other property crime
5 = drug-related
6 = weapon
7 = prostitution
9 = missing
0 = other (specify _____)

27 (36-41) Statute number (second serious)

28 (42) Seriousness level

29 (43) Offense type

1 = crime against person
2 = robbery
3 = burglary
4 = drug-related
5 = weapon
6 = prostitution
7 = victimless
8 = n/a, not held on bail
9 = missing
0 = other

30 (44) Had the defendant secured release previously on these charges?

0 = no indication that bond was posted
1 = yes, ROR
2 = yes, posted by defendant
3 = yes, posted by third party
4 = yes, posted by bond agency
5 = yes, other (specify _____)
8 = n/a, not held on bail (sentenced)
9 = missing

31 (45) AID interviewed defendant

0 = no
1 = yes
9 = missing

32 (46) AID recommendation

0 = none shown
1 = OR
2 = OR with conditions
3 = third party custody
4 = AID supervision
5 = secured bond
6 = secured bond with conditions
7 = potentially nonbondable
8 = n/a, not held on bail
9 = missing

33 (47) Arresting officer thought defendant attempted to avoid or resist arrest (Form 4)

0 = no
1 = yes
8 = n/a, not held on bail
9 = missing

34 (48) Police found evidence of the crime in defendant's possession (Form 4)

0 = no
1 = yes
8 = n/a, not held on bail
9 = missing

35 (49) Defendant admitted involvement in crime (Form 4)

0 = no
1 = yes
8 = n/a, not held on bail
9 = missing

36 (50) Defendant made threats against witness(s) or others (Form 4)

0 = no
1 = yes
8 = n/a, not held on bail
9 = missing

37 (51) Information indicated the defendant might flee if released (Form 4)

0 = no
1 = yes
8 = n/a, not held on bail
9 = missing

38 (52) Police opposed release (Form 4)

0 = no
1 = yes
8 = n/a, not held on bail
9 = missing

39 (53) If charges involve loss or damage to property, indicate amount:

0 = no loss or damage
1 = $100 or less
2 = $101 - $500
3 = $501 - $1,000
4 = more than $1,000
5 = noted, amount unknown
8 = n/a, not held on bail
9 = missing

40 (54) If charges involve victims, indicate number:

0 to
5 = number of victims
6 = more than 5
7 = noted, number unknown
8 = n/a, not held on bail
9 = missing

41 (55) Level of injury to most injured victim

0 = no injury
1 = minor harm
2 = treated and discharged
3 = hospitalized
4 = death
8 = n/a, not held on bail
9 = missing

42 (56) Relationship of defendant and victim (item 41). Defendant is:

0 = stranger
1 = spouse
2 = child
3 = parent
4 = sibling
5 = other relative
6 = friend
7 = acquaintance
8 = n/a, not held on bail, or no victim
9 = missing

43 (57) Number of female victims

0 to
5 = number
6 = more than five
7 = noted, number unknown
8 = n/a, not held on bail
9 = missing

44 (58) Number of male victims

0 to
5 = number
6 = more than five
7 = noted, number unknown
8 = n/a, not held on bail
9 = missing

45 (59) Number of elderly victims

0 to
5 = number
6 = more than five
7 = noted, number unknown
8 = n/a, not held on bail
9 = missing

46 (60) Defendant represented by:

0 = no counsel
1 = public defender
2 = public defender with weekly fee
3 = court appointed private counsel
4 = private counsel
8 = n/a, not held on bail
9 = missing

47 (61-62) Record of appearance at prior court proceedings

00 to
96 = number of failures to appear
97 = noted, number unknown
98 = n/a, not held on bail
99 = missing

48 (63-64) Other pending cases

00 to
96 = number of other pending charges
97 = noted, number unknown
98 = n/a, not held on bail
99 = missing

49 (65) Seriousness level of most serious charge in pending case

50 (66-71) Total amount of bail set on item 48.

000000 = ROR
000001 to
999996 = cash amount
999998 = n/a, not held on bail
999999 = missing

51 (72) Pending cases: serious crime against person (murder, rape, kidnap, agg. assault)

0 = no
1 = yes
8 = n/a, not held on bail
9 = missing

52 (73) Pending cases: robbery

0 = no
1 = yes
8 = n/a
9 = missing

53 (74) Pending cases: burglary

0 = no
1 = yes
8 = n/a
9 = missing

54 (75) Pending cases: drug-related

0 = no
1 = yes
8 = n/a, not held on bail
9 = missing

55 (76) Pending cases: weapon

0 = no
1 = yes
8 = n/a, not held on bail
9 = missing

56 (77-78) Next hearing scheduled (see item 22)

00 = JP arraignment
01 = JP preliminary hearing
02 = JP trial
03 = JP sentencing
04 = SC arraignment
05 = SC pretrial conference
06 = SC trial
07 = SC sentencing
10 = SC other (specify _____)
08 = n/a, not held on bail
09 = missing

57 (79-80) Open

CARD THREE

Sequence number (1-4)

3

58 (5-10) Trial date set

month day year

000000 = no
999997 = awaiting sentence, still on bail
999998 = n/a, not held on bail
999999 = missing

59 (11) Number of continuances related to this case

0 to
5 = number of continuances
6 = more than five
8 = n/a, not held on bail
9 = missing

BENCH WARRANT INFORMATION

60 (12-13) How many bench warrants are holding this defendant?

00 to
96 = number of warrants
97 = noted, number unknown
99 = missing

61 (14-19) What is the total amount of bench warrant?

000000 to
999996 = cash amount
999997 = noted, amount unknown
999998 = n/a, not held on bench warrant
999999 = missing

62 (20-25) Statute number (most serious bench warrant)

999998 = n/a, not held on bench warrant
999999 = missing

63 (26) Seriousness level (item 62)

PROBATION VIOLATION INFORMATION

64 (27) Is defendant held on probation violation?

0 = no
1 = yes, new charge-related
2 = yes, technical
3 = yes, unspecified
9 = missing

65 (28-33) Date of detainer (issued)

month day year

999998 = n/a, not held on probation violation
999999 = missing

66 (34-39) Statute for most serious conviction for which defendant was on probation

999998 = n/a, not held on probation violation
999999 = missing

67 (40) Seriousness level (item 66)

PAROLE VIOLATION INFORMATION

68 (41) Is defendant held on parole violation?

0 = no
1 = yes, new charge-related
2 = yes, technical
3 = yes, unspecified

69 (42-47) Date of detainer (issued)

month day year

999998 = n/a, not held on parole violation
999999 = missing

70 (48-53) Statute for most serious conviction for which defendant served sentence

999998 = n/a, not held on parole violation
999999 = missing



71 (54) Seriousness level (item 70)

INFORMATION ON DEFENDANTS AWAITING SENTENCING

72 (55) Is defendant being held awaiting sentencing?

0 = no
1 = awaiting sentence but held for another reason
2 = yes
9 = missing

73 (56-61) Date of conviction

month day year

999998 = n/a, not awaiting sentence
999999 = missing

74 (62-67) Date scheduled for sentencing

month day year

999998 = n/a, not awaiting sentence
999999 = missing

75 (68-73) Date presentence investigation reported to court

month day year

999997 = not completed
999998 = n/a, not awaiting sentence
999999 = missing

76 (74-79) Date mental evaluation reported to court

month day year

999997 = not requested
999998 = n/a, not awaiting sentence
999999 = missing

SENTENCED PRISONER INFORMATION

77 (80) Is defendant a sentenced prisoner?

0 = no
1 = yes
9 = missing

CARD FOUR

Sequence number (1-4)

4

78 (5-6) Length of minimum sentence

00 = less than one month
01 to
60 = between one month and five years (months)
75 = five years one day to ten years
80 = more than ten years
81 = other (_____)
98 = n/a, not sentenced
99 = missing

79 (7-8) Length of maximum sentence (use same codes as item 78)

80 (9-14) Date of sentence

month day year

999998 = n/a, not sentenced
999999 = missing

81 (15) Other conditions of sentence

0 = none
1 = probation
2 = fines
3 = restitution
4 = community service
5 = work furlough
6 = other (_____)
8 = n/a, not sentenced
9 = missing

82 (16-21) Statute for most serious sentence

999998 = n/a, not sentenced
999999 = missing

83 (22) Seriousness level (item 82)

84 (23) Was sentenced person detained before conviction?

0 = no
1 = yes
8 = n/a, not sentenced
9 = missing

85 (24) Was sentenced person detained after conviction?

0 = no
1 = yes
8 = n/a, not sentenced
9 = missing

86 (25) Was time already served part of sentence?

0 = no
1 = yes
8 = n/a, not sentenced
9 = missing

87 (26-27) Length of time-served credit

00 to
96 = number of months
97 = number unknown
98 = n/a, not sentenced
99 = missing

88 (28-33) Expected date of release

month day year

999997 = life sentence, no release
999998 = n/a, not sentenced
999999 = missing

89 (34) If sentenced crime(s) involved loss or damage to property, indicate amount:

0 = $100 or less
1 = $101 - $500
2 = $501 - $1,000
3 = more than $1,000
7 = noted, amount unknown
8 = n/a, not sentenced
9 = missing

90 (35) If sentenced crime(s) involved victims, indicate number:

0 to
5 = number of victims
6 = more than 5
7 = noted, number unknown
8 = n/a, not sentenced
9 = missing

91 (36) Level of injury to most injured victim

0 = no injury
1 = minor harm
2 = treated and discharged
3 = hospitalized
4 = death
8 = n/a, not sentenced
9 = missing

92 (37) Relationship of defendant and victim (item 91). Defendant is:

0 = stranger
1 = spouse
2 = child
3 = parent
4 = sibling
5 = other relative
6 = friend
7 = acquaintance
8 = n/a, not sentenced
9 = missing

93 (38) Number of female victims

0 to
5 = number
6 = more than five
7 = noted, number unknown
8 = n/a, not sentenced
9 = missing

94 (39) Number of male victims

0 to
5 = number
6 = more than five
7 = noted, number unknown
8 = n/a, not sentenced
9 = missing

95 (40) Number of elderly victims

0 to
5 = number
6 = more than five
7 = noted, number unknown
8 = n/a, not sentenced
9 = missing

OTHER REASON FOR DETENTIONS

96 (41) Is the defendant being held for any other reason not previously noted?

0 = no
1 = awaiting transport to prison
2 = appeal
3 = request from another jurisdiction
4 = held for Federal government
9 = missing

DEMOGRAPHICS/TIES

97 (42) Defendant was resident of Maricopa County at time of custody

0 = no
1 = yes
9 = missing

98 (43) Living arrangement

0 = alone
1 = spouse/child
2 = relative/friend
3 = institution/group home
9 = missing

99 (44) Relatives/friends in Maricopa County

0 = no
1 = relative
2 = friends
3 = spouse
4 = child
5 = 2 or more
9 = missing

100 (45) Marital status

0 = single, never married
1 = married
2 = widowed
3 = divorced/separated
4 = common law
5 = other
9 = missing

101 (46) Employment at time of custody

0 = no, unemployed
2 = no, housewife, student, retired, disabled, inmate
3 = yes, part-time
4 = yes, full-time
9 = missing

102 (47) Means of support (if employed and nothing contrary is stated, code 1)

0 = none noted
1 = wages
2 = unemployment compensation
3 = welfare
4 = social security, disability, retirement, VA
5 = savings
6 = family/friends
7 = other
9 = missing

103 (48-49) Number of years of schooling

00 to
12 = number
13 = some college/technical training
14 = 2-year/associate degree
15 = college degree
16 = post college education
99 = missing

104 (50) Sex

0 = male
1 = females

105 (51) Race

0 = white
1 = black
2 = Hispanic
3 = Native American
4 = Oriental
5 = other
9 = missing

106 (52-57) Birthdate

month day year

999999 = missing

HEALTH

107 (58) Is there an indication of past mental health problems?

0 = no
1 = yes
9 = missing

108 (59) Is there an indication of present mental health problems? (in jail)

0 = no
1 = yes
2 = yes, institutionalized
9 = missing

109 (60) Physical problems

0 = no
1 = yes
9 = missing

110 (61) History of alcohol abuse

0 = no
1 = yes
2 = yes, treatment noted
9 = missing

111 (62) History of drug abuse

0 = no
1 = yes
2 = yes, treatment noted
9 = missing

PRIOR CRIMINAL RECORD

Use the following codes in this section:

0 to
5 = number
6 = more than five
7 = noted, number unknown
9 = missing

112 (63) Number of prior arrests (one date equals one arrest)

113 (64) Number of recent prior arrests (within past 3 years)

114 (65) Number of prior arrests: serious crimes against the person (murder, rape, kidnapping, agg. assault)

115 (66) Number of prior arrests: serious property crimes (arson, grand theft/larceny)

116 (67) Number of prior arrests: robbery

117 (68) Number of prior arrests: burglary

118 (69) Number of prior arrests: drug-related

119 (70) Number of prior arrests: weapons

120 (71) Total number of prior convictions (each statute counted separately)

121 (72) Number of prior convictions: juvenile only

122 (73) Number of prior convictions: serious personal crime against the person

123 (74) Number of prior convictions: serious property crime

124 (75) Number of prior convictions: robbery

125 (76) Number of prior convictions: burglary

126 (77) Number of prior convictions: drug-related

127 (78) Number of prior convictions: weapons

128 (79) Number of prior felony convictions

129 (80) Number of prior misdemeanor convictions

MARICOPA COUNTY

CARD ONE: START
_____ Sequence number
(1-5)

| | | | | |
|---|---|---|---|---|
| | | | | 1 |

IDENTIFICATION NUMBERS
01 Booking numbers
(6-11)

| | | | | | |
|---|---|---|---|---|---|
| | | | | | |

02 Date of booking
(12-17)

| | | | | | |
|---|---|---|---|---|---|
| | | | | | |

03 First charge
(18-27)

Gr. Att. W. Drg.

| | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|
| | | | | | | | | | |

04 Second charge
(28-37)

Gr. Att. W. Drg.

| | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|
| | | | | | | | | | |

05 Third charge
(38-47)

Gr. Att. W. Drg.

| | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|
| | | | | | | | | | |

GUIDELINES CLASSIFICATION
06 Severity level: before special factors
(48)

[ ] 1-6 = level 9 = missing

07 Special severity factors
(49)

[ ]

1 = weapon used
2 = injury to victim
3 = two or more serious counts at level 5 or higher
4 = 1 and 2
5 = 1 and 3
6 = 2 and 3
8 = no change
9 = missing

08 Final severity level
(50)

[ ] 1-6 = level 9 = missing

RISK SCORING
09 Beginning score
(51)

[1]

10 Prior FTAs
(52-53)

[ ][ ]

00 = none
06 = one
40 = two or more

11 Police note flight risk facts
(54-55)

[ ][ ] 00 = no 67 = yes

12 Property offense
(56-57)

[ ][ ] 00 = no, person offense 34 = yes

13 Defendant lives alone
(58-59)

[ ][ ] 00 = no 37 = yes

14 Charges involve robbery
(60-61)

[ ][ ] 00 = no 45 = yes

15 Police flight risk and FTAs
(62-63)

[ ][ ]

00 = no
08 = police note and FTA
17 = police note and two or more FTAs

16 Police note risk and lives alone
(64-65)

[ ][ ] 00 = no 28 = yes

17 Total risk points
(66-68)

[ ][ ][ ]

18 Risk group
(69)

[ ] 1-4 = group 9 = missing

OTHER GUIDELINES INFORMATION
19 Unusual circumstances
(70-72)

1st 2nd 3rd

[ ] [ ] [ ]

For values 0 to 6 see coding instructi
7 = other(specify)_____
9 = missing

20 More than 3 unusual circumstances given?
(73)

[ ] 0 = no 1 = yes 8 = n/a 9 = missing

21 Suggested decision cell?
(74-75)

[ ][ ] 1-24 = cells 99 = missing

22 Suggested special conditions
(76-77)

1st 2nd

[ ] [ ]

0 = none indicated
1 = PTS supervision
2 = third party
3 = other(specify)_____
9 = missing

23 More than two special conditions?
(78)

[ ] 0 = no 1 = yes 8 = n/a 9 = missing

DECISION
24 Commissioners decision
(79)

[ ]

0 = nonfinancial standard
1 = nonfinancial special
2 = secured bond
9 = missing

25 Blank
(80)

[ ]

CARD TWO

_____ Sequence number
(1-5)

| | | | | 2 |
|---|---|---|---|---|

26 If secured bond, give amount
(6-11)

| | | | | | |
|---|---|---|---|---|---|

000001 to
999995 = bond amount in dollars
999996 = more than $999,995
999997 = no bond amount set
999998 = nonbondable case
999999 = missing

27 Other conditions and restrictions
(12-14)

1st 2nd 3rd

0 = none
1 = scene of the crime
2 = victim
3 = weapons
4 = alcohol, license
5 = reside at
6 = contact
7 = reside with
8 = other

28 More than 3 other conditions
(15) and restrictions

0 = no 1 = yes 8 = n/a 9 = missing

29 Guidelines followed by commissioner?
(16)

0 = no 8 = n/a checked
1 = yes 9 = missing

30 If not followed reasons given
(17-20)

1st 2nd

00 = nonbondable
01 = prob./parole hold
02 = sentenced
03 = fugitive
04 to
20 = other(specify)
88 = not followed, but no reason given

31 More than two reasons given?
(21)

0 = no 1 = yes

32 Name of commissioner making decision
(22)

1 = Kiefer
2 = Strohson
3 = Wiehn
4 = Jackson
5 = Lo Bue
6 = Bixby
7 = other(specify)_____
9 = missing

DEMOGRAPHICS/TIES

33 Date of birth
(23-28)

34 Age
(29-30)

35 Gender (sex)
(31)

0 = male 1 = female

36 Race/ethnicity
(32)

0 = white
1 = black
2 = Hispanic
3 = Native American
4 = Oriental
5 = other
9 = missing

37 Present address: Maricopa County?

0 = no 1 = yes 9 = missing

38 Length of residence
(34)

0 = less than one month
1 = 1-3 months
2 = 4-6 months
3 = 7-12 months
4 = 13-24 months
5 = more than two years
9 = missing

39 Phone
(35)

0 = no 1 = yes 9 = missing

40 Health problems
(37-37)

00 = none indicated
01 = physical
02 = drug
03 = alcohol
04 = mental health
05 = 1 and 4
06 = 1 and 3
07 = 1 and 2
08 = 2 and 3
09 = 2 and 4
10 = 3 and 4
99 = missing

41 Marital status
(38)

1 = single
2 = married
3 = widowed
4 = divorced
5 = common law
6 = separated
7 = other
9 = missing

42 Defendant's living arrangements
(39)

0 = alone
1 = spouse/child
2 = relative/friend
3 = other(includes institutionalized)
9 = missing

43 Length of employment
(40)

0 = unemployed
1 = 6 months or less
2 = more than 6 months and less than 1 year
3 = 1 year or more
6 = emloyed, length unknown
8 = n/a, (housewife, student, retired, disabled)

44 Employer indicated?
(41)

0 = no
1 = yes
8 = unemployed
9 = missing

45 Spouse employed
(42)

0 = spouse's employer not given
1 = spouse's employer given
8 = n/a, not married

46 Monthly pay (not net)
(43)

0 = no monthly pay
1 = sum up to $500
2 = $501-999
3 = $1,000-1,900
4 = $2,000 or more
8 = employed but pay not known
9 = missing

47 Afford lawyer
(44)

0 = requests PD
1 = def. says can afford
9 = missing

48 Social security number
(45-53)

49 Lawyer appointed
(54)

0 = PVT or private
1 = PD
2 = NE
9 = missing

50 IA date (date of initial appearance)
(55-60)

51 Was person released within 48 hrs.?
(61)

0 = no 1 = yes 9 = missing

52 Date of release
(62-67)

888888 = not released

53 Date case terminated if within 90 days
(68-73)

000000 = case not terminated before 90 days
Note: if scratched, enter date two days later than IA date.

54 Type of release
(74)

0 = OR
1 = secured bond
2 = other
8 = not released

55 Failure to appear during release?
(75) (within 92 days of IA)

0 = no
1 = yes
8 = not released
9 = missing

56 Blank
(76-80)

CARD THREE

Sequence number
(1-5)

3

57 Date of FTA
(6-11)

If no date/no FTA -- enter 888888

58 Rearrested during release?
(12)

0 = no
1 = yes
8 = not released
9 = missing

59 Date of rearrest
(13-18)

(Enter date from column following Rearrest/FTA
If no date--no rearrest (no statute number)
--enter 888888)

60 If rearrested, statute number for new charge
(19-25) Gr.

61 Prior arrests
(26)

0 = none
1 = one
2 = two
3 = three or more
9 = missing

62 Prior convictions
(27)

0 = none
1 = one
2 = two
3 = three or more
9 = missing

63 On probation or parole?
(28)

0 = no 1 = yes

64 Presently out on pretrial release?
(29)

0 = no 1 = yes

KEYPUNCHER NOTE: This page only, left to right/top row to bottom row.

CARD ONE: START

DADE COUNTY
Coder

IDENTIFICATION NUMBERS

(1-5) Sequence number: 1

01 (6-14) Jail number: 8 4

02 (15-24) Court number: a 8 b 4 c

03 (25-33) Social security number

CHARGE INFORMATION

| | | Statute number | Severity | *A/C/S | No. Counts | **Weapons | ***Force |
|---|---|---|---|---|---|---|---|
| 4-9 (34-45) | First charge | | | | | | |
| 10-15 (46-57) | Second charge | | | | | | |
| 16-21 (58-69) | Third charge | | | | | | |
| 22-26 (70-80) | Fourth charge | | | | | | X |

CARD TWO

(1-5) Sequence number: 2

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| 27-32 (6-17) | Fifth charge | | | | | | |
| 33-38 (18-29) | Sixth charge | | | | | | |
| 39-44 (30-41) | Seventh charge | | | | | | |
| 45-50 (42-53) | Eighth charge | | | | | | |
| 51-56 (54-65) | Ninth charge | | | | | | |
| 57-62 (66-77) | Tenth charge | | | | | | |

*0=no
1=attempt
2=conspiracy
3=solicit
4=principle

**0=no
1=yes,threat
2=yes,use
9=missing information

***0=no
1=verbal
2=physical,threat
3=physical,use
9=missing information

63 (78-79) If more than 10 charges, how many?

00-96 = number of charges
98 = n/a, less than 10
99 = missing information

64 (80) Number of suspects

1-5 = self evident
6 = more than 5
7 = more than 1, number unknown
9 = missing information

CARD THREE

(1-5) Sequence number: 3

VICTIMS

65 (6-7) Number of victims

00-96 = number of victims
97 = victims noted, number unknown
99 = missing information

If item 65 is 00, enter 8 or 98 in items 66-80.

66 (8) Does defendant know victim(s)?

0 = no
1 = yes
9 = missing information

67 (9) Defendants relationship to victim(s).
Spouse

68 (10) Child

69 (11) Parent

70 (12) Sibling

71 (13) Relative

72 (14) Friend

[ ]

73 (15) Acquaintance

[ ]

74 (16-17) Number of male victims

[ ][ ]

00-96 = number of male victims
97 = male victims noted, number unknown
99 = missing information

75 (18-19) Number of female victims

[ ][ ]

00-96 = number of female victims
97 = female victims noted, number unknown
99 = missing information

76 (20-21) Number of victims of sexual assault

[ ][ ]

00-96 = number of victims of sexual assault
97 = sexual assault victims noted, number unknown
99 = missing information

77 (22) Race of victim

[ ]

0 = white
1 = black
2 = Hispanic
3 = other
4 = multiple victims, more than one race
9 = missing information

78 (23-24) Number of elderly victims

[ ][ ]

00-96 = number of elderly victims
97 = elderly victims noted, number unknown
99 = missing information

79 (25-26) Age of most serious victim

[ ][ ]

(Code in years, round to nearest year).
00-94 = age in years
95 = 95 years or older
96 = other (specify _____)
99 = missing information

80 (27) Injury to the most serious victim

[ ]

0 = no injury
1 = minor harm
2 = treated and discharged
3 = hospitalized
4 = death
8 = n/a, no person victim
9 = missing information

LOSS/DAMAGE

81 (28-29) Number of premises forcibly entered

[ ][ ]

01-96 = number of premises forcibly entered
97 = forcible entry noted, number unknown
98 = n/a, also = 0
99 = missing information

82 (30) Property stolen and/or damaged

[ ]

0 = no
1 = property stolen
2 = property damaged
3 = stolen and damaged
8 = n/a
4 = property crime noted, whether stolen or damaged unknown
9 = missing information

83 (31-36) Estimated value of property stolen and/or damaged

[ ][ ][ ][ ][ ][ ]

000001 to
999996 = estimated dollar value
999997 = more than $999,996
999998 = n/a,
999999 = missing information
(Specify property _____)

DRUG CHARGES

84 (37) Type of drug involved (If more than 1 code drug of highest quantity)

[ ]

0 = alcohol
1 = marijuana
2 = cocaine
3 = heroin/opiate
4 = barbituate/sedative
5 = amphetamine
6 = other (specify _____)
8 = n/a, no drugs involved
9 = missing information

85 (38-42) Number of drug units (pills, dosage, cigarettes)

a [ ][ ][ ][ ][ ] b

b) more than 1 drug
0=no 1=yes

(See instructions)

BOOKING/PRE-BOND HEARING

86 (43-48) Date of booking (admission)

[ ][ ][ ][ ][ ][ ]
month day year

87 (49-54) Total bail schedule bond

[ ][ ][ ][ ][ ][ ]

000000 = PTA/OR
000001 to
999995 = bond amount in dollars
999996 = more than $999,995
333333 = nonschedule
999998 = nonbondable case
999999 = missing information

88 (55-60) Schedule bond for most serious charge

[ ][ ][ ][ ][ ][ ]

000000 = PTA/OR
000001 to
999995 = bond amount in dollars
999996 = more than $999,995
333333 = nonschedule
999998 = nonbondable case
999999 = missing information

89 (61) Did defendant post bond before bond hearing?

0 = no
1 = yes
9 = missing information

BOND HEARING

90 (62-67) Date of bond hearing

month day year

91 (68-69) Judges (see code)

92 (70) Bond hearing disposition

0 = no bond set
1 = cash bond
2 = third party custody
3 = PTR
4 = PTR and third party
5 = ADAP/DIP
6 = CHIC
7 = other (specify _____)
9 = missing information

93 (71-76) If item 92 is (1) then code amount to be paid (in dollars)

000001 to
999995 = bond amount in dollars
999996 = more than $999,995
999997 = nonbondable case
999998 = n/a, no bond amount set
999999 = missing information

94 (77-80) (See instructions)

a b c d

CARD FOUR

(1-5) Sequence number

4

95 (6-11) If alternate bond is set, how much is it?

000001 to 999995 = bond amount in dollars
999996 = more than 999,995
999997 = nonbondable case
999998 = n/a, no bond amount set

FELONY ARRAIGNMENT

If not felony, insert n/a values in items 96 thru 100.

96 (12-17) Date of arraignment

month day year

97 (18) Arraignment disposition

0 = no bond set
1 = cash bond
2 = third party custody
3 = PTR
4 = PTR and third party custody
5 = ADAP/DIP
6 = CHIC
7 = other (specify _____)
8 = n/a
9 = missing information

98 (19) Prior bond disposition changed at arraignment

0 = no
1 = less restrictive
2 = more restrictive
9 = missing information

99 (20-25) If item 97 is (1) then code amount to be paid (in dollars)

000001 to
999995 = bond amount in dollars
999996 = more than $999,995
999997 = nonbondable case
999998 = n/a, no bond amount set
999999 = missing information

100 (26-31) If alternate bond is set, how much is it?

000001 to
999995 = bond amount in dollars
999996 = more than 999,995
999997 = nonbondable case
999998 = n/a, no bond amount set
999999 = missing information

CHARGES AT FELONY ARRAIGNMENT

| Item | | Statute number | Severity | *A/C/S |
|---|---|---|---|---|
| 101-103 (32-39) | First charge | | | |
| 104-106 (40-47) | Second charge | | | |
| 107-109 (48-55) | Third charge | | | |
| 110-112 (56-63) | Fourth charge | | | |
| 113-115 (64-71) | Fifth charge | | | |
| 116-118 (72-79) | Sixth charge | | | |
| 119 (80) | (Open) | | | |

CARD FIVE

| | | | | |
|---|---|---|---|---|
| (1-5) | Sequence number | 5 | | |
| 120-122 (6-13) | Seventh charge | | | |
| 123-125 (14-21) | Eighth charge | | | |
| 126-128 (22-29) | Ninth charge | | | |
| 129-131 (30-37) | Tenth charge | | | |

*0=no
1=attempt
2=conspiracy
3=solicit

132 (38) Disposition of case at arraignment?

0 = no
1 = yes, dismissal
2 = yes, pled guilty
3 = yes, transferred to county court
8 = n/a, always was a misdemeanor charge
9 = missing information

JAIL ARRAIGNMENTS (COUNTY COURT)

133 (39-44) Date of jail arraignment

month day year

134 (45-46) Jail arraignment case disposition

00 = dismissed
01 = pled not guilty (for jury trial)
02 = pled not guilty (for nonjury)
03 = pled guilty (time served)
04 = pled guilty (time served, fine)
05 = pled guilty (time served, fine, probation)
06 = pled guilty (time served and more time: 0-3 months)
07 = same as 06, but 4-6 months
08 = diversion (PTI guile withheld)
10 = same as 06, but more than 6 months
11 = items 03, 04 or 05 and adjudication withheld (WH)
12 = other
98 = n/a, no [illegible] 137
99 = missing

135 (47) Jail arraignment bond disposition

0 = no bond set
1 = cash bond
2 = PTA
3 = PTR
4 = PTR and third party custody
5 = ADAP/DIP
6 = CHIC
7 = other (specify _____)
8 = n/a,
9 = missing information

136 (48-53) If item 135 is (0,1) then code amount to be paid (in dollars)

000001 to
999995 = bond amount in dollars
999996 = more than $999,995
999997 = nonbondable case
999998 = n/a; no bond amount set
999999 = missing information

137 (54-59) If alternate bond is set, how much is it?

000001 to
999995 = bond amount in dollars
999996 = more than $999,995
999997 = nonbondable case
999998 = n/a, no bond amount set
999999 = missing information

138 (60) If not disposed at jail arraignment, at what stage was case disposed?

0 = county court arraignment
1 = county court trial
2 = other _____

139 (61-66) Date of later disposition noted in item 138.

month day year

140 (67-68) Disposition at post jail arraignment stage

Refer to codes listed for item 134 above.

12 = acquitted
13 = found
14 = found
15 = found
16 = found
17 = found
18 = [illegible]

RELEASE INFORMATION

141 (69-74) Date of release

month day year

888888 = not released prior to disposition or within 90 days

142 (75-77) Length of detention

000 to
996 = days detained
999 = missing information

143 (78) Felonies only: obtained release at which stage?

0 = not released
1 = before bond hearing
2 = on date of bond hearing
3 = after bond hearing and before arraignment
4 = on date of arraignment
5 = more than one day after arraignment
9 = missing information

144 (79) Means of release

0 = paid own bond
1 = surety release
2 = third party custody
3 = PTR: administrative order (A.O.)
4 = PTR: release as low risk
5 = PTR: supervised release
6 = other (specify _____)
8 = n/a, not released
9 = missing information

(If item 144 is (4,5) code appropriate value for item 145, otherwise code n/a convention (8). If item 144 is (1) then go to page 8 of the form and code bonding agency in item 202.

145 (80) Person given to PTR, later PTR did not accept

0 = no
1 = yes
9 = missing information

CARD SIX

(1-5) Sequence number

6

DEMOGRAPHICS/TIES

146 (6) Sex

0 = male
1 = female

147 (7) Race

0 = white
1 = black
2 = Hispanic (nationality unknown)
3 = Hispanic: Cuban
4 = Hispanic: Puerto Rican
5 = Oriental
6 = other
9 = missing information

148 (8) Refugee status

0 = no
1 = yes
9 = missing information

149 (9-14) Birth date

month day year

150 (15) Present address: Dade County

0 = no
1 = yes
9 = missing information

151 (16) Address was verified

0 = no
1 = yes
9 = missing information

152 (17-19) Length of residence in the area (code in months)

000 to
996 = number of months
999 = missing information

153 (20) Defendant's living arrangement

0 = alone
1 = spouse/child
2 = relative/friend
3 = other
9 = missing information

154 (21)

0 = no
1 = yes
9 = missing information

155 (22) Driver's licence

0 = no
1 = yes
9 = missing information

156 (23) Marital status

1 = single, never married
2 = married
3 = widowed
4 = divorced
5 = common law
6 = separated
7 = other
9 = missing information

157 (24-25) Number of children

00 to
96 = number of children
97 = children noted, number unknown
99 = missing information

FINANCIAL STATUS

158 (26-28) Length of employment (code in months)

000 = unemployed
001 to
995 = number of months employed
996 = employed, length unknown
997 = not applicable (housewife, student, retired, disabled, inmate, other)

159 (29) Student

0 = no
1 = yes
9 = missing information

160 (30-31) Number of years in school completed

00 to
12 = number of years schooling
13 = some college/technical training
14 = 2--year/associate degree
15 = college degree
16 = post college education
99 = missing information

161 (32) Veteran

0 = no
1 = yes
9 = missing information

162 (33) Means of support

1 = wages
2 = unemployment compensation
3 = welfare
4 = social security, disability, retirement, V.A.
5 = savings
6 = family/friends
7 = other
9 = missing

HEALTH

163 (34) Physical problems

0 = no
1 = yes
9 = missing information

164 (35) Hospitalized for mental problems

0 = no
1 = yes
9 = missing information

165 (36) Substance abuse

0 = no
1 = yes, past
2 = yes, present
3 = yes, past and present
4 = yes, unspecified
9 = missing information

Type of drug used.
If no drug used, i.e. item 165 = 0, code as an 8. If defendant uses drug specified, code 1 (yes), if not, code 0 (no), and if no information is provided, 9 (missing). See coding manual for classification scheme.

166 (37) Alcohol

167 (38) Marijuana

168 (39) Cocaine

169 (40) Heroin/Opiate

170 (41) Barbituate, sedative or tranquilizer

171 (42) Amphetamine

172 (43) Other (specify _____)

173 (44) Treatment for alcoholism

0 = no
1 = yes
8 = N/A
9 = missing information

174 (45) Treatment for drug addiction

0 = no
1 = yes
8 = N/A
9 = missing information

PRIOR CRIMINAL RECORD

175 (46-47) Number of prior arrests

00 to
96 = number of prior arrests
97 = noted, number unknown
99 = missing information

176 (48-49) Number of recent prior arrests (within past three years of this case)

00 to
96 = number of recent prior arrests
97 = noted, number unknown
99 = missing information

177 (50-51) Number of prior arrests for serious personal offenses (see coding manual for listing of serious personal offenses)

00 to
96 = number of prior arrests for serious personal offenses
97 = noted, number unknown
99 = missing information

178 (52-53) Number of prior arrests for serious property offenses (see coding manual for listing of serious property offenses)

00 to
96 = number of prior arrests for serious property offenses
97 = noted, number unknown
99 = missing information

179 (54-55) Number of prior arrests for drug offenses

00 to
96 = number of prior arrests for drug offenses
97 = noted, number unknown
99 = missing information

180 (56-57) Number of prior arrests for weapon offenses (see coding manual for listing of weapon offenses)

00 to
96 = number of prior arrests for weapon offenses
97 = noted, number unknown
99 = missing information

181 (58-59) Number of prior convictions

00 to
96 = number of prior convictions
97 = noted, number unknown
99 = missing information

182 (60-61) Number of prior felony convictions

00 to
96 = number of prior felony convictions
97 = noted, number unknown
99 = missing information

183 (62-63) Number of prior misdemeanor convictions

00 to
96 = number of prior misdemeanor convictions
97 = noted, number unknown
99 = missing information

184 (64-65) Number of prior convictions for serious personal offenses (see coding manual for listing of serious personal offenses)

00 to
96 = number of prior convictions for serious personal offenses
97 = noted, number unknown
99 = missing information

185 (66-67) Number of prior convictions for serious property offenses (see coding manual for listing of serious property offenses)

00 to
96 = number of prior convictions for serious property offenses
97 = noted, number unknown
99 = missing information

186 (68-69) Number of prior convictions for drug offenses

00 to
96 = number of prior convictions for drug offenses
97 = noted, number unknown
99 = missing information

187 (70-71) Number of prior convictions for weapon offenses

00 to
96 = number of prior convictions for weapon offenses
97 = noted, number unknown
99 = missing

188 (72-73) On probation or parole at time of arrest

0 = no
1 = yes
9 = missing information

189 (74-75) Record of appearance at prior felony court proceedings (number of FTA's)

00 to
96 = number of Alias Capiases
97 = noted, number unknown
99 = missing information

190 (76-77) Record of appearance at prior misdemeanor court proceedings (number of FTA's)

00 to
96 = number of bench warrants
97 = noted, number unknown
99 = missing information

191 (78-79) Number of outstanding warrants or detainers

00 to
96 = number of outstanding warrants or detainers
97 = noted, number unknown
99 = missing information

192 (80) Defendant is on pretrial release for a previous charge

0 = no
1 = yes, felony
2 = yes, misdemeanor
3 = yes, charge unknown
9 = missing information

CARD SEVEN

Sequence number (1-5)

7

193 (6) Counsel appointed

0 = no
1 = yes, public defender
2 = yes, private counsel
9 = missing information

FOLLOW-UP INFORMATION

194 (7) Review: current case disposed before 90 days?

0 = no
1 = case dismissed
2 = yes, pled guilty
3 = yes, acquitted
4 = yes, found guilty
5 = diversion (PTI Guilt Withheld)
6 = bond estreachure
9 = missing information

195 (8-13) If item 194 is 1-5, then code date of disposition. Otherwise code 888888 for not applicable (n/a)

month day year

196 (14) Failed to appear within 90 days

0 = no
1 = yes
8 = not released
9 = missing information

197 (15-20) Date of first nonappearance in court (of AC or BW)

month day year

198 (21) Rearrested within 90 days of release

0 = no
1 = yes
8 = not released
9 = missing information

199 (22-23) Most serious offense for which rearrested (see coding manual)

01 = miscellaneous
02 = public order
03 = weapons
04 = public administration
05 = other personal
06 = other property
07 = drugs (manufacture, delivery, sale)
08 = aggravated assault
09 = burglary
10 = robbery
11 = serious personal
97 = not released
98 = not rearrested
99 = missing information

200 (24-30) Statute and severity ranking of most serious offense

a b

201 (31-36) Date of first rearrest

month day year

202 (37-39) Bonding agency

ADDRESS ADDENDUM

203 (____) 1. Print defendant's address (No., street, town, zip)

204 (____) 2. Print address of original address

Jail Population Study
Dade County

Coder _____

CARD ONE

Sequence number
(1-4)

[ ][ ][ ][1]

1 Jail number
(5-10)

[ ][ ][ ][ ][ ][ ]

2 Court number
(11-16)

[ ][ ][ ][ ][ ][ ]

3 Date of study
(17-22)

month day year
[0][9][1][9][8][5]

4 Date admitted to jail
(23-28)

month day year
[ ][ ][ ][ ][ ][ ]

5-8 Which of the following reasons are holding the defendant in jail? (If there are less than four reasons, write 08 in all unused spaces).

5
(29-30)
[ ][ ]

6
(31-32)
[ ][ ]

7
(33-34)
[ ][ ]

8
(35-36)
[ ][ ]

01 = bail
02 = bench warrant or alias capias
03 = probation violation
04 = parole violation
05 = awaiting sentencing
06 = sentenced inmate
07 = awaiting transport to prison
10 = appeal
11 = request from another jurisdiction
12 = held for Federal government
98 = n/a
99 = missing

BAIL INFORMATION

9 Date of arrest
(37-42)

month day year
[ ][ ][ ][ ][ ][ ]

10 Is defendant being held on charges for which s/he has not posted bail?
(43)

[ ]

0 = no
1 = yes

11 What was the original bail schedule amount for these charges?
(44-49)

[ ][ ][ ][ ][ ][ ]

000000 = PTA
000001 to
999996 = cash amount
333333 = no schedule amount noted
(explain _____)
777777 = held without bail
999998 = n/a, not held on bail
999999 = missing

12 Date of bond hearing
(50-55)

month day year
[ ][ ][ ][ ][ ][ ]

13 What was the bail amount set at bond hearing?
(56-61)

[ ][ ][ ][ ][ ][ ]

000000 = ROR
000001 to
999996 = cash amount
333333 = no schedule amount noted
(explain _____)
777777 = held without bail
999998 = n/a, not held on bail
999999 = missing

14 What is the total bail amount now holding the defendant?
(62-67)

[ ][ ][ ][ ][ ][ ]

000000 = ROR
000001 to
999996 = cash amount
777777 = held without bail
999998 = n/a, not held on bail
999999 = missing

15 If held on bail, defendant is at what stage of processing?
(68)

[ ]

0 = before bond hearing (M or F)
1 = M: No trial date set
2 = M: Awaiting trial
3 = F: Bond hearing to arraignment
4 = F: Between grand jury arraignment
5 = F: Between circuit court and adjudication
8 = n/a
9 = missing

16 Total number of charges
(69)

[ ]

1 to
5 = number
6 = more than 5
8 = n/a, not held on bail
9 = missing

17 Statute number (most serious charge)
(70-75)

[ ][ ][ ][ ][ ][ ]

18 Seriousness level (item 17)
(76)

[ ]

19 Offense type (item 17)
(77)

[ ]

1 = serious crime against person
2 = robbery
3 = burglary
4 = other property crime
5 = drug-related
6 = weapon
7 = prostitution
8 = n/a, not held on bail
9 = missing
0 = other

20 Open
(78-80)

CARD TWO

Sequence number
(1-4)

2

21 Statute number (second serious)
(5-10)

22 Seriousness level (item 21)
(11)

23 Offense type (item 21)
(12)

1 = crime against person
2 = robbery
3 = burglary
4 = other property crime
5 = drug-related
6 = weapon
7 = prostitution
8 = n/a, not held on bail
9 = missing
0 = other

24 Had the defendant secured release previously on these charges?
(13)

0 = no indication that bond was posted
1 = yes, ROR/PTA
2 = yes, PTS supervision (third party, CHIC, ADAP, DIP)
3 = yes, PTS administrative order
4 = yes, posted by defendant
5 = yes, posted by third party
6 = yes, posted by bond agency
7 = yes, other (specify _____)
8 = n/a, not held on bail (sentenced)
9 = missing

25 PTS interviewed defendant
(14)

0 = no
1 = yes
8 = n/a, not held on bail
9 = missing

26 PTS recommendation
(15)

0 = none shown
1 = ROR
2 = third party custody
3 = PTS: low risk release
4 = PTS supervision
5 = secured bond
6 = secured bond with conditions
7 = potentially nonbondable
8 = n/a, not held on bail
9 = missing

27 Person give to PTS, later PTS did not accept
(16)

0 = no
1 = yes
8 = n/a, not held on bail
9 = missing

28 If charges involve loss or damage to property, indicate amount:
(17)

0 = no loss or damage
1 = $100 or less
2 = $101 - $500
3 = $501 - $1,000
4 = more than $1,000
5 = noted, amount unknown
8 = n/a, not held on bail
9 = missing

29 If charges involve victims, indicate number:
(18)

0 to
5 = number of victims
6 = more than 5
7 = noted, number unknown
8 = n/a, not held on bail
9 = missing

30 Level of injury to most injured victim
(19)

0 = no injury
1 = minor harm
2 = treated and discharged
3 = hospitalized
4 = death
8 = n/a, not held on bail
9 = missing

31 Relationship of defendant and victim (item 30). Defendant is:
(20)

0 = stranger
1 = spouse
2 = child
3 = parent
4 = sibling
5 = other relative
6 = friend
7 = acquaintance
8 = n/a, not held on bail, or no victim
9 = missing

32 Number of female victims
(21)

0 to
5 = number
6 = more than five
7 = noted, number unknown
8 = n/a, not held on bail
9 = missing

33 Number of male victims
(22)

0 to
5 = number
6 = more than five
7 = noted, number unknown
8 = n/a, not held on bail
9 = missing

34 Number of elderly victims
(23)

0 to
5 = number
6 = more than five
7 = noted, number unknown
8 = n/a, not held on bail
9 = missing

35 (24) Defendant represented by:

1 = public defender
2 = public defender with weekly fee
3 = court appointed private counsel
4 = private counsel
8 = n/a, not held on bail
9 = missing

36 (25-26) Record of appearance at prior court proceedings

00 to
96 = number of failures to appear (AC, BW)
97 = noted, number unknown
98 = n/a, not held on bail
99 = missing

37 (27-28) Other pending cases

00 to
96 = number of other pending charges
97 = noted, number unknown
98 = n/a, not held on bail
99 = missing

38 (29) Seriousness level of most serious charge in pending case

39 (30-35) Amount of bail set on item 38.

000000 = ROR
000001 to
999996 = cash amount
999998 = n/a, not held on bail
999999 = missing

40 (36) Pending cases: serious crime against person (murder, rape, kidnap, agg. assault, aggravated battery)

0 = no
1 = yes
8 = n/a, not held on bail
9 = missing

41 (37) Pending cases: robbery

0 = no
1 = yes
8 = n/a
9 = missing

42 (38) Pending cases: burglary

0 = no
1 = yes
8 = n/a
9 = missing

43 (39) Pending cases: drug-related

0 = no
1 = yes
8 = n/a, not held on bail
9 = missing

44 (40) Pending cases: weapon

0 = no
1 = yes
8 = n/a, not held on bail
9 = missing

45 (41) Next hearing scheduled (see supervisor's instructions)

46 (42-47) Trial date set

month day year

000000 = no
999998 = n/a, not held on bail
999999 = missing

47 (48) Number of continuances related to this case

0 to
5 = number of continuances
6 = more than five
8 = n/a, not held on bail
9 = missing

BENCH WARRANT INFORMATION

48 (49-50) How many bench warrants or alias capiases are holding this defendant?

00 to
96 = number of warrants
97 = noted, number unknown
99 = missing

49 (51-56) What is the total amount of bench warrants?

000000 to
999996 = cash amount
999997 = noted, amount unknown
999998 = n/a, not held on bench warrant
999999 = missing

50 (57-62) Statute number (most serious bench warrant)

999998 = n/a, not held on bench warrant
999999 = missing

51 (63) Seriousness level (item 50)

PROBATION VIOLATION INFORMATION

52 (64) Is defendant held on probation violation?

0 = no
1 = yes, new charge-related
2 = yes, technical _____
3 = yes, unspecified
9 = missing

53 (65-70) Date of detainer (issued)

month day year

999998 = n/a, not held on probation violation
999999 = missing

54 (71-76) Statute for most serious conviction for which defendant was on probation

999998 = n/a, not held on probation violation
999999 = missing

55 (77) Seriousness level (item 54)

PAROLE VIOLATION INFORMATION

56 (78) Is defendant held on parole violation?

0 = no
1 = yes, new charge-related
2 = yes, technical _____
3 = yes, unspecified

57 (79-80) Open

CARD THREE

Sequence number (1-4)

3

58 (5-10) Date of detainer (issued)
month day year

999998 = n/a, not held on parole violation
999999 = missing

59 (11-16) Statute for most serious conviction for which defendant served sentence

999998 = n/a, not held on parole violation
999999 = missing

60 (17) Seriousness level (item 59)

INFORMATION ON DEFENDANTS AWAITING SENTENCING

61 (18) Is defendant being held awaiting sentencing?

0 = no
1 = yes
9 = missing

62 (19-24) Date of conviction
month day year

999998 = n/a, not awaiting sentence
999999 = missing

63 (25-30) Date scheduled for sentencing
month day year

999998 = n/a, not awaiting sentence
999999 = missing

64 (31-36) Date presentence investigation reported to court
month day year

999997 = not completed
999998 = n/a, not awaiting sentence
999999 = missing

65 (37-42) Date mental evaluation reported to court
month day year

999997 = not requested
999998 = n/a, not awaiting sentence
999999 = missing

SENTENCED PRISONER INFORMATION

66 (43) Is defendant a sentenced prisoner?

0 = no
1 = yes
9 = missing

67 (44-45) Length of [illegible]

00 = less than one month
01 to
60 = between one month and five years (months)
75 = five years one day to ten years
80 = more than ten years
81 = other (_____)
98 = n/a, not sentenced
99 = missing

68 (46-47) Length of maximum sentence (use same codes as item 67)

69 (48-53) Date of sentence
month day year

999998 = n/a, not sentenced
999999 = missing

70 (54) Other conditions of sentence

0 = none
1 = probation
2 = fines
3 = restitution
4 = community service
5 = work furlough
6 = other (_____)
8 = n/a, not sentenced
9 = missing

71 (55-60) Statute for most serious sentence

999998 = n/a, not sentenced
999999 = missing

72 (61) Seriousness level (item 71)

73 (62) Was sentenced person detained before conviction?

0 = no
1 = yes
8 = n/a, not sentenced
9 = missing

74 (61) Was sentenced person detained after conviction?

0 = no
1 = yes
8 = n/a, not sentenced
9 = missing

75 (64) Was time already served part of sentence?

0 = no
1 = yes
8 = n/a, not sentenced
9 = missing

76 (65-66) Length of time-served credit

00 to 95 = number of months
96 = less than one month
97 = number unknown
98 = n/a, not sentenced
99 = missing

77 (67-72) Expected date of release

month day year

999997 = life sentence, no release
999998 = n/a, not sentenced
999999 = missing

78 (73) If sentenced crime(s) involved loss or damage to property, indicate amount:

0 = no loss or damage
1 = $100 or less
2 = $101 - $500
3 = $501 - $1,000
4 = more than $1,000
5 = noted, amount unknown
8 = n/a, not sentenced
9 = missing

79 (74) If sentenced crime(s) involved victims, indicate number:

0 to
5 = number of victims
6 = more than five
7 = noted, number unknown
8 = n/a, not sentenced
9 = missing

80 (75) Level of injury to most injured victim

0 = no injury
1 = minor harm
2 = treated and discharged
3 = hospitalized
4 = death
8 = n/a, not sentenced
9 = missing

81 (76) Relationship of defendant and victim (item 80). Defendant is:

0 = stranger
1 = spouse
2 = child
3 = parent
4 = sibling
5 = other relative
6 = friend
7 = acquaintance
8 = n/a, not sentenced
9 = missing

82 (77) Number of female victims

0 to
5 = number
6 = more than five
7 = noted, number unknown
8 = n/a, not sentenced
9 = missing

83 (78) Number of male victims

0 to
5 = number
6 = more than five
7 = noted, number unknown
8 = n/a, not sentenced
9 = missing

84 (79) Number of elderly victims

0 to
5 = number
6 = more than five
7 = noted, number unknown
8 = n/a, not sentenced
9 = missing

OTHER REASONS FOR DETENTION

85 (80) Is the defendant being held for any other reason not previously noted?

0 = no
1 = awaiting transport to prison
2 = appeal
3 = request from another jurisdiction
4 = held for Federal government
9 = missing

CARD FOUR

Sequence number (1-4)

4

DEMOGRAPHICS/TIES

86 (5) Defendant was resident of Dade County at time of custody

0 = no
1 = yes
9 = missing

87 (6) Living arrangement

0 = alone
1 = spouse/child
2 = relative/friend
3 = institution/group home
9 = missing

88 (7) Relatives/friends in Dade County

0 = no
1 = relative
2 = friends
3 = spouse
4 = child
5 = 2 or more
9 = missing

89 (8) Marital status

0 = single, never married
1 = married
2 = widowed
3 = divorced/separated
4 = common law
5 = other
9 = missing

90 (9) Employment at time of custody

0 = no, unemployed
2 = no, housewife, student, retired, disabled, inmate
3 = yes, part-time
4 = yes, full-time
9 = missing

91 (10) Means of support (if employed and nothing contrary is stated, code 1)

1 = wages
2 = unemployment compensation
3 = welfare
4 = social security, disability, retirement, VA
5 = savings
6 = family/friends
7 = other
9 = missing

92 (11-12) Number of years of schooling

00 to
12 = number
13 = some college/technical training
14 = 2-year/associate degree
15 = college degree
16 = post college education
99 = missing

93 (13) Sex

0 = male
1 = female

94 (14) Race

0 = white
1 = black
2 = Hispanic
3 = Native American
4 = Oriental
5 = other
9 = missing

95 (15-20) Birthdate

month day year

999999 = missing

HEALTH

96 (21) Is there an indication of past mental health problems?

0 = no
1 = yes
9 = missing

97 (22) Is there an indication of present mental health problems? (in jail)

0 = no
1 = yes
2 = yes, institutionalized
9 = missing

98 (23) Physical problems

0 = no
1 = yes
9 = missing

99 (24) History of alcohol abuse

0 = no
1 = yes
2 = yes, treatment noted
9 = missing

100 (25) History of drug abuse

0 = no
1 = yes
2 = yes, treatment noted
9 = missing

PRIOR CRIMINAL RECORD

Use the following codes in this section:

0 to
5 = number
6 = more than five
7 = noted, number unknown
9 = missing

101 (26) Number of prior arrests (one date equals one arrest)

102 (27) Number of recent prior arrests (within past 3 years)

103 (28) Number of prior arrests: serious crimes against the person (murder, rape, kidnap, agg. assault)

104 (29) Number of prior arrests: serious property crimes (arson, grand theft/larceny)

105 (30) Number of prior arrests: robbery

106 (31) Number of prior arrests: burglary

107 (32) Number of prior arrests: drug-related

108 (33) Number of prior arrests: weapons

109 (34) Total number of prior convictions (each statute counted separately)

110 (35) Number of prior convictions: juvenile only

111 (36) Number of prior convictions: serious personal crime against the person

112 (37) Number of prior convictions: serious property crime

113 (38) Number of prior convictions: robbery

114 (39) Number of prior convictions: burglary

115 (40) Number of prior convictions: drug-related

116 (41) Number of prior convictions: weapons

117 (42) Number of prior felony convictions

118 (43) Number of prior misdemeanor convictions

CARD ONE: START

_____ Sequence number
(1-5)

| | | | | |
|---|---|---|---|---|
| | | | | 1 |

IDENTIFICATION NUMBERS

01 Jail number
(6-14)

| | | | | | | | | |
|---|---|---|---|---|---|---|---|---|
| 8 | 7 | | | | | | | |

02 Felony case
(15)

[ ] 0 = no 1 = yes

03 Court number
(16-23)

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| 8 | 7 | | | | | | |

04 Court type
(24)

[ ] 0 = F 2 = T 4 = P
1 = B 3 = M

05 Social security
(25-33)

| | | | | | | | | |
|---|---|---|---|---|---|---|---|---|
| | | | | | | | | |

CHARGE INFORMATION

06 Total charges
(34-35)

| | |
|---|---|
| | |

07 Total counts
(36-37)

| | |
|---|---|
| | |

08 Number of suspects
(38-39)

| | |
|---|---|
| | |

09 First charge
(40-50) Sev.Att. W. F. Drg.

| | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|
| | | | | | | | | | | |

10 Second charge
(51-61) Sev.Att. W. F. Drg.

| | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|
| | | | | | | | | | | |

11 Third charge
(62-72) Sev.Att. W. F. Drg.

| | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|
| | | | | | | | | | | |

| DADE COUNTY |
|---|
| coder _____ |

12 If drug charges, type of drug
(73)

[ ]

0 = alcohol
1 = marijuana
2 = cocaine
3 = heroin/opiate
4 = barbituate/sedative
5 = amphetamine
6 = other (specify _____)
8 = n/a, no drugs involved
9 = missing information

13 Number of drug units
(74-77)

| | | | |
|---|---|---|---|
| | | | |

14 Number of kinds of drugs involved
(78) in charges

[ ]

1-5 = number of drugs
6 = more than 5 drugs
8 = n/a
9 = missing information

VICTIMS

15 Number of victims
(79-80)

| | |
|---|---|
| | |

01 to 96 = number of victims
97 = person crime noted, number unknown
98 = n/a, no person victim
99 = missing information

If item 15 is 98, enter 8 in items 16-19

CARD TWO

_____ Sequence number
(1-5)

| | | | | |
|---|---|---|---|---|
| | | | | 2 |

16 Does defendant know victim(s) ?
(6)

[ ]

0 = no
1 = child
2 = spouse
3 = parent
4 = sibling
5 = friend/aquaintance
6 = other
7 = combination of 1 thru 6
8 = n/a
9 = missing information

17 Charges involve victim of sexual
(7) assault

[ ] 0 = no 1 = yes 8 = n/a

18 Charges involve elderly victim(s)
(8) (over 60) ?

[ ] 0 = no 1 = yes 8 = n/a

19 Injury to most serious victim
(9)

[ ]

0 = no injury
1 = minor harm
2 = treated and released
3 = hospitalized
4 = death
8 = n/a, no person victim
9 = missing information

LOSS/DAMAGE

20 Premises forcibly entered ?
(10)

[ ] 0 = no 8 = n/a, not a
1 = yes property crime

21 Property stolen and/or damaged
(11)

[ ]

0 = no
1 = property stolen
2 = property damaged
3 = stolen and damaged
4 = property crime noted, whether stolen or damaged unknown
8 = n/a, not a property crime
9 = missing information

BOOKING/PRE-BOND HEARING

22 Date of booking (admission)
(12-17)

month day year

23 Total bond schedule bond
(18-23)

000000 = PTA/OR
000001 to
999995 = bond amount in dollars
999996 = more than $999,995
333333 = nonschedule
999998 = nonbondable case
999999 = missing information

24 Schedule bond for most serious charge
(24-29)

000000 = PTA/OR
000001 to
999995 = bond amount in dollars
999996 = more than $999,995
333333 = nonschedule
999998 = nonbondable case
999999 = missing information

25 Did defendant post bond before bond
(30) hearing ?

(if yes, enter values for N/A thru question 35)

0 = no
1 = yes
9 = missing information

UBS CLASSIFICATION

26 Severity level
(31)

1-8 = level 9 = missing

27 Risk Points
(32-33) Spouse/child

00 = no +1 = yes

(34-35) Phone

00 = no +2 = yes

(36-37) Property charge

00 = no +2 = yes

(38-39) Drug charges

00 = no -1 = yes

(40-41) Robbery charge

00 = no -2 = yes

(42-43) Arrests in 3 years

+1 = 0 -1 = 1 -2 = 2 or more

(44-45) Prior arrests: drugs

00 = 0 or 1 -2 = 2 or more

(46-47) Prior felony convictions

00 = no -2 = 1 or more

(48-49) Prior FTAs

+1 = 0 -1 = 1 -2 = 2 or more

28 Risk points total
(50-52)

+ or -

29 Risk group
(53)

1-4 = group 9 = missing

30 Unusual circumstances
(54-56)

1 2 3

0 = none
1-6 = unusual circumstances
7 = other (specify) _____
9 = missing information

31 More than 3 unusual circumstances
(57)

0 = no 1 = yes 9 = missing

32 Suggested decision cell number
(58-59)

1-32 = cell 99 = missing

33 Suggested special conditions
(60-62)

1 2 3

0 = none
1 = PTS low risk
2 = PTS supervision
3 = CHIC
4 = ADAP
5 = DIP
6 = victim cosign
7 = other (specify) _____
9 = missing

34 More than 3 suggested special conditions
(63)

0 = no 1 = yes 9 = missing

35 Did PTS ask judge to rescind previous
(64) pretrial release

0 = no 1 = yes 8 = not on PTR

BOND HEARING

36 Date of bond hearing
(65-70)

month day year
888888 = n/a, no bond hearing

37 Judges (see coding instructions)
(71-72)

38 Bond hearing disposition
(73)

0 = bond denied
1 = cash bond
2 = PTR
3 = PTR and supervision
4 = PTR and third party
5 = PTR and ADAP/DIP
6 = PTR and CHIC
7 = other (specify) _____
8 = n/a, OR, RIC
9 = missing information

39 Bond hearing bond amount
(74-79) (If item 38 is 1, code amount to be paid in dollars)

000001 to
999995 = bond amount in dollars
999996 = more than $999,995
999997 = no bond decision (def. absent)
888888 = nonbondable case
999998 = n/a, nonfinancial disposition
999999 = missing information

40 Were charges totally dismissed at
(80) bond hearing?

0 = no 1 = yes

CARD THREE
____ Sequence number
(1-5)

3

41 Decision departs from suggested
(6) decision?

0 = no
1 = yes, it's higher
2 = yes, it's lower

42 Reasons for departure given
(7-12) by judge
1 2 3

00 = none given
1-16 = reasons
17 = other (specify) _____

43 More than 3 reasons given?
(13)

0 = no 1 = yes

44 Guidelines completed by staff in time
(14) for bond hearing?

0 = no 1 = yes

45 Bond hearing alternate bond amount
(15-20) (If alternate bond is set, code amount to be paid in dollars)

000001 to
999995 = bond amount in dollars
999996 = more than $999,995
999997 = no alternate bond decision
888888 = nonbondable case
999998 = n/a, no alternate bond set
999999 = missing information

FELONY ARRAIGNMENT
46 Date of arraignment
(21-26)

month day year
888888 = n/a, no arraignment

47 Arraignment bond disposition
(27)

0 = no bond set
1 = cash bond
2 = third party custody
3 = PTR
4 = PTR and third party custody
5 = ADAP/DIP
6 = CHIC
7 = other (specify _____)
8 = n/a
9 = missing information

48 Prior bond disposition changed at
(28) arraignment?

0 = no
1 = yes, less restrictive
2 = yes, more restrictive
9 = missing information

49 Arraignment bond amount
(29-34) (If item 47 is (1), code amount to be paid (in dollars)

000001 to
999995 = bond amount in dollars
999996 = more than $999,995
999997 = no bond decision (def. absent)
888888 = nonbondable case
999998 = n/a, nonfinancial disposition
999999 = missing information

50 Arraignment alternate bond amount
(35-40) (If alternate bond is set, code amount to be paid in dollars)

000001 to
999995 = bond amount in dollars
999996 = more than $999,995
999997 = no alternate bond decision
888888 = nonbondable case
999998 = n/a, no alternate bond set
999999 = missing information

CHARGES AT FELONY ARRAIGNMENT

51-52 First charge Sev.
(41-47)

53-54 Second charge Sev.
(48-54)

55-56 Third charge Sev.
(55-61)

57 Disposition of case at arraignment?
(62)

0 = no, not disposed
1 = yes, dismissal (all charges)
2 = yes, plead guilty (all charges)
3 = yes, transfered to county court
4 = some dropped, most serious lowered
5 = none dropped, but some lowered
8 = n/a, no felony arraignment
9 = missing information

RELEASE INFORMATION

58 Date of release
(63-68)

month day year
888888 = not released prior to disposition or within 90 days

59 Means of release
(69)

0 = paid own bond
1 = surety release
2 = third party custody
3 = PTR: administrative (A.O.)
4 = PTR: release at low risk
5 = PTR: supervised release
6 = other (specify _____)
8 = n/a, not released
9 = missing information

60 Bonding agency
(70-71) (If item 59 is (1), enter code for bonding agency)

DEMOGRAPHICS/TIES

61 Sex
(72)

0 = male 1 = female

62 Race
(73)

0 = white
1 = black
2 = Hispanic (nationality unknown)
3 = Hispanic: Cuban
4 = Hispanic: Puerto Rican
5 = Oriental
6 = other
9 = missing information

63 Refugee status
(74)

0 = no
1 = yes
9 = missing

64 Birth date
(75-80)

month day year

CARD FOUR

_____ Sequence number
(1-5)

4

65 Present address: Dade County
(6)

0 = no
1 = yes
9 = missing information

66 Length of residence in the area
(7-9)

000 to
996 = number of months
999 = missing information

67 Phone
(10)

0 = no
1 = yes

68 Marital status
(11)

1 = single, never married
2 = married
3 = widowed
4 = divorced
5 = common law
6 = separated
7 = other
9 = missing information

FINANCIAL STATUS

69 Length of employment
(12)

0 = unemployed
1 = 6 months or less
2 = more than 6 months and less than one year
3 = 1 year or more
6 = employed, length unknown
8 = not applicable (housewife, student retired, disabled, inmate, other)

70 Means of support
(13)

1 = wages
2 = unemployment compensation
3 = welfare
4 = social security, disability, retirement, V.A.
5 = savings
6 = family/friends
7 = other
9 = missing

HEALTH

71 Physical problems
(14)

0 = no 1 = yes 9 = missing

72 Mental problems
(15)

0 = no 2 = hospitalized
1 = diagnosed 9 = missing

73 Admitted substance abuse
(16-17) (most often used drug)

within last year current

0 = no
1 = yes, daily
2 = yes, weekly
3 = yes, monthly
4 = yes, once a month or less frequently
5 = yes, frequency unclear
9 = missing information

If item 73 = 0, code 8 for items 74-76.

74 Type of drug used

0 = no
1 = yes
8 = n/a, no drugs used
9 = missing information

(18-19) Alcohol

within last year current

(20-21) Marijuana

within last year current

(22-23) Cocaine

within last year current

(24-25) Heroin/Opiate

☐ within last year ☐ current

(26-27) Barbituate, Sedative, or Tranquilizer

☐ within last year ☐ current

(28-29) Amphetamine

☐ within last year ☐ current

(30-31) PCP

☐ within last year ☐ current

(32-33) Other (specify _____)

☐ within last year ☐ current

75 Treated for alcoholism
(34)

☐

0 = no
1 = yes
8 = n/a
9 = missing information

76 Treated for drug addiction
(35)

☐

0 = no
1 = yes
8 = n/a
9 = missing information

77 Did defendant admit to prior arrest
(36) *(from interview)

☐ 0 = no 1 = yes

78 Did defendant admit to prior conviction
(37) *(from interview)

☐ 0 = no 1 = yes

79 Defendant admitted spending a night
(38) in jail before *(from interview)

☐ 0 = no 1 = yes

PRIOR CRIMINAL RECORD

80 Number of prior arrests
(39-40)

☐☐

00 to
96 = number of prior arrests
97 = noted, number unknown
99 = missing information

*If item 80 = 00, code 98 for items 81-99

81 Number of recent prior arrests
(41-42) (within past three years of this case)

☐☐

00 to
96 = number of recent prior arrests
97 = noted, number unknown
99 = missing information

82 Number of prior arrests for serious
(43-44) personal offenses

☐☐ (see coding manual for listing of serious personal offenses)

00 to
96 = number of prior arrests for serious personal offenses
97 = noted, number unknown
99 = missing information

83 Number of prior arrests for serious
(45-46) property offenses

☐☐

00 to
96 = number of prior arrests for serious property offenses
97 = noted, number unknown
99 = missing information

84 Number of prior arrests for drug
(47-48) offenses

☐☐

00 to
96 = number of prior arrests for drug offenses
97 = noted, number unknown
99 = missing information

85 Number of prior arrests for drug
(49-50) possesion only

☐☐

00 to
96 = number of prior arrests for drug possesion only
97 = noted, number unknown
99 = missing information

86 Number of prior arrests for drug
(51-52) manufacturing/sales/distribution offenses only

☐☐

00 to
96 = number of prior arrests for drug manufacturing/sales/distribution offenses only
97 = noted, number unknown
99 = missing information

87 Number of prior arrests for weapon
(53-54) offenses (see coding manual for listing of weapon offenses)

☐☐

00 to
96 = number of prior arrests for weapon offenses
97 = noted, number unknown
99 = missing information

88 Number of prior convictions
(55-56)

☐☐

00 to
96 = number of prior convictions
97 = noted, number unknown
99 = missing information

89 Number of prior felony convictions
(57-58)

☐☐

00 to
96 = number of prior felony convictions
97 = noted, number unknown
99 = missing information

90 Number of prior misdemeanor
(59-60) convictions

00 to
96 = number of prior misdemeanor convictions
97 = noted, number unknown
99 = missing information

91 Number of prior convictions for
(61-62) serious personal offenses
(see coding manual for listing of serious personal offenses)

00 to
96 = number of prior convictions for serious personal offenses
97 = noted, number unknown
99 = missing information

92 Number of prior convictions for
(63-64) serious property offenses
(see coding manual for listing of serious property offenses)

00 to
96 = number of prior convictions for serious property offenses
97 = noted, number unknown
99 = missing information

93 Number of prior convictions for
(65-66) drug offenses

00 to
96 = number of prior convictions for drug offenses
97 = noted, number unknown
99 = missing information

94 Number of prior convictions for
(67-68) drug possession offenses only

00 to
96 = number of prior convictions for drug possesion offenses only
97 = noted, number unknown
99 = missing information

95 Number of prior convictions for
(69-70) drug manufacturing/sales/distribution offenses only

00 to
96 = number of prior convictions for drug manufacturing/sales/distribution offenses only
97 = noted, number unknown
99 = missing information

96 Number of prior convictions for
(71-72) weapon offenses

00 to
96 = number of prior convictions for weapon offenses
97 = noted, number unknown
99 = missing information

97 On probation or parole at time
(73-74) of arrest

0 = no 1 = yes
9 = missing information

98 Record of appearance at prior
(75-76) felony court proceedings
(number of FTAs)

00 to
96 = number of Alias Capiases
97 = noted, number unknown
99 = missing information

99 Record of appearance at prior
(77-78) misdemeanor court proceedings
(number of FTAs)

00 to
96 = number of bench warrants
97 = noted, number unknown
99 = missing information

100 Number of outstanding warrants or
(79-80) detainers

00 to
96 = number of outstanding warrants or detainers
97 = noted, number unknown
99 = missing information

CARD FIVE

____Sequence number
(1-5)

5

101 Defendant is on pretrial release for
(6) a previous charge

0 = no
1 = yes, felony
2 = yes, misdemeanor
3 = yes, charge unknown
9 = missing information

102 Counsel appointed
(7)

0 = no
1 = yes, public defender
2 = yes, private counsel
9 = missing information

CASE FOLLOW-UP INFORMATION

103 Review: Current case disposed before
(8) 90 days ?

0 = no
1 = yes, dismissed (totally)
2 = yes, pled guilty
3 = yes, acquitted
4 = yes, found guilty
5 = diversion (PTI Guilt Withheld)
9 = missing information

104 Date of case disposition
(9-14)

(If item 103 = 1-
code disp. date)

month day year
888888 = case not disposed

DEFENDANT FOLLOW-UP INFORMATION

*If the defendant was released within 2 days after bond hearing, complete section A. If the defendant was released within 3 to 90 days after bond hearing, complete section B

SECTION A

105 Failed to appear within 90 days
(15)

0 = no
1 = yes
8 = not released
9 = missing information

106 Date of first nonappearance in court
(16-21) (of AC or BW)

month day year
888888 = did not fail to appear

107 Bond estreature noted this case
(22)

0 = no 1 = yes 8 = n/a

108 Rearrested within 90 days of release
(23)

0 = no
1 = yes
8 = not released
9 = missing information

109 Most serious offense for which
(24-25) rearrested (see coding manual)

01 = miscellaneous
02 = public order
03 = weapons
04 = public administation
05 = other personal
06 = other property
07 = drugs (manufacture, delivery, sale)
08 = aggravated assault
09 = burglary
10 = robbery
11 = serious personal
97 = not released
98 = not rearrested
99 = missing information

110-111 Statute number of most
(26-32) serious offense Sev.

112 Date of first rearrest
(33-38)

month day year
888888 = n/a, not rearrested

SECTION B

113 Failed to appear within 90 days
(39)

0 = no
1 = yes
8 = not released
9 = missing information

114 Date of first nonappearance in court
(40-45) (of AC or BW)

month day year
888888 = did not fail to appear

115 Bond estreature noted this case
(46)

0 = no 1 = yes 8 = n/a

116 Rearrested within 90 days of release
(47)

0 = no
1 = yes
8 = not released
9 = missing information

117 Most serious offense for which
(48-49) rearrested (see coding manual)

01 = miscellaneous
02 = public order
03 = weapons
04 = public administation
05 = other personal
06 = other property
07 = drugs (manufacture, delivery, sal
08 = aggravated assault
09 = burglary
10 = robbery
11 = serious personal
97 = not released
98 = not rearrested
99 = missing information

118-119 Statute number of most
(50-56) serious offense Sev.

120 Date of first rearrest
(57-62)

month day year
888888 = n/a, not rearrested

DRUG TEST RESULTS

121 Date of test
(63-68)

month day year

122 Number of drugs tested positively
(69)

1-5 = number of drugs tested positivel
6 = more than 5
8 = n/a
9 = missing information

123 Which of the following drugs teste
positively on screening test ?
0 = no 1 = yes 9 = missing
8 = n/a, not tested
(70) marijuana

(71) cocaine

(72) PCP

(73) heroin

(74) other opiates

(75) amphetamines

(76) alcohol

(77) other _____

124 Blank
(78-80)

CARD SIX
_____ Sequence number
(1-5)

| | | | | |
|---|---|---|---|---|
| | | | | 6 |

125 Which of the following drugs tested positively on confirming test ?
0 = no 1 = yes 9 = missing

(6) marijuana

(7) cocaine

(8) PCP

(9) heroin

(10) other opiates

(11) amphetamines

(12) alcohol

(13) other _____

ADDRESS OF DEFENDANT

126 Address of defendant known ?
(14)

0 = no 1 = yes

127 Print defendant's address

Number
(15-20)

Street name
(21-40)

ST./Ave./etc.
(41-45)

City
(46-60)

Zip code
(61-65)

128 Blank
(66-80)

CARD SEVEN
_____ Sequence number
(1-5)

| | | | | |
|---|---|---|---|---|
| | | | | 7 |

ADDRESS OF CRIME

129 Address of crime known?
(6)

[ ] 0 = no 1 = yes

130 Print address of crime

Number
(7-12)

Street name
(13-32)

ST./Ave./etc.
(33-37)

City
(38-52)

Zip code
(53-57)

KEYPUNCHER NOTE: This page only, left to right/top row to bottom row.

BOSTON MUNICIPAL COURT

Coder _____

CARD ONE: START

IDENTIFICATION NUMBERS

___ (1-5) Sequence number [ ][ ][ ][ ][1]

1 (6-10) Docket number [ ][ ][ ][ ][ ]

2 (11-14) Jail number [ ][ ][ ][ ]

3 (15-19) Booking number [ ][ ][ ][ ][ ]

4 (20-28) Social security number [ ][ ][ ][ ][ ][ ][ ][ ][ ]

5 (29) FTA bench warrant too [ ]

6 (30) Probation/parole hold too [ ]

7 (31-32) If more than 10 charges, how many? [ ][ ]

CHARGE INFORMATION

| | | Statute number | Severity | *A/C/S | No. of Counts | **Weapons | ***Force |
|---|---|---|---|---|---|---|---|
| 8-13 (33-44) | First charge | | | | | | |
| 14-19 (45-56) | Second charge | | | | | | |
| 20-25 (57-68) | Third charge | | | | | | |
| 26-31 (69-80) | Fourth charge | | | | | | |

CARD TWO

___ (1-5) Sequence number [ ][ ][ ][ ][2]

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| 32-37 (6-17) | Fifth charge | | | | | | |
| 38-43 (18-29) | Sixth charge | | | | | | |
| 44-49 (30-41) | Seventh charge | | | | | | |
| 50-55 (42-53) | Eighth charge | | | | | | |
| 56-61 (54-65) | Ninth charge | | | | | | |
| 62-67 (66-77) | Tenth charge | | | | | | |

*0=no
1=attempt
2=conspiracy
3=solicit

**0=no
1=yes,threat
2=yes,use
9=missing information

***0=no
1=verbal
2=physical, threat
3=physical, use
9=missing information

68 (78) Number of suspects [ ]

1 to
5 = self evident
6 = more than 5
7 = more than 1, number unknown
9 = missing information

VICTIMS

69 (79-80) Number of victims [ ][ ]

00 to
96 = number of victims
97 = victims noted, number unknown
99 = missing information

CARD THREE

___ (1-5) Sequence number [ ][ ][ ][ ][3]

If item 69 is 00, enter 8 or 98 in items 70-84

70 (6) Does defendant know victim(s)? [ ]

0 = no
1 = yes
9 = missing information

71 (7) Defendant's relationship to victim(s)

Spouse

[ ]

72 (8) Child

[ ]

73 (9) Parent

[ ]

74 (10) Sibling

[ ]

75 (11) Relative

[ ]

76 (12) Friend

[ ]

77 (13) Acquaintance

[ ]

78 (14-15) Number of male victims

[ ][ ]

00 to
96 = number of male victims
97 = male victims noted, number unknown
99 = missing information

79 (16-17) Number of female victims

[ ][ ]

00 to
96 = number of female victims
97 = female victims noted, number unknown
99 = missing information

80 (18-19) Number of victims of sexual assault

[ ][ ]

00 to
96 = number of victims of sexual assault
97 = sexual assault victims noted, number unknown
99 = missing information

81 (20) Race of victim

[ ]

0 = white
1 = black
2 = Hispanic
3 = other
4 = multiple victims, more than one race
9 = missing information

82 (21-22) Number of elderly victims

[ ][ ]

00 to
96 = number of elderly victims
97 = elderly victims noted, number unknown
99 = missing information

83 (23-24) Age of most serious victim

[ ][ ]

(Code in years, round to nearest year).
00 to
94 = age in years
95 = 95 years or older
96 = other (specify _____)
99 = missing information

84 (25) Injury to the most serious victim

[ ]

0 = no injury
1 = minor harm
2 = treated and discharged
3 = hospitalized
4 = death
8 = n/a, no person victim
9 = missing information

LOSS/DAMAGE

85 (26-27) Number of premises forcibly entered

[ ][ ]

01 to
96 = number of premises forcibly entered
97 = forcible entry noted, number unknown
98 = n/a
99 = missing information

86 (28) Property stolen and/or damaged

[ ]

0 = no
1 = property stolen
2 = property damaged
3 = stolen and damaged property
4 = property crime noted, whether stolen or damaged unknown
9 = missing information

87 (29-34) Estimated value of property stolen and/or damaged

[ ][ ][ ][ ][ ][ ]

000001 to
999996 = estimated dollar value
999997 = more than $999,996
999998 = n/a
999999 = missing information
(Specify property _____)

DRUG CHARGES

88 (35) Type of drug involved (if more than one drug, code the drug with the largest quantity)

[ ]

0 = alcohol
1 = marijuana
2 = cocaine
3 = amphetamine/barbituate
4 = hallucinogens (LSD, PCP)
5 = heroin
6 = other (specify _____)
8 = n/a, no drugs involved
9 = missing information

89 (36-39) Number of drug units of drug coded in item 88 (dosage, pills, cigarettes)

[ ][ ][ ][ ]

(See coding instructions)

90 (40) More than one drug was involved

[ ]

0 = no
1 = yes
8 = n/a
9 = missing information

BOOKING/PRE-ARRAIGNMENT

91 (41-46) Date of police booking

month day year

92 (47) Pre-arraignment bail decision (Bail Commissioner)

0 = no bail
1 = ROR
2 = cash bail
3 = percentage cash bail
4 = third party custody
7 = other (specify _____)
8 = n/a
9 = missing information

93 (48-53) Cash amount in dollars (if item 92 is (2))

000001 to
999995 = bail amount
999996 = more than $999,995
999998 = n/a
999999 = missing information

94 (54) Did defendant obtain pre-arraignment release?

0 = no
1 = yes
8 = n/a
9 = missing information

BOSTON MUNICIPAL COURT ARRAIGNMENT

95 (55-60) Date of Boston Municipal Court arraignment

month day year

96 (61-62) Judges (see instructions)

97 (63) Boston Municipal Court arraignment bail decision

0 = no bail
1 = ROR
2 = cash bail
3 = percentage cash bail
4 = third party custody
7 = other (specify _____)
9 = missing information

98 (64-69) Cash bail (if item 97 is (2), then code amount to be paid in dollars)

000001 to
999995 = bail amount in dollars
999996 = more than $999,995
999998 = n/a
999999 = missing information

99 (70) Boston Municipal Court probation interviewed this defendant

0 = not interviewed
1 = defendant refused interview
2 = interview completed
9 = missing information

100 (71) District Attorney recommendation recorded

0 = no
1 = yes
9 = missing information

101 (72) Charges were totally dismissed at arraignment

0 = no
1 = yes

102 (73) Counsel appointed

0 = no
1 = yes, public defender for bail decision only
2 = yes, public defender appointed outright
3 = yes, public defender with fee
4 = yes, private counsel for bail decision only
5 = yes, private counsel
6 = other (specify _____)
9 = missing information

BAIL REVIEW AT SUPERIOR COURT

103 (74) Bail review was held

0 = no
1 = yes

104 (75-80) Date of bail review

month day year

CARD FOUR

_____ (1-5) Sequence number

4

105 (6) Bail review decision

0 = no bail
1 = ROR
2 = cash bail
3 = percentage cash bail
4 = third party custody
7 = other (specify _____)
8 = n/a, no bail review
9 = missing information

106 (7) Prior bail changed at bail review

0 = no change
1 = yes, less restrictive
2 = yes, more restrictive
8 = n/a, no bail review
9 = missing information

107 (8-13) Cash bail amount to be paid (if item 105 is (2))

000001 to
999995 = bail amount in dollars
999996 = more than $999,995
999998 = n/a
999999 = missing information

108 (14) Defendant obtained release at bail review

0 = no
1 = yes
8 = n/a
9 = missing information

109 (15) Defendant bound over for arraignment in Superior Court?

0 = no, scheduled for Boston Municipal Court trial
1 = no, dismissed/dropped after Boston Municipal Court arraignment and before Superior Court arraignment
2 = yes, bound over to Superior Court
9 = missing information

CHARGES AT SUPERIOR COURT ARRAIGNMENT

| | | Statute number | Severity | *A/C/S |
|---|---|---|---|---|
| 110-112 (16-23) | First charge | | | |
| 113-115 (24-31) | Second charge | | | |
| 116-118 (32-39) | Third charge | | | |
| 119-121 (40-47) | Fourth charge | | | |
| 122-124 (48-55) | Fifth charge | | | |
| 125-127 (56-63) | Sixth charge | | | |
| 128-130 (64-71) | Seventh charge | | | |
| 131-133 (72-79) | Eighth charge | | | |

134 (80) Deposit was forfeited

CARD FIVE

(1-5) Sequence number

5

135 (6-11) Date of Preliminary hearing

month day year

136 (12) Prior bail changed at preliminary hearing refer to codes listed for 106

137 (13) Custody status changed

0 = no 1 = yes released 2 = yes detained 9 = missing

138 (14-19) Cash bail amount refer to codes listed in 107

139-140 (20-21) open

141 (22-27) Date of Superior Court arraignment

month day year

142 (28) Superior Court arraignment bail decision

0 = no bail
1 = ROR
2 = cash bail
3 = percentage cash bail
4 = third party release
7 = other (specify _____)
8 = n/a, no bail review
9 = missing information

143 (29) Prior bail changed at Superior Court arraignment

0 = no change
1 = yes, less restrictive
2 = yes, more restrictive
8 = n/a
9 = missing information

144 (30-35) Cash bail amount (if item 142 is (2))

000001 to
999995 = bail amount in dollars
999996 = over $999,995
999998 = n/a
999999 = missing information

145 (36) Case disposed at Superior Court arraignment?

0 = no
1 = yes, dismissal
2 = pled guilty
8 = n/a
9 = missing information

RELEASE INFORMATION

146 (37-42) Date of release

month day year

147 (43-44) Length of detention

00 to
96 = days detained
99 = missing information

148 (45) Obtained release at which stage?

0 = not released
1 = before Boston Municipal Court arraignment
2 = on date of Boston Municipal Court arraignment
3 = after Boston Municipal Court arraignment (Boston Municipal Court cases)
4 = on date of bail review
5 = on date of Superior Court arraignment (Superior Court cases)
6 = after Superior Court arraignment (Superior Court cases)
9 = missing information 7 = preliminary hearing

149 (46) Means of release

0 = OR
1 = paid own bail
2 = surety release
3 = third party custody
4 = other (specify _____)
8 = n/a, not released
9 = missing information

DEMOGRAPHICS/TIES

150 (47) Sex

0 = male
1 = female

151 (48) Race

0 = white
1 = black
2 = Puerto Rican
3 = other Hispanic
4 = French Canadian
5 = Oriental
6 = other (specify _____)
9 = missing information

152 (49-54) Birthdate

month day year

153 (55) Present address: Boston area

0 = no
1 = yes
9 = missing information

154 (56-58) Length of residence in the area (code in months)

000 to
996 = number of months
999 = missing information

155 (59) Defendant's living arrangement

0 = alone
1 = spouse/child
2 = relative/friend
9 = missing information

156 (60) Phone

0 = no
1 = yes
9 = missing information

157 (61) Driver's license

0 = no
1 = yes
9 = missing information

158 (62) Marital Status

1 = single, never married
2 = married
3 = widowed
4 = divorced
5 = common law
6 = separated
7 = other
9 = missing information

159 (63-64) Number of children

00 to
96 = number of children
97 = children noted, number unknown
99 = missing information

FINANCIAL STATUS

160 (65) Employment status

0 = unemployed
1 = disabled
2 = retired
3 = part-time
4 = full-time
9 = missing information

161 (66-68) Length of employment (code in months)

000 = unemployed
001 to
995 = number of months employed
996 = employed, length unknown
997 = not applicable (housewife, student, retired, disabled, inmate, other)

162 (69) Student

0 = no
1 = yes
9 = missing information

163 (70-71) Number of years in school completed

00 to
12 = number of years schooling
13 = some college/technical training
14 = 2-year/associate degree
15 = college degree
16 = post college education
99 = missing information

164 (72) Veteran

0 = no
1 = yes
9 = missing information

165 (73) Means of support

1 = wages
2 = unemployment compensation
3 = welfare (SSI)
4 = social security, disability, retirement, V.A.
5 = savings
6 = family/friends
7 = other

HEALTH

166 (74) Physical problems

0 = no
1 = yes
9 = missing information

167 (75) Mental problems

0 = no
1 = yes, files indicate mental problems
2 = yes, hospitalization for mental problems
9 = missing information

168 (76) Substance abuse

0 = no
1 = yes, past
2 = yes, present
3 = yes, past and present
4 = yes, unspecified
9 = missing information

Type of substance abuse. If no drug used, i.e. item 168 = 0, then code as an 8. If defendant uses drug specified, code 1 (yes), if not, code 0 (no), and if no information is provided, 9 (missing).

169 (77) Alcohol

170 (78) Marijuana

171 (79) Cocaine

172 (80) Heroin/Opiate

CARD SIX

(1-5) Sequence number

6

173 (6) Barbituate, sedative or tranquilizer

174 (7) Amphetamine

175 (8) Other drug (specify _____)

176 (9) Treatment for alcoholism

0 = no
1 = yes
9 = missing information

177 (10) Treatment for drug addiction

0 = no
1 = yes
9 = missing information

PRIOR CRIMINAL RECORD

178 (11-12) Number of prior arrests

00 to
96 = number of prior arrests
97 = noted, number unknown
99 = missing information

179 (13-14) Number of recent prior arrests (within past three years of this case)

00 to
96 = number of recent prior arrests
97 = noted, number unknown
99 = missing information

180 (15-16) Number of prior arrests for serious personal offenses

00 to
96 = number of prior arrests for serious personal offenses
97 = noted, number unknown
99 = missing information

181 (17-18) Number of prior arrests for serious property offenses

00 to
96 = number of prior arrests for serious property offenses
97 = noted, number unknown
99 = missing information

182 (19-20) Number of prior arrests for drug offenses

00 to
96 = number of prior arrests for drug offenses
97 = noted, number unknown
99 = missing information

183 (21-22) Number of prior arrests for weapon offenses

00 to
96 = number of prior arrests for weapon offenses
97 = noted, number unknown
99 = missing information

184 (23-24) Number of prior convictions

00 to
96 = number of prior convictions
97 = noted, number unknown
99 = missing information

185 (25-26) Number of prior felony convictions

00 to
96 = number of prior felony convictions
97 = noted, number unknown
99 = missing information

186 (27-28) Number of prior misdemeanor convictions

00 to
96 = number of prior misdemeanor convictions
97 = noted, number unknown
99 = missing information

187 (29-30) Number of prior convictions for serious personal offenses

00 to
96 = number of prior convictions for serious personal offenses
97 = noted, number unknown
99 = missing information

188 (31-32) Number of prior convictions for serious property offenses

00 to
96 = number of prior convictions for serious property offenses
97 = noted, number unknown
99 = missing information

189 (33-34) Number of prior convictions for drug offenses

00 to
96 = number of prior convictions for drug offenses
97 = noted, number unknown
99 = missing information

190 (35-36) Number of prior convictions for weapon offenses

00 to
96 = number of prior convictions for weapon offenses
97 = noted, number unknown

191 (37) On probation or parole at time of arrest

0 = no
1 = yes
9 = missing information

192 (38-39) Record of appearance at prior court proceedings (number of defaults)

00 to
96 = number of defaults
97 = noted, number unknown
99 = missing information

193 (40-41) Number of outstanding warrants or detainers

00 to
96 = number of outstanding warrants or detainers
97 = noted, number unknown
99 = missing information

194 (42) Defendant is on pretrial release for a previous charge

0 = no
1 = yes, felony
2 = yes, misdemeanor
3 = yes, charge unknown
9 = missing information

FOLLOW-UP INFORMATION

195 (43) Review: current case disposed before 90 days?

0 = no
1 = case dismissed
2 = yes, pled guilty
3 = yes, acquitted
4 = yes, found guilty
9 = missing information

196 (44-49) If item 195 is (1-4), then code date of disposition. Otherwise code 888888 for not applicable (n/a)

month day year

197 (50) Defaulted within 90 days

0 = no
1 = yes, default without warrant
2 = yes, default with warrant
8 = not released
9 = missing information

198 (51-56) Date of first nonappearance in court

month day year

199 (57) Rearrested within 90 days of release

0 = no
1 = yes
8 = not released
9 = missing information

200 (58-59) Most serious offense for which rearrested (see coding manual)

01 = miscellaneous
02 = public order
03 = weapons
04 = public administration
05 = other personal
06 = other property
07 = drugs (manufacture, delivery, sale)
08 = aggravated assault
09 = burglary
10 = robbery
11 = serious personal
97 = not released
98 = not rearrested
99 = missing information

201 (60-66) Statute and severity ranking of most serious offense

a b

202 (67-72) Date of first rearrest

month day year

## CASE DISPOSITION

203 (73) If case was completed nine months from Boston Municipal Court arraignment, at what stage?

[ ]

0 = not completed
1 = all charges dismissed or dropped
2 = case diverted or goes to mediation
3 = conviction: pled guilty
4 = conviction: found guilty (trial)
5 = acquitted on all charges
6 = sentenced 7 = continued w/o a finding

204 (74) If item 203 is (6) then code type of sentence, otherwise use n/a code

[ ]

0 = suspended sentence
1 = probation only
2 = fine or restitution only
3 = incarceration only
4 = probation and fine or restitution
5 = probation and incarceration
6 = fine or restitution and incarceration
7 = probation, fines or restitution, and incarceration

205 (75-76) If item 204 is (1,4,5,7) code length of probation in months

[ ][ ]

95 = more than 94 months
98 = n/a

206 (77-79) If item 204 is (3,5,6,7) code length of incarceration in months

[ ][ ][ ]

994 = more than 993 months
995 = part-time sentence only
(specify length _____)
996 = life sentence
997 = capital sentence
998 = n/a

207 (80) Information obtained from Commissioner of Probation on rearrest

[ ]

0 = no, no rearrest found
1 = yes, rearrest recorded
8 = n/a, not in sample of 500

## ADDRESS ADDENDUM

208 (____) 1. Print defendant's address (No., street, town, zip)

209 (____) 2. Print address of scene of crime

KEYPUNCHER NOTE: This page only, left to right/top row to bottom row.

BOSTON SUPERIOR COURT

Coder _____

CARD ONE: START

IDENTIFICATION NUMBERS

| ____ (1-5) Sequence number | 1 (6-10) Docket number | 2 (11-14) Jail number | 3 (15-19) Booking number | 4 (20-28) Social security number | 5 (29) Reason for Superior Court involvement |
|---|---|---|---|---|---|
| 1 | | | | | |

0 = direct indictment from Grand Jury
1 = bail review
2 = from Municipal Court, bound over
3 = from Municipal Court, bound over and Grand Jury
4 = other (specify _____

SUPERIOR COURT CHARGE INFORMATION

| | | Statute number | Severity | *A/C/S | No. of Counts | **Weapons | ***Force |
|---|---|---|---|---|---|---|---|
| 6-11 / 30-41 | First charge | | | | | | |
| 12-17 / (42-53) | Second charge | | | | | | |
| 18-23 / (54-65) | Third charge | | | | | | |
| 24-29 / (66-77) | Fourth charge | | | | | | |
| 30 / (78-80) | Open | | | | | | |

*0=no
1=attempt
2=conspiracy
3=solicit

**0=no
1=yes,threat
2=yes,use
9=missing information

***0=no
1=verbal
2=physical, threat
3=physical, use
9=missing information

CARD TWO

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| ____ (1-5) Sequence number | | 2 | | | | | |
| 31-36 / (6-17) | Fifth charge | | | | | | |
| 37-42 / (18-29) | Sixth charge | | | | | | |
| 43-48 / (30-41) | Seventh charge | | | | | | |
| 49-54 / (42-53) | Eighth charge | | | | | | |
| 55-60 / (54-65) | Ninth charge | | | | | | |
| 61-66 / (66-77) | Tenth charge | | | | | | |

67 (78-79) If more than 10 charges, how many?

68 (80) Number of suspects

1 to
5 = self evident
6 = more than 5
7 = more than 1, number unknown
9 = missing information

CARD THREE

____ (1-5) Sequence number

3

VICTIMS

69 (6-7) Number of victims

00 to
96 = number of victims
97 = victims noted, number unknown
99 = missing information

If item 69 is 00, enter 8 or 98 in items 70-85.

70 (8) Does defendant know victim(s)?

[ ]

0 = no
1 = yes, defendant is spouse
2 = yes, defendant is child
3 = yes, defendant is parent
4 = yes, defendant is sibling
5 = yes, defendant is friend
6 = yes, defendant is acquaintance
7 = more than one victim
8 = n/a
9 = missing information

71 (9-10) Number of male victims

[ ][ ]

00 to
96 = number of male victims
97 = male victims noted, number unknown
99 = missing information

72 (11-12) Number of female victims

[ ][ ]

00 to
96 = number of female victims
97 = female victims noted, number unknown
99 = missing information

73 (13-14) Number of victims of sexual assault

[ ][ ]

00 to
96 = number of victims of sexual assault
97 = sexual assault victims noted, number unknown
99 = missing information

74 (15) Race of victim

[ ]

0 = white
1 = black
2 = Hispanic
3 = other
4 = multiple victims, more than one race
9 = missing information

75 (16-17) Number of elderly victims

[ ][ ]

00 to
96 = number of elderly victims
97 = elderly victims noted, number unknown
99 = missing information

76 (18-19) Age of most serious victim

[ ][ ]

(Code in years, round to nearest year).
00 to
94 = age in years
95 = 95 years or older
96 = other (specify _____)
99 = missing information

77 (20) Injury to the most serious victim

[ ]

0 = no injury
1 = minor harm
2 = treated and discharged
3 = hospitalized
4 = death
8 = n/a, no person victim
9 = missing information

LOSS/DAMAGE

78 (21-22) Number of premises forcibly entered

[ ][ ]

01 to
96 = number of premises forcibly entered
97 = forcible entry noted, number unknown
98 = n/a
99 = missing information

79 (23) Property stolen and/or damaged

[ ]

0 = no
1 = property stolen
2 = property damaged
3 = stolen and damaged property
4 = property crime noted, whether stolen or damaged unknown
9 = missing information

80 (24-29) Estimated value of property stolen and/or damaged

[ ][ ][ ][ ][ ][ ]

000001 to
999996 = estimated dollar value
999997 = more than $999,996
999998 = n/a
999999 = missing information
(Specify property _____)

DRUG CHARGES

81 (30) Type of drug involved (if more than one drug, code the drug with the largest quantity)

[ ]

0 = alcohol
1 = marijuana
2 = cocaine
3 = amphetamine/barbituate
4 = hallucinogens (LSD, PCP)
5 = heroin
6 = other (specify _____)
8 = n/a, no drugs involved
9 = missing information

82 (31-34) Number of drug units of drug coded in item 81 (dosage, pills, cigarettes)

[ ][ ][ ][ ]

(See coding instructions)

83 (35) More than one drug was involved

[ ]

0 = no
1 = yes
8 = n/a
9 = missing information

SUPERIOR COURT BAIL DECISION

84 (36-41) Date of Superior Court bail decision

[ ][ ] [ ][ ] [ ][ ]
month day year

85 (42) Superior Court bail decision

0 = no bail
1 = ROR
2 = cash bail
3 = percentage cash bail
4 = third party release
5 = supervised probation
7 = other (specify _____)
8 = n/a
9 = missing information

86 (43) Prior bail changed at Superior Court bail decision

0 = no change
1 = yes, less restrictive
2 = yes, more restrictive
8 = n/a
9 = missing information

87 (44-49) Cash bail amount (if item 85 is (2))

000001 to
999995 = bail amount in dollars
999996 = over 999,995
999998 = n/a
999999 = missing information

88 (50) Case disposed at Superior Court bail decision

0 = no
1 = yes, dismissal
2 = pled guilty
8 = n/a
9 = missing information

89 (51-52) Superior Court Judge (consult list)

CASE HISTORY

Booking/Pre-Arraignment

90 (53-58) Date of police booking

month day year

91 (59) Pre-arraignment bail decision (Bail Commissioner)

0 = no bail
1 = ROR
2 = cash bail
3 = percentage cash bail
4 = third party custody
7 = other (specify _____)
8 = n/a
9 = missing information

92 (60-65) Cash amount in dollars (if item 91 is (2))

000001 to
999995 = bail amount
999996 = more than $999,995
999998 = n/a
999999 = missing information

93 (66) Did defendant obtain pre-arraignment release?

0 = no
1 = yes
8 = n/a
9 = missing information

Municipal Court Arraignment

94 (67-72) Date of Municipal Court arraignment

month day year

95 (73-74) Boston Municipal Court Judge (consult list)

96 (75) Municipal Court arraignment bail decision

0 = no bail
1 = ROR
2 = cash bail
3 = percentage cash bail
4 = third party custody
5 = supervised probation
7 = other (specify _____)
9 = missing information

97 (76-80) (See instructions for item 97)

a b open

CARD FOUR

Sequence number (1-5)

4

98 (6-15) Reasons noted by judge for decision (0 = no, 1 = yes, 9 = missing information)

a b c d e f g h i j

a) prior record
b) circumstances of offense
c) poor community ties
d) poor family ties
e) prior FTA
f) mental illness
g) financial resources/employment
h) potential penalty
i) pretrial release for previous charge
j) drug dependency

99 (16-21) Cash amount to be paid (if item 96 is 2,3)

000001 to
999995 = bail amount
999996 = more than $999,995
999998 = n/a
999999 = missing information

Municipal Court Probable Cause Hearing

100 (22) Bail decision at probable cause hearing

0 = no bail
1 = ROR
2 = cash bail
3 = percentage cash bail
4 = third party custody
7 = other (specify _____)
8 = n/a
9 = missing information

101 (23-28) Cash amount to be paid (if item 100 is 2,3)

102 (29) Earlier bail decision changed at Probable Cause Hearing

0 = no change
1 = yes, less restrictive
2 = yes, more restrictive
8 = n/a
9 = missing information

Charges at Municipal Court Arraignment

| | | Statute number | Severity | *A/C/S | No. of Counts | **Weapons | ***Force |
|---|---|---|---|---|---|---|---|
| 103-108 (30-41) | First charge | | | | | | |
| 109-114 (42-53) | Second charge | | | | | | |
| 115-120 (54-65) | Third charge | | | | | | |
| 121-126 (66-77) | Fourth charge | | | | | | |
| 127 (78-80) | (See instructions for item 127) | | | | | | |

CARD FIVE

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| (1-5) | Sequence number | 5 | | | | | |
| 128-133 (6-17) | Fifth charge | | | | | | |

*0=no
1=attempt
2=conspiracy
3=solicit

**0=no
1=yes,threat
2=yes,use
9=missing information

***0=no
1=verbal
2=physical, threat
3=physical, use
9=missing information

134 (18) Charges were totally dismissed at arraignment

0 = no
1 = yes

135 (19-24) Open

136 (25) Municipal Court probation interviewed this defendant

0 = not interviewed
1 = defendant refused interview
2 = interview completed
9 = missing information

137 (26) District Attorney recommendation recorded

0 = no
1 = yes
9 = missing information

138 (27) Counsel appointed

0 = no
1 = yes, public defender for bail decision only
2 = yes, public defender appointed outright
3 = yes, public defender with fee
4 = yes, private counsel for bail decision only
5 = yes, private counsel
6 = other (specify _____)
9 = missing information

Previous Bail Review at Superior Court

139 (28) Bail review was held

0 = no
1 = yes

140 (29) Bail review decision

0 = no bail
1 = ROR
2 = cash bail
3 = percentage cash bail
4 = third party custody
7 = other (specify _____)
8 = n/a, no bail review
9 = missing information

141 (30) Earlier bail decision changed at bail review

0 = no change
1 = yes, less restrictive
2 = yes, more restrictive
8 = n/a, no bail review
9 = missing information

142 (31-36) Cash bail amount to be paid (if item 140 is (2))

000001 to
999995 = bail amount in dollars
999996 = more than $999,995
999998 = n/a
999999 = missing information

143 (37) Defendant obtained release at bail review

0 = no
1 = yes
8 = n/a
9 = missing information

RELEASE INFORMATION

144 (38-43) Date of release

month day year

145 (44-45) Length of detention

00 to
96 = days detained
99 = missing information

146 (46) Stage where release was first obtained

0 = before Municipal Court arraignment
1 = as a result of Municipal Court arraignment
2 = as a result of bail review
3 = as a result of Superior Court arraignment
4 = as a result of Probable Cause Hearing
8 = n/a
9 = missing information

147 (47) Means of release

0 = OR
1 = paid own bail
2 = surety release
3 = third party custody
4 = other (specify _____)
8 = n/a, not released
9 = missing information

DEMOGRAPHICS/TIES

148 (48) Sex

0 = male
1 = female

149 (49) Race

0 = white
1 = black
2 = Puerto Rican
3 = other Hispanic
4 = French Canadian
5 = Oriental
6 = other (specify _____)
9 = missing information

150 (50-55) Birthdate

month day year

Open (56)

151 (57) Present address: Boston area

0 = no
1 = yes
9 = missing information

152 (58-60) Length of residence in the area (code in months)

000 to
996 = number of months
999 = missing information

153 (61) Defendant's living arrangement

0 = alone
1 = spouse/child
2 = relative/friend
9 = missing information

154 (62) Phone

0 = no
1 = yes
9 = missing information

155 (63) Driver's license

0 = no
1 = yes
9 = missing information

156 (64) Marital status

1 = single, never married
2 = married
3 = widowed
4 = divorced
5 = common law
6 = separated
7 = other
9 = missing information

157 (65-66) Number of children

00 to
96 = number of children
97 = children noted, number unknown
99 = missing information

FINANCIAL STATUS

158 (67) Employment status

0 = unemployed
1 = disabled
2 = retired
3 = part-time
4 = full-time
9 = missing information

159 (68-70) Length of employment (code in months)

000 = unemployed
001 to
995 = number of months employed
996 = employed, length unknown
997 = not applicable (housewife, student, retired, disabled, inmate, other)

160 (71) Student

0 = no
1 = yes
9 = missing information

161 (72-73) Number of years in school completed

00 to
12 = number of years schooling
13 = some college/technical training
14 = 2-year/associate degree
15 = college degree
16 = post college education
99 = missing information

162 (74) Veteran

0 = no
1 = yes
9 = missing information

163 (75) Means of support

1 = wages
2 = unemployment compensation
3 = welfare (SSI)
4 = social security, disability, retirement, V.A.
5 = savings
6 = family/friends
7 = other

HEALTH

164 (76) Physical problems

0 = no
1 = yes
9 = missing information

165 (77) Mental problems

0 = no
1 = yes, files indicate mental problems
2 = yes, hospitalization for mental problems
9 = missing information

166 (78) Substance abuse

0 = no
1 = yes, past
2 = yes, present
3 = yes, past and present
4 = yes, unspecified
9 = missing information

Type of substance abuse. If no drug used, i.e. item 166 = 0, then code as an 8. If defendant uses drug specified, code 1 (yes), if not, code 0 (no), and if no information is provided, 9 (missing).

167 (79) Alcohol

168 (80) Marijuana

CARD SIX

(1-5) Sequence number

6

169 (6) Cocaine

170 (7) Heroin/Opiate

171 (8) Barbituate, sedative or tranquilizer

172 (9) Amphetamine

173 (10) Other drug (specify _____)

174 (11) Treatment for alcoholism

0 = no
1 = yes
9 = missing information

175 (12) Treatment for drug addiction

0 = no
1 = yes
9 = missing information

PRIOR CRIMINAL RECORD

176 (13-14) Number of prior arrests

00 to
96 = number of prior arrests
97 = noted, number unknown
99 = missing information

177 (15) Number of recent prior arrests (within past three years of this case)

[ ][ ]

0 - 5 = number of recent prior arrests
6 = more than 5
7 = noted but unknown
9 = missing

178 (16-17) Number of prior arrests for serious personal offenses

[ ][ ]

00 to
96 = number of prior arrests for serious personal offenses
97 = noted, number unknown
99 = missing information

179 (18-19) Number of prior arrests for serious property offenses

[ ][ ]

00 to
96 = number of prior arrests for serious property offenses
97 = noted, number unknown
99 = missing information

180 (20-21) Number of prior arrests for drug offenses

[ ][ ]

00 to
96 = number of prior arrests for drug offenses
97 = noted, number unknown
99 = missing information

181 (22-23) Number of prior arrests for weapon offenses

[ ][ ]

00 to
96 = number of prior arrests for weapon offenses
97 = noted, number unknown
99 = missing information

182 (24-25) Number of prior convictions

[ ][ ]

00 to
96 = number of prior convictions
97 = noted, number unknown
99 = missing information

183 (26-27) Number of prior felony convictions

[ ][ ]

00 to
96 = number of prior felony convictions
97 = noted, number unknown
99 = missing information

184 (28-29) Number of prior misdemeanor convictions

[ ][ ]

00 to
96 = number of prior misdemeanor convictions
97 = noted, number unknown
99 = missing information

185 (30-31) Number of prior convictions for serious personal offenses

[ ][ ]

00 to
96 = number of prior convictions for serious personal offenses
97 = noted, number unknown
99 = missing information

186 (32-33) Number of prior convictions for serious property offenses

[ ][ ]

00 to
96 = number of prior convictions for serious property offenses
97 = noted, number unknown
99 = missing information

187 (34-35) Number of prior convictions for drug offenses

[ ][ ]

00 to
96 = number of prior convictions for drug offenses
97 = noted, number unknown
99 = missing information

188 (36-37) Number of prior convictions for weapon offenses

[ ][ ]

00 to
96 = number of prior convictions for weapon offenses
97 = noted, number unknown

189 (38) On probation or parole at time of arrest

[ ]

0 = no
1 = yes
9 = missing information

190 (39-40) Record of appearance at prior court proceedings (number of defaults)

[ ][ ]

00 to
96 = number of defaults
97 = noted, number unknown
99 = missing information

191 (41-42) Number of outstanding warrants or detainers

[ ][ ]

00 to
96 = number of outstanding warrants or detainers
97 = noted, number unknown
99 = missing information

192 (43) Defendant is on pretrial release for a previous charge

[ ]

0 = no
1 = yes, felony
2 = yes, misdemeanor
3 = yes, charge unknown
9 = missing information

FOLLOW-UP INFORMATION

193 (44) Case was disposed within 90 days of Superior Court bail decision

[ ]

0 = no
1 = case dismissed
2 = yes, pled guilty
3 = yes, acquitted
4 = yes, found guilty
9 = missing information

194 (45-50) If item 193 is (1-4), then code date of disposition. Otherwise code 888888 for not applicable (n/a)

[ ][ ] [ ][ ] [ ][ ]
month day year

195 (51) Defaulted within 90 days

[ ]

0 = no
1 = yes, default without warrant
2 = yes, default with warrant
8 = not released
9 = missing information

196 (52-57) Date of first nonappearance in court

[ ][ ] [ ][ ] [ ][ ]
month day year

197 (58) Rearrested within 90 days of release

[ ]

0 = no
1 = yes
8 = not released
9 = missing information

198 (59-60) Most serious offense for which rearrested (see coding manual)

[ ][ ]

01 = miscellaneous
02 = public order
03 = weapons
04 = public administration
05 = other personal
06 = other property
07 = drugs (manufacture, delivery, sale)
08 = aggravated assault
09 = burglary
10 = robbery
11 = serious personal
97 = not released
98 = not rearrested
99 = missing information

199 (61-67) Statute and severity ranking of most serious offense

[ ][ ][ ][ ][ ][ ][ ]
a b

200 (68-73) Date of first rearrest

[ ][ ] [ ][ ] [ ][ ]
month day year

CASE DISPOSITION

201 (74) If case was completed nine months from Superior Court bail decision, at what stage?

[ ]

0 = not completed
1 = all charges dismissed or dropped
2 = case diverted or goes to mediation
3 = conviction: pled guilty
4 = conviction: found guilty (trial)
5 = acquitted on all charges
6 = sentenced

202 (75) If item 201 is (6) then code type of sentence, otherwise use n/a code

[ ]

0 = suspended sentence
1 = probation only
2 = fine or restitution only
3 = incarceration only
4 = probation and fine or restitution
5 = probation and incarceration
6 = fine or restitution and incarceration
7 = probation, fines or restitution, and incarceration

203 (76-77) If item 202 is (1,4,5,7) code length of probation in months

[ ][ ]

95 = more than 94 months
98 = n/a

204 (78-80) If item 202 is (3,5,6,7) code length of incarceration in months

[ ][ ][ ]

994 = more than 993 months
995 = part-time sentence only (specify length _____)
996 = life sentence
997 = capital sentence
998 = n/a

ADDRESS ADDENDUM

205 (____) 1. Print defendant's address (No., street, town, zip)

206 (____) 2. Print address of scene of crime

Jail Population Study
Boston

Coder _____

CARD ONE

Sequence number
(1-4)

| | | | |
|---|---|---|---|
| | | | 1 |

1 Booking number
(5-10)

2 Arrest precinct number
(11-12)

3 Docket number
(13-18) (most recent)

4 Date of study
(19-24)
month day year

| | | | | | |
|---|---|---|---|---|---|
| 1 | 1 | 1 | 8 | 8 | 5 |

5 Date admitted to jail
(25-30)
month day year

6-9 Which of the following reasons are holding the defendant in jail? (If there are less than four reasons, write 98 in all unused spaces).

6
(31-32)

7
(33-34)

8
(35-36)

9
(37-38)

01 = bail or awaiting arraignment
02 = bench warrant
03 = probation violation
04 = parole violation
05 = awaiting sentencing
06 = sentenced inmate
08 = awaiting transport to prison
09 = appeal
10 = request from another jurisdiction
12 = held for Federal government
98 = n/a
99 = missing

BAIL INFORMATION

10 Date or arrest
(39-44)
month day year

11 Is defendant being held on new charges for which s/he has not posted bail?
(45)

0 = no
1 = yes
9 = missing

12 Date of BMC/District Court Arraignment
(46-51) (most recent)
month day year

13 What was the original bail amount
(52-57) for these charges? (BMC/District Court Arraignment)

000000 = ROR
000001 to
999996 = cash amount
777777 = held without bail
999998 = n/a, not held on bail
999999 = missing

14 What is the total bail amount now
(58-63) holding the defendant? (sum of all cases)

15 If held on bail, defendant is at
(64) what stage of processing?

0 = before BMC/District Court Arraignment
1 = between arraignment and PC Hearing
2 = between PC Hearing and SC Arraignment
3 = after SC Arraignment
8 = n/a, not held on bail
9 = missing

16 Total number of charges
(65) (sum of all cases, new charges, not defaults)

1 to
5 = number
6 = more than 5
8 = n/a, not held on bail
9 = missing

17 Statute number (most serious charge)
(66-71)

18 Seriousness level (item 17)
(72)

19 Offense type (item 17)
(73)

1 = crime against person
2 = robbery
3 = burglary
4 = other property crime
5 = drug-related
6 = weapon
7 = prostitution
9 = missing
0 = other (specify _____)

20 Statute number (second serious)
(74-79)

21 Seriousness level
(80)

CARD TWO

Sequence number
(1-4)

| | | | |
|---|---|---|---|
| | | | 2 |

22 (5) Offense type

1 = crime against person
2 = robbery
3 = burglary 4 = other property crime
5 = drug-related
6 = weapon
7 = prostitution
8 = n/a
9 = missing
0 = other (specify _____)

23 (6) Had the defendant secured release previously on these charges?

0 = no indication that bond was posted
1 = yes, ROR
2 = yes, posted by defendant
3 = yes, posted by third party
4 = yes, posted by bond agency
5 = yes, other (specify _____)
8 = n/a, not held on bail (sentenced)
9 = missing

24 (7) Defendant interviewed for bail review?

0 = no
1 = yes
9 = missing

25 (8) If charges involve loss or damage to property, indicate amount:

0 = no loss or damage
1 = $100 or less
2 = $101 - $500
3 = $501 - $1,000
4 = more than $1,000
5 = noted, amount unknown
8 = n/a, not held on bail
9 = missing

26 (9) If charges involve victims, indicate number:

0 to
5 = number of victims
6 = more than 5
7 = noted, number unknown
8 = n/a, not held on bail
9 = missing

27 (10) Level of injury to most injured victim

0 = no injury
1 = minor harm
2 = treated and discharged
3 = hospitalized
4 = death
8 = n/a, not held on bail
9 = missing

28 (11) Relationship of defendant and victim (item 27) Defendant is:

0 = stranger
1 = spouse
2 = child
3 = parent
4 = sibling
5 = other relative
6 = friend
7 = acquaintance
8 = n/a, not held on bail, or no victim
9 = missing

29 (12) Number of female victims

0 to
5 = number
6 = more than five
7 = noted, number unknown
8 = n/a, not held on bail
9 = missing

30 (13) Number of male victims

0 to
5 = number
6 = more than five
7 = noted, number unknown
8 = n/a, not held on bail
9 = missing

31 (14) Number of elderly victims

0 to
5 = number
6 = more than five
7 = noted, number unknown
8 = n/a, not held on bail
9 = missing

32 (15) Defendant represented by:

0 = no counsel
1 = public defender
2 = public defender with weekly fee
3 = court appointed private counsel
4 = private counsel
8 = n/a, not held on bail
9 = missing

33 (16-17) Record of appearance at prior court proceedings

00 to
96 = number of failures to appear
97 = noted, number unknown
98 = n/a, not held on bail
99 = missing

34 (18-19) Other pending cases (not defaults)

00 to
96 = number of other pending charges
97 = noted, number unknown
98 = n/a, not held on bail
99 = missing

35 (20) Seriousness level of most serious charge in pending case

36 (21-26) Total amount of bail set on item 34

000000 = ROR
000001 to
999996 = cash amount
999998 = n/a, not held on bail
999999 = missing

37 (27) Pending cases: serious crime against person (murder, rape, kidnap, agg. assault)

0 = no
1 = yes
8 = n/a, not held on bail
9 = missing

38 (28) Pending cases: robbery

0 = no
1 = yes
8 = n/a
9 = missing

39 (29) Pending cases: burglary

0 = no
1 = yes
8 = n/a
9 = missing

40 (30) Pending cases: drug-related

0 = no
1 = yes
8 = n/a, not held on bail
9 = missing

41 (31) Pending cases: weapon

0 = no
1 = yes
8 = n/a, not held on bail
9 = missing

42 (32) Next hearing scheduled

0 = arraignment (BMC/District Court)
1 = PC Hearing
2 = SC Arraignment
3 = stages after Arraignment and before final adjudication
8 = n/a, not held on bail
9 = missing

43 (33-38) Trial date set

month day year

000000 = no
999997 = awaiting sentence, still on bail
999998 = n/a, not held on bail
999999 = missing

44 (39) Number of continuances related to this case

0 to
5 = number of continuances
6 = more than five
8 = n/a, not held on bail
9 = missing

BENCH WARRANT INFORMATION

45 (40-41) How many bench warrants are holding this defendant?

00 to
96 = number of warrants
97 = noted, number unknown
99 = missing

46 (42-47) What is the total amount of bench warrant?

000000 to
999996 = cash amount
999997 = noted, amount unknown
999998 = n/a, not held on bench warrant
999999 = missing

47 (48-53) Statute number (most serious bench warrant)

999998 = n/a, not held on bench warrant
999999 = missing

48 (54) Seriousness level (item 47)

PROBATION VIOLATION INFORMATION

49 (55) Is defendant held on probation violation?

0 = no
1 = yes, new charge-related
2 = yes, technical _____
3 = yes, unspecified
9 = missing

50 (56-61) Date of detainer (issued)

month day year

999998 = n/a, not held on probation violation
999999 = missing

51 (62-67) Statute for most serious conviction for which defendant was on probation

999998 = n/a, not held on probation violation
999999 = missing

52 (68) Seriousness level (item 51)

PAROLE VIOLATION INFORMATION

53 (69) Is defendant held on parole violation?

0 = no
1 = yes, new charge-related
2 = yes, technical _____
3 = yes, unspecified

54 (70-75) Date of detainer (issued)

month day year

999998 = n/a, not held on parole violation
999999 = missing

55 (76-80) Open

CARD THREE

(1-4) Sequence number

3

56 (5-10) Statute for most serious conviction for which defendant served sentence

999998 = n/a, not held on parole violation
999999 = missing

57 (11) Seriousness level (item 56)

INFORMATION ON DEFENDANTS AWAITING SENTENCING

58 (12) Is defendant being held awaiting sentencing?

0 = no
1 = awaiting sentence but held for another reason
2 = yes
9 = missing

59 (13-18) Date of conviction
month day year

999998 = n/a, not awaiting sentence
999999 = missing

60 (19-24) Date scheduled for sentencing
month day year

999998 = n/a, not awaiting sentence
999999 = missing

61 (25-30) Date presentence investigation reported to court
month day year

999997 = not completed
999998 = n/a, not awaiting sentence
999999 = missing

62 (31-36) Date mental evaluation reported to court
month day year

999997 = not requested
999998 = n/a, not awaiting sentence
999999 = missing

SENTENCED PRISONER INFORMATION

63 (37) Is defendant a sentenced prisoner?

0 = no
1 = yes
9 = missing

64 (38-39) Length of minimum sentence

00 = less than one month
01 to
60 = between one month and five years (months)
75 = five years one day to ten years
80 = more than ten years
81 = other (_____)
98 = n/a, not sentenced
99 = missing

65 (40-41) Length of maximum sentence (use same codes as item 64)

66 (42-47) Date of sentence
month day year

999998 = n/a, not sentenced
999999 = missing

67 (48) Other conditions of sentence

0 = none
1 = probation
2 = fines
3 = restitution
4 = community service
5 = work furlough
6 = other (_____)
8 = n/a, not sentenced
9 = missing

68 (49-54) Statute for most serious sentence

999998 = n/a, not sentenced
999999 = missing

69 (55) Seriousness level (item 68)

70 (56) Was sentenced person detained before conviction?

0 = no
1 = yes
8 = n/a, not sentenced
9 = missing

71 (57) Was sentenced person detained after conviction?

0 = no
1 = yes
8 = n/a, not sentenced
9 = missing

72 (58) Was time already served part of sentence?

0 = no
1 = yes
8 = n/a, not sentenced
9 = missing

73 (59-60) Length of time-served credit

00 to
96 = number of months
97 = number unknown
98 = n/a, not sentenced
99 = missing

74 (61-66) Expected date of release
month day year

999997 = life sentence, no release
999998 = n/a, not sentenced
999999 = missing

75 (67) If sentenced crime(s) involved loss or damage to property, indicate amount:

0 = $100 or less
1 = $101 - $500
2 = $501 - $1,000
7 = noted, amount unknown
8 = n/a, not sentenced
9 = missing

76 (68) If sentenced crime(s) involved victims, indicate number:

0 to
5 = number of victims
6 = more than five
7 = noted, number unknown
8 = n/a, not sentenced
9 = missing

77 (69) Level of injury to most injured victim

0 = no injury
1 = minor harm
2 = treated and discharged
3 = hospitalized
4 = death
8 = n/a, not sentenced
9 = missing

78 (70) Relationship of defendant and victim (item 77). Defendant is:

0 = stranger
1 = spouse
2 = child
3 = parent
4 = sibling
5 = other relative
6 = friend
7 = acquaintance
8 = n/a, not sentenced
9 = missing

79 (71) Number of female victims

0 to
5 = number
6 = more than five
7 = noted, number unknown
8 = n/a, not sentenced
9 = missing

80 (72) Number of male victims

0 to
5 = number
6 = more than five
7 = noted, number unknown
8 = n/a, not sentenced
9 = missing

81 (73) Number of elderly victims

0 to
5 = number
6 = more than five
7 = noted, number unknown
8 = n/a, not sentenced
9 = missing

OTHER REASONS FOR DETENTION

82 (74) Is the defendant being held for any other reason not previously noted?

0 = no
1 = awaiting transport to prison
2 = appeal
3 = request from another jurisdiction
4 = held for Federal government
9 = missing

DEMOGRAPHICS/TIES

83 (75) Defendant was resident of Boston at time of custody

0 = no
1 = yes
9 = missing

84 (76) Living arrangement

0 = alone
1 = spouse/child
2 = relative/friend
3 = institution/group home
9 = missing

85 (77) Relatives/Friends in Boston

0 = no
1 = relative
2 = friends
3 = spouse
4 = child
5 = 2 or more
9 = missing

86 (78) Marital status

0 = single, never married
1 = married
2 = widowed
3 = divorced/separated
4 = common law
5 = other
9 = missing

87 (79) Employment at time of custody

0 = no, unemployed
2 = no, housewife, student, retired, disabled, inmate
3 = yes, part-time
4 = yes, full-time
9 = missing

88 (80) Means of support (if employed and nothing contrary is stated, code 1)

0 = none noted
1 = wages
2 = unemployment compensation
3 = welfare
4 = social security, disability, retirement, VA
5 = savings
6 = family/friends
7 = other
9 = missing

CARD FOUR

(1-4) Sequence number

4

89 (5-6) Number of years of schooling

00 to
12 = number
13 = some college/technical training
14 = 2-year/associate degree
15 = college degree
16 = post college education
99 = missing

90 (7) Sex

0 = male
1 = female

91 (8) Race

0 = white
1 = black
2 = Hispanic
3 = other
9 = missing

92 (9-14) Birthdate

month day year

999999 = missing

HEALTH

93 (15) Is there an indication of past mental health problems?

0 = no
1 = yes
9 = missing

94 (16) Is there an indication of present mental health problems? (in jail)

0 = no
1 = yes
2 = yes, institutionalized
9 = missing

95 (17) Physical problems

0 = no
1 = yes
9 = missing

96 (18) History of alcohol abuse

0 = no
1 = yes
2 = yes, treatment noted
9 = missing

97 (19) History of drug abuse

0 = no
1 = yes
2 = yes, treatment noted
9 = missing

PRIOR CRIMINAL RECORD

Use the following codes in this section:
0 to
5 = number
6 = more than five
7 = noted, number unknown
9 = missing

98 (20) Number of prior arrests (one date equals one arrest)

99 (21) Number of recent prior arrests (within past 3 years)

100 (22) Number of prior arrests: serious crimes against the person (murder, rape, kidnapping, agg. assault)

101 (23) Number of prior arrests: serious property crimes (arson, grand theft/larceny)

102 (24) Number of prior arrests: robbery

103 (25) Number of prior arrests: burglary

104 (26) Number of prior arrests: drug-related

105 (27) Number of prior arrests: weapons

106 (28) Total number of prior convictions (each statute counted separately)

107 (29) Number of prior convictions: juvenile only

108 (30) Number of prior convictions: serious personal crime against the person

109 (31) Number of prior convictions: serious property crime

110 (32) Number of prior convictions: robbery

111 (33) Number of prior convictions: burglary

112 (34) Number of prior convictions: drug-related

113 (35) Number of prior convictions: weapons

114 (36) Number of prior felony convictions

115 (37) Number of prior misdemeanor convictions

# APPENDIX C

Table C1.1 Error estimates: Dade County courts sample

| Sample | Magnitude of estimate Percent | Range of error (+ or -) 1 Standard error Percent | 2 Standard errors Percent |
|---|---|---|---|
| Stratum 1 | | | |
| Felonies (unweighted) | 10/90 | 0.6 | 1.2 |
| Population = 2,238 | 20/80 | 0.8 | 1.6 |
| f = .67 | 30/70 | 1.0 | 2.0 |
| n = 1,492 | 40/60 | 1.0 | 2.0 |
| | 50/50 | 1.0 | 2.0 |
| Stratum 2 | | | |
| Misdemeanors (unweighted) | 10/90 | 1.2 | 2.4 |
| Population = 1,972 | 20/80 | 1.6 | 3.2 |
| f = .25 | 30/70 | 1.8 | 3.6 |
| n = 493 | 40/60 | 1.9 | 3.8 |
| | 50/50 | 2.0 | 4.0 |
| Combined sample (weighted) | 10/90 | 0.7 | 1.4 |
| n = 1,985 | 20/80 | 0.9 | 1.8 |
| weighted n = 4,285 | 30/70 | 1.9 | 3.8 |
| w Stratum 1 = .53 | 40/60 | 1.9 | 3.8 |
| w Stratum 2 = .47 | 50/50 | 1.9 | 3.8 |

f = sampling fraction
n = sample size
w = weight

Table C1.2 Error estimates: Boston Municipal Court sample

| Sample | Magnitude of estimate Percent | Range of error (+ or -) 1 Standard error Percent | 2 Standard errors Percent |
|---|---|---|---|
| Stratum 1: | | | |
| Index offenses | 10/90 | 0 | 0 |
| Population = 603 | 20/80 | 0 | 0 |
| f = 1.00 | 30/70 | 0 | 0 |
| n = 603 | 40/60 | 0 | 0 |
| | 50/50 | 0 | 0 |
| Stratum 2: | | | |
| Non-index offenses | 10/90 | 0.7 | 1.4 |
| Population = 4,394 | 20/80 | 0.9 | 1.8 |
| f = .33 | 30/70 | 1.0 | 2.0 |
| n = 1,376 | 40/60 | 1.1 | 2.2 |
| | 50/50 | 1.2 | 2.4 |
| Combined sample (weighted) | 10/90 | 0.6 | 1.2 |
| n = 1,979 | 20/80 | 0.8 | 1.6 |
| weighted n = 4,580 | 30/70 | 0.9 | 1.8 |
| w Stratum 1 = .12 | 40/60 | 1.0 | 2.0 |
| w Stratum 2 = .88 | 50/50 | 1.1 | 2.2 |

f = sampling fraction
n = sample size
w = weight

Table C1.3 Error estimates: Suffolk County Superior Court samples

| Sample | Magnitude of estimate Percent | Range of error (+ or -) 1 Standard error Percent | 2 Standard errors Percent |
|---|---|---|---|
| Sample 1: | | | |
| Direct indictments | 10/90 | 1.3 | 2.6 |
| Population = 1084 | 20/80 | 1.7 | 3.4 |
| f = .33 | 30/70 | 2.0 | 4.0 |
| n = 356 | 40/60 | 2.1 | 4.2 |
| | 50/50 | 2.2 | 4.4 |
| Sample 2: | | | |
| Bail reviews | 10/90 | 0 | 0 |
| Population = 564 | 20/80 | 0 | 0 |
| f = 1.00 | 30/70 | 0 | 0 |
| n = 564 | 40/60 | 0 | 0 |
| | 50/50 | 0 | 0 |
| Sample 3: | | | |
| Cases bound over from BMC | 10/90 | 0 | 0 |
| Population = 164 | 20/80 | 0 | 0 |
| f = 1.00 | 30/70 | 0 | 0 |
| n = 164 | 40/60 | 0 | 0 |
| | 50/50 | 0 | 0 |
| Combined sample | | | |
| n = 1,084 | 10/90 | 0.8 | 1.6 |
| weighted n = 1,796 | 20/80 | 1.0 | 2.0 |
| w Sample 1 = .60 | 30/70 | 1.2 | 2.4 |
| w Sample 2 = .31 | 40/60 | 1.3 | 2.6 |
| w Sample 3 = .09 | 50/50 | 1.3 | 2.6 |

f = sampling fraction
n = sample size
w = weight

Table C1.4 Error estimates: Maricopa County jail population sample, September 21, 1985

| Sample | Magnitude of estimate Percent | Range of error (+ or -) 1 Standard error Percent | 2 Standard errors Percent |
|---|---|---|---|
| Population = 2,430 | 10/90 | 1.4 | 2.8 |
| f = .17 | 20/80 | 1.8 | 3.6 |
| n = 405 | 30/70 | 2.1 | 4.2 |
| | 40/60 | 2.2 | 4.4 |
| | 50/50 | 2.3 | 4.6 |

f = sampling fraction
n = sample size

Table C1.5 Error estimates: Dade County jail population sample, September 19, 1985[a]

| Sample | Magnitude of estimate Percent | Range of error (+ or -) 1 Standard error Percent | 2 Standard errors Percent |
|---|---|---|---|
| Stratum 1: | | | |
| male defendants | 10/90 | .5 | 1.0 |
| Population = 3,047 | 20/80 | .7 | 1.4 |
| f = .125 | 30/70 | .8 | 1.6 |
| n = 380 | 40/60 | .8 | 1.6 |
| w = .88 | 50/50 | .8 | 1.6 |
| Stratum 2: | | | |
| female defendants | 10/90 | 1.4 | 2.8 |
| Population = 408 | 20/80 | 1.8 | 3.6 |
| f = .125 | 30/70 | 2.1 | 4.2 |
| n = 51 | 40/60 | 2.3 | 4.6 |
| w = .12 | 50/50 | 2.3 | 4.6 |
| Combined sample | | | |
| Population = 3,455 | 10/90 | .5 | 1.0 |
| n = 431[a] | 20/80 | .6 | 1.2 |
| | 30/70 | .7 | 1.4 |
| | 40/60 | .8 | 1.6 |
| | 50/50 | .8 | 1.6 |

f = sampling fraction
n = sample size
w = weight

[a] The sample was later reduced to 354 cases because 77 cases could not be coded.

APPENDIX D

Table D1.1 Observed percent failure for entering felony defendants in the construction and validation samples, Maricopa County Superior Court, by risk groups derived from modified final logit model fitted to failure on release

| | | Construction sample | | | Validation sample | | |
|---|---|---|---|---|---|---|---|
| | Failure | Released defendants | | Observed failure | Released defendants | | Observed failure |
| Risk group | score | Number | Percent | percent | Number | Percent | percent |
| Total released | | 766 | 100 | 15 | 445 | 100 | 20 |
| 1 | 1 to 34 | 118 | 15 | 7 | 73 | 16 | 8 |
| 2 | 35 to 67 | 448 | 59 | 13 | 247 | 56 | 19 |
| 3 | 68 to 107 | 153 | 20 | 18 | 95 | 21 | 22 |
| 4 | 108 and over | 47 | 6 | 53 | 30 | 7 | 53 |

Construction sample

MCR =
P.R.E. =
Chi sq = 61.69 with 3 DF; p = <.000

Validation sample

MCR =
P.R.E. =
Chi sq = 27.72 with 3 DF; p = <.000

Table D1.2 Observed percent failure for entering felony defendants in the construction and validation samples, Dade County Circuit Court, by risk groups derived from Burgess model fitted to failure on release

| | | Construction sample | | | Validation sample | | |
|---|---|---|---|---|---|---|---|
| | | Released defendants | | Observed failure | Released defendants | | Observed failure |
| Risk group | Failure score | Number | Percent | percent | Number | Percent | percent |
| Total released | _____ | 1,202 | 100 | 15 | 654 | 100 | 15 |
| 1 | 5 and over | 263 | 22 | 8 | 153 | 23 | 4 |
| 2 | 0 to 4 | 484 | 40 | 12 | 265 | 40 | 11 |
| 3 | -2 to 1 | 334 | 28 | 22 | 158 | 24 | 23 |
| 4 | -3 and under | 121 | 10 | 28 | 79 | 12 | 31 |

Construction sample

MCR =
P.R.E. =
Chi sq = 43.91 with 3 DF; p = <.000

Validation sample

MCR =
P.R.E. =
Chi sq = 43.40 with 3 DF; p = <.000

Table D1.3 Observed percent failure for entering felony defendants in the construction and validation samples, Boston Municipal Court, by risk groups derived from Burgess model fitted to failure on release

| | | Construction sample | | | Validation sample | | |
|---|---|---|---|---|---|---|---|
| | | Released defendants | | Observed failure | Released defendants | | Observed failure |
| Risk group | Failure score | Number | Percent | percent | Number | Percent | percent |
| Total released | _____ | 635 | 100 | 33 | 280 | 100 | 33 |
| 1 | 5 and over | 119 | 19 | 19 | 48 | 17 | 6 |
| 2 | 1 to 4 | 313 | 49 | 34 | 154 | 55 | 35 |
| 3 | -4 to 0 | 167 | 26 | 38 | 61 | 22 | 41 |
| 4 | -5 and under | 36 | 6 | 51 | 17 | 6 | 58 |

Construction sample

MCR =
P.R.E. =
Chi sq = 17.29 with 3 df; p = <.0006

Validation sample

MCR =
P.R.E. =
Chi sq = 23.02 with 3 df; p = <.0000