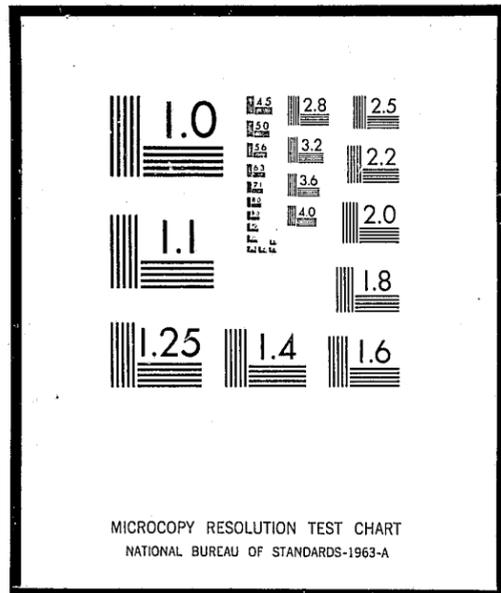


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LAW ENFORCEMENT ASSISTANCE ADMINISTRATION  
NATIONAL CRIMINAL JUSTICE REFERENCE SERVICE  
WASHINGTON, D.C. 20531

Date filmed

9/22/75

EVALUATION OF THE WASHTENAW COUNTY  
PRE-TRIAL RELEASE PROGRAM

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15458  
EVALUATION

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## HISTORY

### Policy Favoring Release

The United States and the Michigan State Constitutions declare a person innocent until proven guilty; therefore, the law favors the release of defendants pending determination of guilt or innocence. Deprivation of liberty pending trial is harsh and oppressive in that it subjects persons who have not yet been convicted of a crime presently charged, to economic and psychological hardships. Furthermore, in many cases, it deprives their families of support and the maintenance of jailed defendants and their families represents a major public expense.

The Washtenaw County Bar Association, in conjunction with the 22nd Judicial Circuit, proposed a pre-trial release program for Washtenaw County. This program is a basic attempt to reduce pre-trial incarceration of indigent defendants through development of a Release on Recognizance (ROR) project.

The grant application for this program was filed with the Office of Criminal Justice Programs in the Spring of 1973. The grant was approved for a funding period from 9/1/73 through 8/31/74. As of 10/1/74, the Washtenaw County Pre-Trial Release Program received its second funding from OCJP.

The program was designed to maximize personal bond when conditions permit. Conditions of personal bond must be consistent with community safety, individuals and property. The basic goals of the program are to:

1. develop a viable system where persons upon arraignment have the maximum opportunity to be released on their own personal recognizance;

2. prevent needless incarceration before trial;
3. reduce the population of the Washtenaw County Jail;
4. promote equality and efficiency in the administration of justice;
5. reduce financial burden on the defendant and local taxpayers;
6. protect the rights of the public by assuring that the defendant will not endanger society if released; and
7. provide arraigning judges with pertinent information about the defendant at the time of or prior to initial arraignment.

The program was also designed to provide defendants, who have identifiable problems, with referrals to social service agencies available in Washtenaw County. In these cases the pre-trial investigation is exploratory and includes the following factors:

1. Prior record, number of convictions, and type of crime.
2. Community ties.
3. Employment history (current and past).
4. Drug use treatment history, if any.

#### ADMINISTRATION AND PERSONNEL

The Washtenaw County Pre-Trial Release Program is housed and operates out of offices provided for the program in the Washtenaw County Building. This housing was necessary because of its close physical proximity to the county jail (across the street from the County Building), and 15th District Court (one block away from the County Building). The 22nd Judicial Courts of Washtenaw County are also located in the County Building.

The staff consists of a full-time director with three deputy investigators and one secretary. Working in conjunction with the staff are volunteers from the American Friends Service Committee, the University of Michigan, and Eastern Michigan University.

The director of the program is responsible for direct administration of the program on all levels of programatic function. The director, in turn, is responsible to a three-man advisory committee composed of representatives from the Public Defender's Office, the Prosecuting Attorney's Office, and an officer appointed by the Washtenaw County Bar Association. This committee is responsible to the 22nd Judicial Circuit Court of Michigan.

PROCEDURE

The procedure followed in releasing individuals through the Pre-Trial Release Program is based on an objective point system through which investigators can determine if an individual qualifies for release on his/her own recognizance.

Upon being charged and incarcerated, and prior to arraignment, the accused individual is interviewed and questions are asked to determine whether or not the person qualifies for personal recognizance. The interview consists of questions to determine past and present addresses, length of residency at each address, length of residency in Washtenaw County, employment history, lengths of employment, community ties, marital status, prior arrest and conviction history, and drug history, if any, of the accused. The investigator then verifies all of the information received from the defendant. Verification is done by obtaining information from the county jail records, city police, state police, other police agencies, FBI, "rap sheets," and from probation and parole officers. The names of employers, close relatives, and friends are also obtained from the accused. After verification of all information relating to the accused, the investigator then determines if the individual qualifies for release according to the objective point scale. If the accused earns the minimum number of points necessary to qualify for release on recognizance (six points), a recommendation is submitted directly to the arraignment judge in District Court. Negative recommendations are also submitted to the judges on individuals who do not qualify for release on recognizance.

The judges, with the aid of the recommendation submitted to him by the investigator, decide whether the individual should be released on ROR. All information relating to the accused is confidential and not open to public scrutiny. Upon receiving the recommendation from the investigator, the arraignment judge must either release the accused on his own recognizance or state on record the reason for refusal.

Under these conditions, it is the nature of the pre-trial release programs to maximize the use of personal bond under conditions consistent with community safety. Also, it insures the pre-trial release of those individuals who, in the opinion of the judge, need not have their release based on the payment of money.

Recommendations submitted to the Courts by the ROR Program are of three types. The first, personal recognizance, uses the six (6) point criteria to determine whether a defendant will be recommended for release. The second type of release is conditional release. The state of conditional release is upon finding that release on order to appear on the defendant's own recognizance is unwarranted. The Court may impose the least oppressive conditions reasonable likely to assure the defendant's appearance in Court.

Defendants totaling between four and six points are usually considered for conditional release, provided the lack of points is not due to past or present felony criminal activity. These individuals usually have identifiable problems the ROR staff may be able to alleviate. The conditions of release relate directly to the defendant's problems; such as an alcohol rehabilitation program, participation in a drug program,

or, as in the case of a youthful offender, maintaining a Court approved residence and curfew.

The goal of the conditional release is to give the defendants pre-trial help with problems that may be contributing to their involvement with the criminal justice system, as well as maximizing the use of personal bond.

The ROR Program also helps maximize the use of local social service agencies by referrals of the conditional released defendant. Volunteers from the American Friends Service Committee also help with agency referrals and placement.

The third type of recommendation submitted to the Courts is bond reduction. In cases where cash bond was initially set, information concerning defendants which reflects the same facts revealed in ROR recommendations is submitted to the arraigning judges. In these cases, the ROR investigator does not recommend "for" or "against" bond reduction, but gives the judge information enabling him to render a decision on bond reduction. Areas stressed in bond reduction recommendations are employment, community ties, and prior criminal record.

If the defendant fails to appear at the time of his scheduled Court date, an attempt is made to notify him so that it can be determined if he has merely forgotten his appearance or is attempting to avoid prosecution. If the latter is the case, the arraigning judge is notified and a warrant can be issued for the defendant's arrest. This action automatically excludes the individual from future consideration pertaining to his release through the ROR Program.

Recommendations are submitted daily and on the weekend at Saturday night Court. The operation of the Pre-Trial Release Program, including decisions concerning personnel, program operations, record keeping, and operations in general, is handled by the Program Director with advice from program consultants. The daily operations of the program include work assignments, meetings, recommendations, record keeping and client counseling.

#### INTERVIEW PROCEDURE

Staff investigators interview all defendants arrested and held in the Washtenaw County Jail on high misdemeanors and all felony charges. Questions are asked which are designed to gain more information about the defendant. These questions determine the six (6) point schedule. Upon completion of the interview, the defendant is required to sign a release form which allows the investigator to verify information and contact those persons indicated to complete verification.

#### RECOMMENDATION PROCEDURE-DISTRICT COURT

Once the investigator has completed the verification and totals the number of points received by the defendant, a typed recommendation is submitted to the arraigning judge. The recommendation would concern either release on recognizance, conditional release, or bond reduction. If the defendant receives release on personal bond through our program's recommendation, we do not supervise the defendant during the pre-trial period. We do, however, supply agency referrals, if needed.

If the defendant receives conditional release, contact is maintained and the defendant is supervised during the pre-trial period. Referrals are also made during this period. For those defendants bound over to Circuit Court, recommendations are submitted to the arraigning judge. These recommendations, however, pertain to bond reduction.

There are cases where defendants are held in local lock-ups throughout Washtenaw County prior to arraignment instead of being held in the County Jail. In these cases the investigators go to the lock-up and conduct the investigations. If arraignment has been held prior to an investigation by the ROR Program, an investigation is conducted once the defendant has been transported back to the County Jail. The recommendation is then submitted back to the arraigning judge. At that point it is the judge's decision to act on our recommendation.

The procedure is the same for Circuit Court arraignments as for District Court. In both cases the investigator is making a recommendation, keeping in mind the nature and objectives of the program to help assure a minimal possibility for a "no-show" rate. It is important to remember that criteria for determining which defendants are recommended for release are designed to establish a stability factor for non-appearance possibilities, not for future criminal activity. Since past convictions are assigned negative points on our point schedule, this factor is taken into account. Past criminal involvement decreases the likelihood that the defendant will receive enough points to qualify for a release recommendation.

#### SKIP AND NO-SHOW PROCEDURE

Basically, the Pre-Trial Release Program makes two types of recommendations: 1) Personal Bond with no conditions and, 2) Conditional Release or Bond with conditions and supervision.

In the case of Personal Bond, the defendant who is released through the efforts of the Pre-Trial Release Program has no conditions or supervision placed on him. If the defendant fails to appear for a scheduled Court appearance, the Court will issue a *capias*. This defendant is treated as any other no-show by the Court. The ROR Program does not have any special procedure for locating the defendant in this case, although ROR information is made available to the Court. The reporting requirements for defendants released on Conditional Release allow the investigator an opportunity to keep close supervision of the defendant's activities.

The defendant is usually required to report regularly and, at the very least, to phone his investigator. If the defendant does not report or abide by the other conditions of his release, a warning letter is sent to the defendant. This action usually has immediate results. If the warning elicits no response however, the ROR investigator contacts the judge to inform him of the situation. At this point the judge can issue a bench warrant for the defendant or call him back in to reinstate the conditions of his release. If a bench warrant is issued, the ROR Program is no longer responsible for the defendant or for locating him.

The following statistics reflect the skip and no-show rate for the ROR Program period 2-1-74 through 9-31-74. Of the total number of ROR's granted as a result of program recommendations, there is a skip and no-show rate of zero (0). For conditional release recommendations, there were two (2) no-show's, and both returned to Court before a warrant was issued. There was one (1) conditional release returned on a bench warrant after failing to immediately appear. There are currently three defendants who were released through our program on conditional release who failed to appear in Court and are still at large. Three defendants who posted cash bond skipped and are still at large.

These figures reflect a skip and no-show rate of approximately 1% of the defendants interviewed for the period 2-1-74 through 9-31-74. Skip and no-show were cases where bench warrants were issued for re-appearance.

STATISTICAL WORK

In order to reflect the accomplishment of the Washtenaw County Pre-Trial Release Program and determine to what extent the program has been accepted by the Court as part of the criminal justice system, the following statistics have been compiled. During the period 2-1-74 to 9-31-74 of the grant, there were 527 interviews.

1. Breakdown: Males, 464 or 88%; Female, 63 or 12%
  - Blacks interviewed: 248 or 47.0%
  - Whites interviewed: 273 or 51.8%
  - Spanish speaking interviewed: 3 or .6%
  - Oriental interviewed: 1 or .2%
  - Other: 2 or .4%
2. Number of clients who were veterans: 106 or 20.1%
3. Number of clients on A.D.C. or Welfare: 32 or 6.1%
  - Whites on Welfare or A.D.C.: 12 or 37.5% of total on A.D.C.
  - Blacks on Welfare or A.D.C.: 20 or 62.5%
4. Unemployment rate: Number unemployed: 226 or 42.9%
  - Whites: 117 or 51.8% of total unemployed
  - Blacks: 109 or 48.2% of total unemployed
5. Average income of clients:
  - Income of Blacks arrested: under \$50.
  - Income of Whites arrested: under \$50.
6. Average education:
  - Blacks interviewed: High school diploma
  - Whites interviewed: High school diploma
7. Arrest record of clients:
  - Number with previous misdemeanors: 319 or 60.4%
  - Number with previous felonies: 206 or 39. %
  - Breakdown of felonies: Whites: 86; Blacks: 119
8. Types and totals of recommendations submitted: Total ROR Recommended: 149
  - Breakdown: ROR's given: 104 or 69.8%
  - ROR's not given: 45 or 30.2%

The average length of employment for people who received ROR was six months and above.

9. Total number of Conditional Releases Recommended: 102

Breakdown: Conditional Releases given: 67 or 65.7%  
Conditional Releases not given: 35 or 34.3%

Of the 102 conditional releases, sixty were referred to social service agencies; eight had serious drug problems and placement was necessary; twelve had drinking problems. There were eighteen other individuals interviewed with drug problems, but they either did not want help or were already on a drug program.

The breakdown of these 18 blacks - 12 or 66.7% and whites - 6 or 33.3%.

The number of people arrested from other counties was 126. The number of those individuals who received ROR was 19, and the number who received conditional release was 26.

Number of clients interviewed on probation: 27 or 5.1%  
Number of clients interviewed on parole: 13 or 2.5%

The types of crimes and number of people on conditional release and totals:

Homicides	1	Drug related	9
Assault	3	Burglary	14
Forgery	5	Larceny	13
Robbery	5	Misc.	15

Types of crimes for A.D.G. and Welfare recipients:

Homicide	3	Drug related	2
Assault	4	Burglary	6
Forgery	3	Larceny	11
Robbery	1	Misc.	2

Of the total number of males interviewed, 176 or 33.4% had families.

Types of crimes committed and their totals:

Crimes against persons	158 or 30.0%
Crimes against property	270 or 51.2%
Crimes concerning drugs or alcohol	52 or 9.9%
Crimes against persons & property	47 or 8.9%
Violent crimes	161 or 30.5%
Non-violent crimes	386 or 73.1%

Arresting Police Department totals:

Ann Arbor Police	250
Ypsilanti Police	67
Sheriff's Department	138
Mich. State Police	47
Other	25

(Crimes total more than the number of defendants interviewed. This is due to the fact that some defendants were charged with more than one crime.)

Information was compiled on each District Court the program serves to determine the effectiveness of the Pre-Trial Release Program. This information reflects the degree of court cooperation with the program and the validity the program has with the various courts.

Recommendation totals submitted to the 15th District Court are combined because there are two judges seated there.

Total ROR's submitted 130  
ROR's accepted 114 or 87.7%  
ROR's rejected 16 or 12.3%

Total Conditional Releases submitted 124  
Conditional Releases accepted 104 or 83.9%  
Conditional Releases rejected 20 or 16.1%

Overall judges cooperation:

Total ROR's and CR's submitted to judges 254  
Total accepted 218 or 85.8%  
Total rejected 36 or 14.2%

Totals for District Court 14-I:

Total ROR's submitted 50  
ROR's accepted 33 or 66.0%  
ROR's rejected 17 or 34.0%

Total Conditional Releases submitted 19  
Conditional Releases accepted 12 or 63.2%  
Conditional Releases rejected 7 or 36.8%

Overall judges cooperation:

Total ROR's and CR's submitted to judges 69  
Total accepted 45 or 65.2%  
Total rejected 24 or 34.8%

Totals for District Court 14-II

Total ROR's submitted 12  
ROR's accepted 5 or 41.7%  
ROR's rejected 7 or 58.3%

Total Conditional Releases submitted 11  
Conditional Releases accepted 5 or 45.5%  
Conditional Releases rejected 6 or 54.5%

Overall judges cooperation:

Total ROR's and CR's submitted to judges 23  
Total accepted 10 or 43.5%  
Total rejected 13 or 56.5%

Totals for District Court 14-III:

Total ROR's submitted 24  
ROR's accepted 19 or 79.2%  
ROR's rejected 5 or 20.8%

Total Conditional Releases submitted 11  
Conditional Releases accepted 5 or 45.5%  
Conditional Releases rejected 6 or 54.5%

Overall judges cooperation:

Total ROR's and CR's submitted to judges 35  
Total accepted 24 or 68.6%  
Total rejected 11 or 31.4%

These totals represent individuals seen from 2-1-74 through 9-31-74. There are some individuals who were either bonded-out, charges dropped, or changed to simple misdemeanors. In these cases, recommendations were not submitted to the court. The totals and figures clearly indicate the judge's exemplary cooperation with the program. Since the time period indicated, the judges from all the District Courts have maximized their reliance and cooperation with the ROR Program and view it as a need and valid program in the Criminal Justice System.

COST BENEFIT

Measuring benefits of the Pre-Trial Release Program in terms of dollars is possible based on certain facts.

No attempt is made to attach monetary values to non-measurable, non-marketed results of the ROR Program. Usually the results show "less chance of conviction" if released through the ROR Program, and a decreased chance of the defendants receiving jail sentence if convicted, in addition to freedom and mental well-being. There are, however, certain direct costs associated with the ROR Program, and definite costs savings as a result of its operation. The approach taken in evaluating the costs related to the program is conservatism.

The daily cost to house a defendant in the Washtenaw County Jail is sixteen dollars. This figure includes food, housing, utilities, salaries of deputies, etc. The average length of time between arraignment and the next scheduled court appearance at the District Court level is twelve days.

The total number of personal recognizance recommendations accepted by the courts was 171 and the total number of conditional releases accepted was 126. Of the total defendants interviewed (527), 196 rented housing, 22 owned or were buying a home, 226 lived with parents or friends, 18 lived in institutions, 26 had no housing or residency, and 39 other.

From these figures, only 22 defendants had real property which could have been used for security if a cash bond needed to be posted. This does not account for the financial resources of the defendant's family or friends, as there is no way of knowing what those resources are.

Of the total interviewed, 43% were unemployed and the average income for all defendants was \$50.00 a week or less. Given this information we can assume those defendants granted pre-trial release through efforts of the ROR Program would not have been able to post a cash bond to secure their release.

Since the cost for housing one defendant for one day is \$16.00 with a twelve day period between court appearances, one defendant released saves the county \$192.00. Given there were 297 defendants released through the ROR Program (171 on personal bond and 126 on conditional release), we arrive at a figure of \$57,024 saved by the county. Assuming half of the defendants released could not have been able to post a cash bond (reflected in percent employed, average income, and/or having real securities), we arrive at the figure \$28,512.

There is an average of six months or 180 days elapsing between District Court arraignment and Circuit Court sentencing. If a defendant is released on personal bond or conditional release and remains free for the time period indicated, and we assume all the defendants are processed completely through District and Circuit Courts, there would have been a savings of \$855,360. Assuming only half the defendants would have been completely processed through both courts, we arrive at the figure of \$427,680.

Of the 297 defendants released, there were many cases where complete processing did not take place. The reasons vary from charges dropped to pre-sentence probation, charges reduced, deferred sentencing, and the like. We do not know how many, of course, have been completely processed, as many cases have been postponed or ajourned for one reason

or another. The number of defendants who are completely processed through the court system and the re-arrest rate of these defendants will be covered in the longitudinal evaluation after one year.

The ROR Program is budgeted at \$49,628. under the Federal Grant for a one year operation. Of this total, the County makes a cash match of \$18,000. With these figures we then calculate:

\$855,360	all defendants completely processed
<u>-49,628</u>	operation expense of program
\$805,732	saving above program expense

\$427,680	half defendants completely processed
<u>-49,628</u>	operation of program
\$378,052	saving above program expense

The calculated cost for defendants being released for the twelve day period is \$57,024. The figure, if only half the defendants are considered for 12 days, would be \$28,512 saved (148.5 defendants) at a program operating expense of \$49,628 for one year. It can easily be seen that the ROR Program more than pays for itself.

These savings represent jail cost reductions by release of individuals through the ROR Program. There are other social and community benefits such as tax revenues from employment of released defendants, welfare cost reductions, assuming released individuals can better support themselves and their families, and reduction in the use of public defenders because released individuals are better able to afford private attorneys.

It must be recognized that the above figures are based on the assumption that defendants released through efforts of the ROR Program were not able to secure their release through cash bond, but that cannot be claimed as absolute fact. These figures are based

on information relating to employment, average income, property owned, buying, renting, etc. to determine if a cash bond could have been posted. Even with this in mind, it must be recognized that the Washtenaw County Pre-Trial Release Program has demonstrated its value, both from a social and economic standpoint.

CONCLUSION

The nature and performance of the ROR Program is reflected in the above information and statistics. The Program is increasingly interviewing more defendants. It has also improved services which it performs to the Courts by supplying completely verified information and complete criminal records. The recommendations which the program submits to the Courts is a benefit to the Courts and to the community as a whole.

The objectives of the Pre-Trial Release Program are to assist the Courts in bringing about equality of justice for all defendants. These objectives are being accomplished. The program will continue to consider all persons arrested and charged with criminal offenses in Washtenaw County, and to make recommendations to the Courts as to whether defendants should be considered on their own recognizance.

**END**