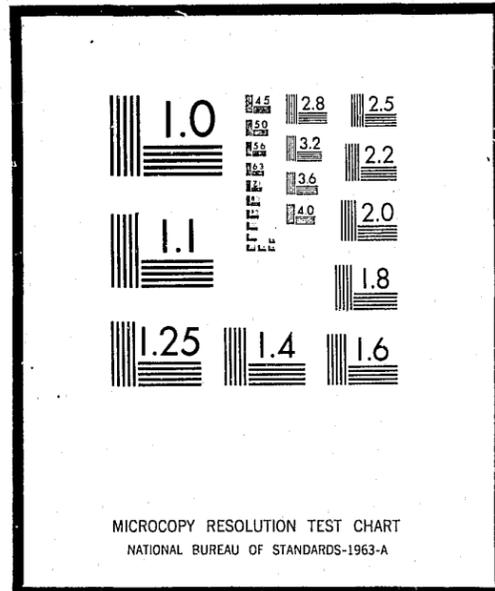


NCJRS

This microfiche was produced from documents received for inclusion in the NCJRS data base. Since NCJRS cannot exercise control over the physical condition of the documents submitted, the individual frame quality will vary. The resolution chart on this frame may be used to evaluate the document quality.



Microfilming procedures used to create this fiche comply with the standards set forth in 41CFR 101-11.504

Points of view or opinions stated in this document are those of the author(s) and do not represent the official position or policies of the U.S. Department of Justice.

U.S. DEPARTMENT OF JUSTICE
LAW ENFORCEMENT ASSISTANCE ADMINISTRATION
NATIONAL CRIMINAL JUSTICE REFERENCE SERVICE
WASHINGTON, D.C. 20531

Date filmed, 9/19/75

AREA: COURTS

Evaluation

Topic: Evaluation of the Court of Common Pleas Allegheny County, Pennsylvania Bail Agency
 Author: Vera Institute of Justice
 Grant Title and Number: (AG-146-73A) Allegheny County Court Bail Agency
 Contact Person: Christine A. Fossett, Evaluation and Monitoring Unit, Governor's Justice Commission, Department of Justice, Box 1167, Harrisburg, Pennsylvania 17120
 Objectives: Increase number of criminal defendants released on nominal bail; reduce bond forfeitures; insure equitable bail setting
 Forms: Evaluation interview, sample point schedule

ALLEGHENY COUNTY, PENNSYLVANIA BAIL AGENCY

15649
EVALUATION

AG-146

Vera Institute of Justice
30 East 39th Street
New York, New York 10016

Technical Assistance

May 13, 1974

TABLE OF CONTENTS

	<u>Page</u>
I. Introduction	1
II. Description of Project	3
A. Objectives	3
B. Procedures	3
1. Interviews of defendants	3
2. Verification of information obtained in interview	4
3. Recommendation and court presentations	4
4. Defendant check-in and follow-up	6
5. Record keeping and filing	7
6. Follow-up on defendants who forfeit bond	8
III. Evaluation Activities	9
IV. Findings, Analysis and Project Performance	14
A. Initial Bail Setting Decisions In Allegheny County	15
1. Generally	15
2. CBA effectiveness in securing the release of defendants on nominal bond at City Court arraignments, and the appropriateness of present bail decisions	20
B. Bail Reduction Activity	24
C. Bond Forfeitures in Allegheny County	28
1. At hearings	28
2. At trials	29
3. Procedures affecting forfeitures	31
4. Analysis of failures to appear	35
D. Achievement of Program Objectives	39
1. Perceptions of others	39
2. Actual success in achieving program objectives	40
a. Number of defendants released while awaiting trial	40

FINAL REPORT-
EVALUATION OF THE COURT OF COMMON PLEAS OF
ALLEGHENY COUNTY, PENNSYLVANIA BAIL AGENCY - EVALUATION

AC-146

Vera Institute of Justice
30 East 39th Street
New York, New York 10016

Technical Assistance

May 13, 1974

15649
EVALUATION

TABLE OF CONTENTS CONT'D

TABLES

b.	Reduction in the percent of bond forfeitures	41
c.	Insuring the setting of bail in an equitable manner	42
E.	Program Procedures and Structure	46
1.	Interviews	46
2.	Verification	50
3.	Objectivity	52
4.	CBA recommendation to court	55
5.	Follow-up before trial	56
6.	Post-forfeiture follow-up	60
7.	Filing and forms	60
8.	Administration and personnel	61
9.	Relationship with Community Release Agency	63
10.	New District Magistrate Night Court	64
F.	Appropriateness of Present Funding and Financial Benefit	65
1.	Funding level	65
2.	Financial Benefit	66
V.	Summary and Recommendations	

APPENDIX

A.	CBA Case Information Report
B.	CBA Sample Point Schedule
C.	CBA Evaluation Interview form

<u>Table</u>	<u>Description</u>	<u>Page</u>
A-1a	Distribution of non-summary arraignments by court.....	16
A-1b	Distribution of non-summary arraignments by age of defendants.....	16
A-1c	Distribution of non-summary arraignments by race of defendants.....	17
A-1d	Distribution of non-summary arraignments by charge category.....	17
A-2a	Arrest disposition by charge category for City Court.....	18
A-2b	Arrest disposition by charge category for District Magistrates.....	19
A-3	Arrest disposition by charge category for qualified (6 points or more) defendants.....	21
B-1	CBA bail review recommendations by review outcome.....	25
C-1	Net bond forfeitures by bond type (July-December, 1973).....	29
C-2	Appearance of non-reinstated defendants by pre-arrest interview and verification.....	34
C-3	Appearances by age and bond type.....	36
C-4	Appearance by charge category.....	37
C-5	Appearance by point total.....	38

<u>Table</u>	<u>Description</u>	<u>Page</u>
D-1a	Arrest disposition by race for defendants arrested on misdemeanor charges in City Court.....	43
D-1b	Arrest disposition by race for defendants arrested on felony charges in City Court.....	43
D-2	Arrest disposition by race for eligible (6 points or more) defendants arrested on felony charges in City Court.....	44

I. Introduction

This is a Final Report on the evaluation of the Court of Common Pleas of Allegheny County, Pennsylvania Bail Agency (CBA), prepared by the Vera Institute of Justice pursuant to a contract between the Vera Institute (Vera) and the Court of Common Pleas. CBA has been awarded funds by the Pennsylvania Governor's Justice Commission under Subgrant No. 4G-146-73A pursuant to the provisions of the Federal Omnibus Crime Control and Safe Streets Act of 1968 as amended (Public Law 90-351). The purpose of the report is to provide accurate information to the Governor's Justice Commission and the Allegheny Regional Planning Council to allow effective decision making.

The Vera Institute is a private non-profit corporation which for thirteen years has been involved in the development of programs to make the criminal justice system more efficient and just. The success of the Institute's Manhattan Bail Project in increasing the number of criminal case defendants released from jail prior to trial and securing their appearances in court when required, was the impetus for the development of similar projects throughout the United States, including the Court Bail Agency in Allegheny County.

Vera presently administers a pre-trial release program (ROR) under the auspices of its Pre-Trial Services Agency in Brooklyn, New York.

In addition, the Institute's Technical Assistance Program has assisted in the development of pre-trial projects in Connecticut, Louisiana, Missouri, New Jersey, Arizona, Ohio, and Massachusetts.

The evaluation of CBA was conducted by Vera's Technical Assistance Program under the supervision of its Director, Dan Johnston. Mr. Johnston has served as the Director of the Des Moines Pre-Trial Release Project, as an Iowa State Representative, as a Lecturer in Criminal Procedure at the Drake University School of Law, and has engaged in the private practice of law for eight years.

The field investigation was performed by Norman Jesse and Allen Hellman. Mr. Jesse has practiced law in Des Moines for eight years, was a consultant to the National Conference on Bail and Criminal Justice which Vera co-sponsored with the U.S. Department of Justice in 1964, was Assistant Director of the Des Moines Pre-Trial Release Project, and now is a member of the Iowa Legislature and is on the Criminal Code Revision Committee. He is a Vera consultant. Mr. Hellman is a Program Supervisor with Vera's Technical Assistance Program, and previously served as a community development attorney with the Legal Aid Society of Westchester County, New York.

Computer analysis of some of the initial bail, bail reduction, and forfeiture/non-appearance data was performed by Mr. Robert Davis of New York City. Mr. Davis is a consultant to Vera.

II. Description of Project

A. Objectives

CBA is a pre-trial release (ROR) project, the objectives of which are:

1. To increase the number of criminal case defendants released on nominal and 8% bond while awaiting trial of their cases;
2. To reduce the number of bond forfeitures by keeping track of defendants released through its facilities; and
3. To insure that the setting of bail is performed in an equitable and non-discriminatory manner.

B. Procedures

In seeking to achieve the above objectives, CBA has adopted the following procedures:

1. Interviews of defendants

The Allegheny County Bail Agency attempts to interview all criminal defendants charged with an indictable offense who are detained in the City of Pittsburgh "lock-up" awaiting arraignment in City Court. Only those defendants who are intoxicated beyond comprehension are not interviewed.

Interviews are conducted each day, including weekends. On weekdays, interviews are conducted twice daily -- beginning at about 7:00 A.M. and 5:00 P.M. -- in order to cover both morning and evening arraignments at City Court.

Also, each day a CBA investigator conducts interviews at the County Jail with defendants who were unable to secure their release at their arraignment before a City Court or District Magistrate.

No defendants are interviewed prior to arraignment before District Magistrates outside the City of Pittsburgh because of inadequate CBA manpower levels and logistical problems.

2. Verification of information obtained in interview

After interview, but prior to arraignment in City Court, a CBA investigator verifies the information collected in the interview by contacting references provided by the defendant. Almost all verification is achieved through one or two phone calls to a relative, friend or employer. City of Pittsburgh "rap sheets" are used to verify a defendant's prior record.

More extensive verification is conducted on the information collected from defendants being detained in County Jail because of the availability of more time. If necessary, individual personal contact is made with a friend, relative or employer in order to verify the defendant's background information, and the Russell Index is checked to verify his prior record.

3. Recommendations and court presentations

After interviewing defendants in the City "lock-up" and verifying the information, a CBA investigator evaluates each defendant to determine whether he is eligible for release on nominal or 8% cash bond. In determining which defendants will be recommended for nominal

and 8% cash bail, the Agency employs the criteria delineated in Rules 4003 and 4004 of the Rules of Criminal Procedure of the Supreme Court of Pennsylvania, as amended July 23, 1973. Basically those standards include:

- a. The nature of the offense charged;
- b. Defendant's residence in Allegheny County;
- c. Whether the defendant poses a threat of immediate physical harm to himself or to others;
- d. The defendant's employment status and history, and his financial condition;
- e. The nature of the defendant's family relationships;
- f. The defendant's past and present residences;
- g. The defendant's age, character, reputation, and mental condition;
- h. The defendant's record of prior convictions;
- i. Prior releases on bond and relevant failures to appear at previous required court appearances; and
- j. Other facts relevant to whether the defendant has strong community ties.

The same criteria are employed to determine which defendants detained in County Jail should be recommended for nominal or 8% bail. Those recommendations are presented to the judge of the Court of Common Pleas hearing the application to reduce bail.

In both instances -- in City Court and Common Pleas Court -- recommendations are presented orally by a CBA investigator, but the CBA interview form is made available to the court for its review.

4. Defendant Check-in and Follow-up

Immediately after a defendant is released on nominal or 8% cash bond -- regardless of whether or not CBA recommended such release -- he is given a small card which informs him of the following conditions of his release:

- a. That he must check-in at the CBA on the day after his preliminary hearing;
- b. That he must check-in to the CBA by phone once a month until his case is tried;
- c. That he must not leave Allegheny County or change his residence, telephone number or employment without notifying the CBA; and
- d. That he must appear at his preliminary hearing and trial.

In addition to the above conditions of release, the card notifies the defendant that failure to comply with any of the conditions "will result in your (the defendant's) immediate arrest" and that that may result in the revocation of bond.

Trial dates are set by the District Attorney's Office. Each month a three week trial list is prepared and a letter sent to each defendant notifying him of the date of his trial. In cases where the letters are returned to the District Attorney's Office, the CBA attempts to determine the defendant's whereabouts and notify him by mail of his trial date.

5. Record Keeping and filing

The CBA keeps a copy of each defendant's interview form regardless of whether he is released on nominal, 8%, straight cash, surety or real property bond. Also, District Magistrates have been requested by the Court of Common Pleas to use the CBA interview form when interviewing defendants for the purpose of setting bail, and those interviews are also maintained in the CBA's files. All available copies of the criminal complaint, police report and record sheet, certificate to facilitate bail, bond, court order and other relevant documents are kept in the case file.

A separate check-in record is made on a master card maintained by a check-in clerk who is responsible for monitoring the check-in operation. The card contains the following information on the defendant:

- a. Name;
- b. Address;
- c. Name and address of surety;
- d. Charge;
- e. Court of initial jurisdiction;
- f. Bail reduction activity;
- g. Whether defendant was released or detained;
- h. Check-in conditions of his release; and
- i. The actual record of defendant's check-ins to the agency.

Additional case folders containing a copy of the initial interview are kept on all defendants who forfeit their bond by failing

to appear at a required court appearance, and individual chronological logs are used to record which defendants forfeit bonds and which defendants are released after an application to reduce bail.

6. Follow-up on defendants who forfeit bond

The CBA receives a list of all defendants who forfeit bond as a result of their failure to appear at a required court appearance, and attempts to contact each defendant so that bond might be reinstated if he did not willfully fail to appear. The methods of contact employed by the two CBA investigators who are assigned post-forfeiture follow-up functions are:

- a. The sending of letters to the defendant;
- b. Calling and visiting the defendant's friends, relatives, references and employer; and
- c. Contacting the local police department in the town of the defendant's residence.

Defendants who are contacted and voluntarily come into the CBA's office are reinterviewed, and if after verification it appears that the defendant's failure to appear was unavoidable and not the fault of the defendant, are recommended to the Court of Common Pleas for bond reinstatement.

III. Evaluation Activities

During the first half of the evaluation period the primary emphasis was on the collection of data relating to initial bail setting decisions in Allegheny County. Data on bond forfeitures and bail reductions was gathered during the second half.

Available information on the Allegheny County criminal justice system prior to the start of CBA's operation was taken from the 1971 and 1972 Reports of the Clerk of Courts, the 1971 and 1972 Reports of the Warden of the Allegheny County Jail, and the 1973 report by the Allegheny Regional Planning Council titled: "Toward a Safer Community, Volume II: An Analysis of Crime and Justice in Allegheny County, Pennsylvania".

Current data on initial bail setting decisions was collected from the files of CBA, the monthly Reports of the Clerk of Courts for July, 1973 - March, 1974, and appropriate City Court records. However, the primary source of data was from the case files of the Court Bail Agency. Every tenth CBA file opened from July - December, 1973 was analyzed as part of a sample by the evaluator. To facilitate compilation of data from all the files selected as part of the sample, to avoid the burden of handling as many as 9 or 10 forms in some case files, and to insure that sample case files remained readily accessible to CBA staff, each case in the sample was summarized on a CBA Case Information Report form designed and supplied by Vera (see Appendix). Cases from July - November, 1973 were summarized by the evaluator, and the December, 1973 sample, which represents the last month in the initial bail sample, was summarized for the evaluator by CBA staff using the CBA Case Information Report form.

The initial bail sample was analyzed to determine:

1. The distribution by type of bond set;
2. The distribution of City Court and District cases;
3. The distribution by age of Allegheny County defendants;
4. The distribution by race of Allegheny County defendants;
5. The distribution of non-summary arraignments by charge category; and
6. Arraignment dispositions.

In addition, the point system employed by the Pre Trial Services Agency in Brooklyn, New York -- a pre-trial release program presently administered by Vera -- was applied after the fact to all verified City Court cases in the initial bail sample.

The point system was applied to determine CBA's effectiveness in securing the release of defendants on nominal bond at City Court arraignments, and the appropriateness of present bail decisions. (See Appendix for the point system used.)

Current data on bail reduction activity was taken from the files of CBA. All cases from July 1, 1973 to December 31, 1973 were reviewed to determine the effectiveness of CBA in securing the release of defendants who were unable to secure their release at arraignment.

Information on bond forfeitures was gathered from an 11% sample of all forfeitures during July - December, 1973. Sample cases were chosen by selecting the first 10 forfeiture cases in CBA's files for each of those six months.

The total sample equaled 49 cases. A slightly smaller sample of 40 cases in which the defendants appeared at trial as required was selected for the purpose of comparison. The items of comparison were:

1. Bond type;
2. Presence of initial bail interviews in CBA's files and verification of those interviews;
3. Charge category;
4. Residence and length of time in Allegheny County; and
5. Number of points obtained on the point system.

In addition to the collection of data for the period of July - December, 1973, at least one monthly visit was made to the agency to observe project operations and discuss evaluation progress with the Project Director.

Also, two rounds of interviews (see Appendix for Interview Form) were conducted with representatives of the following criminal justice and community agencies:

1. Court of Common Pleas (7 judges of the Criminal Division);
2. City Court (all 4 magistrates);
3. Clerk of Courts;
4. Sheriff of Allegheny County;
5. Warden of Allegheny County Jail;
6. Public Defender;
7. District Attorney of Allegheny County;
8. Superintendent of Pittsburgh Police Department;

9. Allegheny Regional Planning Council staff; *
10. Court Bail Agency;
11. Pre Trial Justice Federation (American Friends Service Committee); and
12. Community Release Agency.

Throughout the term of the evaluation the Director of the Court Bail Agency and his staff were helpful in the assistance they gave the evaluator. However, there were some problems that arose which had, to some extent, an impact on the scope of the evaluation. They were:

1. CBA was unable to provide staff to assist in the tedious job of summarizing information contained in its files. During the gathering of data on initial bail decisions, staff was not available because CBA was in the process of changing its filing system and the task of collecting data covering the period July - November, 1973 was performed by the evaluator.

2. The failure of CBA to record recommendations made to magistrates at arraignments prevented the evaluation of CBA's effectiveness in influencing the bail decisions made by those magistrates, and CBA's financial benefit to the Allegheny County criminal justice system. Despite numerous requests by the evaluator that CBA record such recommendations, the records were not maintained.

3. Similarly, requests for CBA to record which information in each case was verified were not uniformly complied with by CBA staff members. This prevented the evaluator from closely

examining CBA's success in verifying information prior to City Court arraignments.

4. CBA investigators did not collect additional demographic data on defendants as requested by the evaluator despite the fact that the evaluator provided hundreds of supplemental questionnaires to the CBA.

IV. Findings, Analysis and Project Performance

This section of the report deals with the statistical and procedural analysis of the CBA's operations from July 1, 1973 to May 1, 1973. The findings are based primarily on information from the files of the agency, and additional data from the files of the City Court, the Clerk of Court's Office, the 1971 and 1973 Annual Reports of the Allegheny County Jail, relevant publications of the Allegheny Regional Planning Council, personal observations of the evaluator, and interviews with appropriate representatives of other criminal justice and community agencies in Allegheny County.

This section is divided into the following major subdivisions:

- A. Initial Bail Setting Decisions In Allegheny County
- B. Bail Reduction Activity
- C. Bond Forfeitures In Allegheny County
- D. Achievement of Program Objectives
- E. Program Procedures and Structure
- F. Appropriateness of Present Funding and Financial Benefit

A. Initial Bail Setting Decisions In Allegheny County

1. Generally

Bail is set in Allegheny County by a number of different authorities. Defendants arrested by the Pittsburgh Police Department are arraigned and have bail set by a magistrate of the City Court. Defendants arrested elsewhere have their initial bail set by one of the more than 60 District Magistrates in the county. All defendants who are unable to secure their release at arraignment are held for court in the Allegheny County Jail, but are entitled to have their initial bail reviewed by a judge of Common Pleas Court. In this subsection we will take a look at bail decisions made in the relevant courts of initial jurisdiction, and in Subsection B we will look at subsequent bail reduction activity.

The total number of cases in the initial bail setting sample, representing 10% of all cases from July - December, 1973 was 461. However, due to missing information in a great many files, the tables in this section are not based on the entire 461 case sample except where otherwise noted, but are adjusted to reflect a smaller sample of cases in which all relevant information was available. The following are distribution tables for the sample.

Table A-1a represents the distribution of non-summary criminal arraignments before City Court and District Magistrates. It shows that approximately 61% of the non-summary case arraignments in Allegheny County are conducted in City Court, while the remaining 39% are conducted before a District Magistrate. It might be noted here that in 95 cases (20%) it was impossible to determine from CBA's records where the defendant was arraigned.

TABLE A-1a

DISTRIBUTION OF NON-SUMMARY ARRAIGNMENTS BY COURT

	City Court	District Justice	Total
n	225	141	366
%	61	39	100

Table A-1b shows the age distribution of all defendants arraigned for non-summary criminal offenses. The most significant aspect of this distribution is that 53% of all defendants are under 26 years of age, and 74% of all defendants are 30 years of age or under. Age information was unavailable on 194 (42%) of the defendants in the main sample of 461.

TABLE A-1b

DISTRIBUTION OF NON-SUMMARY ARRAIGNMENTS BY AGE OF DEFENDANTS

	20 and under	21 thru 25	26 thru 30	31 thru 40	41 and over	Totals
n	63	78	57	37	32	267
%	24	29	21	14	12	100

Table A-1c is a breakdown by race of all defendants arraigned on non-summary offenses. 43% of the defendants are Black and 57% are White. The number of Black defendants appears to be high in light of their numbers in the general population of Allegheny County. The number of missing observations not reflected in this table is 235 (51%).

TABLE A-1c

DISTRIBUTION OF NON-SUMMARY ARRAIGNMENTS BY RACE OF DEFENDANTS

	Black	White	Total
n	98	128	226
%	43	57	100

Table A-1d shows the distribution of arraigned cases by charge category. Of 361 cases examined (one hundred case files, most of which were from District Magistrates, had insufficient information to determine either the charge or charge category) 35% were misdemeanors and 65% were felonies.

TABLE A-1d

DISTRIBUTION OF NON-SUMMARY ARRAIGNMENTS BY CHARGE CATEGORY

	Misdemeanor	Felony	Total
n	126	235	361
%	35	65	100

Table A-2a provides a more detailed look at the bail decisions made by City Court Magistrates by examining arraignment dispositions by charge category. Table A-2b shows similar information for arraignments before District Magistrates.

Table A-2a shows an overall rate of release on nominal bond of 45%. However, only 29% of the defendants charged with felonies are released on nominal bond compared to 67% for misdemeanors. This indicates that City Court Magistrates heavily weigh the charge against a defendant when determining if he is a "good risk" to appear at later court appearances.

In the sample 24% of all defendants arraigned in City Court were detained.

TABLE A-2a

ARRAIGNMENT DISPOSITION BY CHARGE CATEGORY
FOR CITY COURT

Arraignment Disposition Charge Category	Nominal Bond	8% Bond	Surety/Cash/ Property Bond	Detained	Total
Misdemeanor n=79	67	20	4	9	100
Felony n=112	29	27	9	35	100
All Cases n=191	45	24	7	24	100

In Table A-2b the same percent of defendants were released on nominal bond (45%) by District Magistrates as by City Court Magistrates. Since the Bail Agency does not make recommendations for nominal and 8% bail to District Magistrates at arraignments, it seems that CBA has had virtually no impact on the number of defendants released on nominal bond in City Court. This position is further supported by the fact that a greater proportion of each charge category were released on nominal bond by District Magistrates (70% for misdemeanors and 34% for felonies) than were released on nominal bond by City Court Magistrates (67% for misdemeanors and 29% for felonies). Overall, 31% of all defendants in the districts were detained compared to 24% for the City.

TABLE A-2b

ARRAIGNMENT DISPOSITION BY CHARGE CATEGORY
FOR DISTRICT MAGISTRATES

Arraignment Disposition Charge Category	Nominal Bond	8% Bond	Surety/Cash/ Property Bond	Detained	Total
Misdemeanor n=37	70	12	5	13	100
Felony n=83	34	16	12	38	100
All Cases n=120	45	14	10	31	100

Although there has been a substantial increase in the percent of defendants released on nominal bond at arraignments - from 13% in 1970* (prior to establishment of the Bail Agency) to 45% in 1973 - the fact that both City and District Courts have the same nominal bond release rates indicates that most of the increase in nominal bonds since 1970 is probably due to factors other than the direct impact of CBA on City Court.

On the other hand, it is probable that the daily presence of CBA representatives in City Court has had the effect of influencing City Court Magistrates to use 8% bail as an alternative to straight cash bail. This would account for the 10% higher rate in the percent of defendants released on 8% bond in City Court than those released in the districts.

* See, Analysis of Crime in Allegheny County, Vol. II, page 63.

2. CBA effectiveness in securing the release of defendants on nominal bond at City Court arraignments, and the appropriateness of present bail decisions

CBA determines which defendants should be recommended for nominal and 8% bail by subjectively evaluating the defendant with reference to the criteria described in Rule 4004. This means that CBA recommendations for nominal and 8% bail might be determined -- at least to some extent -- by the personal feelings of CBA investigators, thus diminishing the consistency of CBA recommendations.

Since objective point systems are employed by most bail programs in the United States, and in order to determine the effectiveness of CBA's present subjective system, the point schedule utilized by the Pre-Trial Services Agency in Brooklyn, New York was applied to the 45% of the City Court sample cases that were verified.

Table A-3 shows the arraignment dispositions of City Court cases by charge category for defendants who had 6 points or more* based on available verified information.

* PTSA's point schedule requires a minimum of 6 points based on verified information on community ties, criminal record, and employment and health histories to qualify for an ROR recommendation.

TABLE A-3
ARRAIGNMENT DISPOSITION BY CHARGE CATEGORY FOR
QUALIFIED* DEFENDANTS

N = 83

Arraignment Disposition Charge Category	Nominal Bond	8% Bond	Surety/Cash Property Bond	Detained	Total
Misdemeanor n=33	70	18	3	9	100
Felony n=50	38	32	6	24	100
All Cases n=83	51	26	5	18	100

From Table A-3 it can be seen that 51% of the defendants with 6 points or more were released on nominal bond, 26% on 8% bond, 5% on surety bond, and 18% detained. CBA's performance represents an acceptance rate by City Court Magistrates of only 51%. This is below the 56% acceptance rate of PTSA "ROR" recommendations by judges in Brooklyn, New York Criminal Court over a similar period, although PTSA is a relatively new project still in its first full year of operation.

A review of 6 other bail agencies utilizing objective point systems (San Francisco, Baltimore, Philadelphia, Des Moines, Berkeley, and Washington, D.C.) shows that their recommendations were accepted by the courts in their respective jurisdictions at rates ranging from 60% to 80% in 1972.

It should be noted that of a small number of Pittsburgh defendants (41) on whom available verified information indicated they had 5 points or less, 38% were released on nominal bond at arraignment.

* Based on 6 or more verified points.

Defendants with comparable point totals at PTSA are released on ROR (nominal bond) at a rate of only 14%. These rates and the County's 6% net forfeiture rate might be interpreted to show that quite a few inappropriate bail decisions are presently made in City Court.

In addition, since the variance in the release of qualified and unqualified defendants is only +6% and -7%, respectively, from overall release rates, some other variable besides community and family ties is being heavily considered by City Court Magistrates. Based on the figures presented in the foregoing tables and interviews conducted with City Magistrates and CBA staff, it can be definitely stated that severity of the immediate charge is given an excessive amount of weight when amount and type of bail are considered. There is no evidence, however, that charge severity has any relationship to failure to appear. The appropriateness of determining bail based on severity of charge category will be discussed in a later section.

It is probable that employment of a point system in Allegheny County -- specifically by CBA in City Court -- would serve to increase the percent of defendants released on nominal bonds, and reduce the number of defendants who appear to be qualified for nominal bond but are detained (18%).

The success CBA has had in obtaining bail reductions (discussed in a later section), the fact that over 50%* of all defendants initially detained are later released, and the results of the present survey indicate that there is still room to increase the percent of defendants released on nominal bond at City arraignments.

In conducting this evaluation it would have been preferable, in examining CBA's impact on bail setting decisions, to consider its actual recommendations to the court. However, CBA primarily makes oral recommendations and despite repeated requests by the evaluator that CBA staff record written recommendations, insufficient data on actual CBA recommendations remained unavailable.

* (1972 figure) See, Analysis of Crime, Vol II, page 66.

B. Bail Reduction Activity

One area in which the Bail Agency has excelled is the reduction of bail on application after initial bail is set by a City Court or District Magistrate. During calendar year 1973, the agency handled approximately 800 bail reduction applications, 366 (all those from July 1 to December 31) of which were analyzed for the purpose of this study.

Of 278 cases in which there was sufficient information to determine the outcome of the bail hearing, 29% of the defendants were released on nominal bond, and 57% had their bail amount reduced. Of the others, 12% had no change in the amount of bail and only 2% had an increase in the amount of bail. In the cases in which bail was increased, some new information about the defendant was brought to the attention of the court -- not necessarily by CBA.

Perhaps most interesting about the agency's bail reduction success is the rate of acceptance of its recommendations by the court. Contrary to the practice of not recording recommendations made to magistrates, after the disposition of the hearing to reduce bail the agency records recommendations made in bail reduction cases. According to these records the CBA has achieved overwhelming success in having its recommendations accepted. Table B-1 shows the Agency's recommendations by outcome of the bail reduction hearing, indicating the percent of those recommendations accepted by the court. 85% of the Agency's recommendations for nominal bond were followed by the court, as were 93% of the recommendations for "reduced bail", and 47% of those for "no change". Even when the CBA did not make a formal recommendation to the

court, the effect was not negative. In cases in which no recommendation was made by CBA, 10% of the defendants were released on nominal bond, 55% received reductions in bail, and 29% had their bail remain the same. Only 6% had their bail increased. In other words, 65% of those cases in which no recommendation was made by CBA still resulted in a disposition favorable to the defendant.

TABLE B-1

CBA BAIL REVIEW RECOMMENDATIONS BY REVIEW OUTCOME

N=278

Outcome CBA Recommendation	Nominal	Reduction	No Change	Increase	Total
Nominal % n=87	85	9	6	0	100
Reduction % n=127	0	93	5	2	100
No Change % n=15	6	47	47	0	100
None % n=49	10	55	29	6	100

There are several possible reasons for CBA's success in achieving reductions at such an impressive rate. They are:

1. In cases involving certain charges -- such as drug offenses, rape, assault where someone is seriously hurt -- or where there is a detainer on the defendant, magistrates are reluctant to release the accused on nominal or even 8% bond so they set relatively high bail and leave the question of bail and release to the CBA and Court of Common Pleas. When these cases come before the court, the judge usually makes some reduction in bail.

2. CBA has more time to interview the defendants detained in County Jail and verify the available information. This has resulted in CBA bail reduction recommendations being based on relatively accurate information thereby increasing the agency's credibility with the court judges.

3. Approximately 70% of all reductions heard by the court from July 1 to December 31, 1973 were heard by Judge Strauss. Since Judge Strauss was instrumental in the establishment of the Court Bail Agency -- and still views it as "our" agency -- and has played an active role in overseeing the operations of the agency, it is probable that he has considerable regard for the agency's judgment.

4. Since the other 30% of the cases are heard by a number of other judges who do not regularly entertain bail questions, they tend to rely heavily on the experience of CBA in determining what bail is appropriate in the cases presented to them. This is supported by the fact that, exclusive of the cases heard by Judge Strauss, CBA's recommendations for nominal bond are accepted by other judges of the Court of Common Pleas 96% of the time.

A second very important aspect of CBA's bail reduction activity is the reduction in the amount of time a defendant is detained after failing to secure his release at arraignment. Although the overall rate of detention at arraignment is still in the vicinity of 25% (based on the evaluator's sample) and nearly 12% of all defendants remain in detention until trial, CBA has achieved substantially quicker release for the approximately 50% of defendants released from County Jail. Prior to establishment of the CBA most detained defendants did not

secure their release until their preliminary hearing -- 3 to 10 days after arraignment -- or sometime thereafter. The effect of CBA's bail reduction activity has been to hasten the release process -- presently 51% of all defendants released after being initially detained are released within two days after arraignment, and 71.4% by the time of their preliminary hearing.

It should be noted however, that the efficiency and effectiveness with which CBA performs its bail reduction function brings to light an important weakness elsewhere in the agency. Of 345 bail reduction applications in which CBA played a part, the court of initial jurisdiction -- arraignment court -- was City Court in 198 (57%) of them. Since CBA interviews all City Court defendants and makes recommendations to City Court Magistrates at arraignments, the agency is to some degree duplicating its own efforts. Based on the number of cases originating from City Court, it is clear that if CBA were to do a more effective job in City Court, there would be fewer bail reductions and a greater number of defendants would be released quicker. Also, staff members presently performing bail reduction functions could be reassigned to help interview defendants and verify information in City Court. This restructuring would be advisable because defendants who are eventually released should be released as early as possible.

C. Bond Forfeitures in Allegheny County

In Allegheny County, as in many jurisdictions throughout the United States, the forfeiture rates often referred to by officials of criminal justice agencies are defendant/bond forfeitures and do not reflect defendant "skips" by number of required appearances.

1. At hearings

Since the forfeiture rate at preliminary hearing is around .5%, for practical purposes the forfeiture rate as applied to Allegheny County reflects the appearance rate at Common Pleas trials. The reasons for the relatively low forfeiture rate at hearings might be due to one or more of the following:

a. Hearings take place within 3 to 10 days after preliminary arraignment, when the impact of arrest and prosecution is still vivid in the defendant's mind;

b. At arraignment each defendant is informed of the specific date and place of his hearing which means all defendants have notice of the date and importance of appearing at hearings;

c. Many defendants are familiar with the criminal justice system and feel that the hearing is a minor procedure which will probably not negatively affect their pre-trial release status or result in their detention; and

d. Other defendants feel the hearing is an important appearance to make because it might provide them with an early disposition of their case and enable them to avoid going to trial.

Based on discussions with representatives of agencies in the criminal justice system in Allegheny County, and the evaluator's estimate of the situation, the forfeiture rate at hearings is low because hearings are held soon after arraignment, the defendant is notified of the specific time and place of the hearing, and it is viewed as an opportunity to dispose of the case rapidly.

Furthermore, it is reasonable to conclude that Agency follow-up has had little impact on maintaining such a low hearing forfeiture rate because defendants are not required to check-in with the Bail Agency prior to their preliminary hearing.

2. At trials

For the period of July through December, 1973, 432 of the 4664 defendants who had trials failed to appear and forfeited their bonds. This represents an overall forfeiture rate of 9% for that period. However, 39% of those defendants who forfeited bonds by failing to appear at trial had their bonds reinstated by the court, leaving a net, or willful, forfeiture rate of 6%. Table C-1 shows the breakdown of the 6% forfeiture rate by bond type.

TABLE C-1
NET BOND FORFEITURES BY BOND TYPE
JULY, 1973 -- DECEMBER, 1973

	Nominal Bond	8% Cash Bond	Surety/Cash/Property Bond	All Bonds
Non-reinstated Bonds	116	95	51	262
Required Appearances	1967	1340	1347	4664
% Forfeited (net)	6	7	4	6

When compared to other jurisdictions, the net forfeiture rate in Allegheny County is average. Below are available forfeiture rates from five other jurisdictions:

<u>City</u>	<u>Forfeiture Rate</u>
San Francisco	2%
Los Angeles	7%
St. Louis	3%
Atlanta	8%
Chicago	19%

Of the five jurisdictions, 3 are higher than Allegheny County's rate and 2 are lower.

Regardless of the relative position of Allegheny County's forfeiture rate when compared to other jurisdictions, the present rate of 6% represents an unnecessary burden to the criminal justice system in:

- a. Court time lost:
- b. The cost and time expended by Bail Agency personnel to track down "skippers" to determine whether the failure to appear was willful or not;
- c. The cost and time expended by the Sheriff's Department in trying to locate and rearrest defendants who fail to appear; and
- d. The cost of paper processing forfeitures through the Clerk of Courts Office, the Bail Agency, and the Sheriff's Department.

Some of the opinions offered as explanations of the forfeiture rate by those officials interviewed are as follows:

- a. Fault lies with the District Attorney's Office and its procedure for notifying defendants of their trial dates;
- b. The Court Bail Agency does not adequately follow-up on defendants who are released through its facilities; and
- c. The rates are not too high, especially in considering only the net forfeiture rate.

There is probably some truth in those explanations, but comparison of Allegheny's rate to those in St. Louis and San Francisco indicates that even the net rate might be reduced.

The effect of follow-up and notification procedures on the number of bonds forfeited, and the appropriateness of criteria presently employed to determine eligibility for release on nominal bond are discussed below.

3. Procedures affecting forfeitures

In the past, the District Attorney's Office has set trial dates and notified all defendants of the time and place of their trial. A three week trial list is prepared each month and defendants are sent a letter approximately 30 days before their trial. Recently, the District Attorney's Office has received a great deal of criticism because of the large number of letters that are regularly returned due to incorrect mailing addresses.

Although figures are not available on the total number of letters returned during the period under consideration, CBA records indicate that it "prevented" 136 bond forfeitures by following up on letters returned to the District Attorney's Office and notifying defendants of their trial dates. It appears that CBA is able to contact them because the Agency's records contain more accurate information on defendants' whereabouts than the District Attorney's Office. This is probably due, in part, to the following:

a. The address in the District Attorney's files is often taken from the arrest report which might incorrectly have the address of the site of the arrest, or an incorrect address provided by the defendant at the time of his arrest;

b. A condition of a defendant's release, at least those defendants released on nominal and 8% cash bond, is to notify the CBA in case of an address change. As a result of compliance with this condition by a defendant, the CBA would have his current address, but the District Attorney would not.

c. The Bail Agency has a strong interest in bond forfeiture and appearance rates because they directly relate to how well the Agency is performing.

Several CBA procedures, while not contributing to an increase in the forfeiture rate, might be improved to contribute to a decrease in the present rate. The primary areas of concern are interviewing and verification, check-in and follow-up of defendants subsequent to their release, and the criteria employed as indicators whether a defendant will appear when required or not.

Interviewing and verification will be discussed in greater detail later in Section E, but it does appear that if more complete information were gathered at the interview stage and then verified, CBA would have a better picture of each defendant's background. With that knowledge, it would be in a better position to make recommendations for release on nominal bond. A review of CBA files from July-December, 1973, showed that 53% of the interviews were incomplete to the extent that at least two major items of information were missing. If a more thorough job were done at the initial stage when defendants enter the criminal process, the Agency would be in a position to keep track of defendants until trial. In other words, if proper information is collected and verified prior to arraignments, it is likely that more appropriate bail decisions would be made and addresses and phone numbers -- both needed for adequate follow-up -- would be accurate.

Table C-2, shows the relationship of interview and verification to failure to appear at trial, regardless of type of bond. 20% of the defendants who didn't appear had no initial interview on file, compared to 2% for defendants who appeared. Similarly, 24% of the bond forfeiters had verified interviews compared to 43% for defendants who appeared at trial. These figures in Table C-2 show the important relationship of interviewing and verification of information to bond forfeitures, and indicate that one might well be a function of the other. In light of that possibility, it is fair to conclude that CBA should strive to reduce the percent of incomplete interviews (53%) and unverified interviews (45%).

TABLE C-2
APPEARANCE OF NON-REINSTATED DEFENDANTS BY
PRE-ARRAIGNMENT INTERVIEW AND VERIFICATION

Int/Ver Appearance	No Initial Interview	Initial Interview Unverified	Interview Verified	Total
FTA n=45	20	56	24	100
non-FTA n=40	2	55	43	100

One of the most important functions any pre-trial release program can perform that has a direct impact on the reduction of forfeiture rates is follow-up of defendants after release. In Allegheny County, defendants released on nominal and 8% cash bond are required to check-in with the Bail Agency on the day after preliminary hearing. Since failure to appear at hearings presents only a minimal problem, there is no reason to require check-in prior to that time.

However, the Agency has been lax in enforcing the post-hearing check-in requirement and subsequent check-in (usually monthly) requirements. Check-in records for the period surveyed were inadequate to determine who checked-in and who didn't. Part of the problem in the past was the incompetence of the clerical staff member assigned to monitor check-ins. That situation has recently been improved by the resignation of the individual. Also, a new check-in/master card filing system has been implemented.

Regardless of what check-ins are required of defendants, the agency will continue to have little impact on the forfeiture rate in the county unless it enforces check-in requirements. If a defendant does not check-in on the day after his preliminary hearing, a CBA staff member should attempt to contact the defendant and determine whether failure to check-in was willful or accidental. By enforcing check-in requirements, CBA would be able to "flag" defendants who appear to be potential bond forfeiters, and could expend extra energies in trying to maintain contact with those individuals.

Implementation of Criminal Procedure Rule 1100 of the Supreme Court of Pennsylvania which requires all trials to be commenced within 180 days of the date of the complaint (effective June 30, 1974) should help CBA in performing its follow-up functions by reducing the period of time over which the agency must remain in touch with a defendant. If CBA has less difficulty "tracking" defendants due to the "180 day Rule", an additional benefit might be a reduction in the forfeiture rate.

4. Analysis of failures to appear

In an attempt to determine the appropriateness of present bail decisions and what modifications might be made to better predict which defendants might appear when required, a sample of 11% (49) of all forfeitures from July-December, 1973, was compared to a slightly smaller total sample (40) of defendants who appeared at trial. The PTSA point schedule was applied to both samples. It appears that age, length of time in Allegheny County, length of stay at present residence, and bond type have minimal relationship to whether a defendant will appear or not. Appearance by both age and bond type are shown in Table C-3.

TABLE C-3

A. APPEARANCE BY AGE

N = 83

Age Appearance	20 and under	21-24	25-27	30-34	35+	Total
FTA % n=43	26	35	18	12	9	100
Appeared % n=40	15	48	22	5	10	100

B. APPEARANCE BY BOND TYPE

N = 85

Bond Type Appearance	Nominal Bond	8% Bond	Surety Bond	Property Bond	Straight Cash Bond	Total
FTA % n=45	48	39	7	2	4	100
Appeared % n=40	56	38	3	3	0	100

For length of time in Allegheny County and present residence,

a. 89% of FTA's and 87% of non-FTA's received one point (the maximum allowable) for living in Allegheny County over 4 years; and

b. 88% of FTA's and 85% of non-FTA's received the maximum number (3) of residence points.

The insignificance of age and residence as predictors of future appearances is probably due to the intransience of the County's population, at least to the extent that many defendants -- especially those under 25 -- have lived in the county all their lives and can give

authorities a family address at which they can claim residency for a reasonably long period of time. Based on discussions with City Court Magistrates, Court Judges, and CBA staff members, this situation is presently acknowledged and residence is not given great weight when considering a defendant for bail.

One of the factors that is heavily considered by CBA staff members and judicial authorities in determining bail is severity of charge. However, Table C-4 shows that severity of charge (by charge category) also has little relationship to whether a defendant will appear when required.

TABLE C-4

APPEARANCE BY CHARGE CATEGORY

N = 84

Charge Category Appearance	Misdemeanor	Felony	Total
FTA % n=44	48	52	100
Appeared % n=40	47	53	100

In addition, heavy reliance on charge probably violates the spirit of the Rules of the Pennsylvania Supreme Court relevant to bail setting and due process. Presumably a person is innocent until proven otherwise, and the purpose of bail is to assure the defendant's later appearance. See Bandy vs. U.S. 81 S. Ct. 197 (1960); Stack Vs. Boyle 342 S. Ct. 1 (1951). Those concepts, and therefore due process, might be violated when great weight is given the severity of the charge when setting bail.

Table C-5, which shows appearance by overall PTSA point total indicates that a modified point system would serve as a reasonably effective predictor of future FTA's in Allegheny County.

TABLE C-5
APPEARANCE BY PT. TOTAL
N = 78

Pt. Total	5 or less	6-7	8-9	10-11	12+	Total
Appearance FTA % n=41	17	27	32	19	5	100
Appeared % n=37	8	3	38	32	19	100

Although the point schedule as applied in Brooklyn requires that a defendant have at least 6 points to qualify for an ROR recommendation, the fact that virtually all defendants receive 3 points in the residence category and 1 point for long time residence in the county, and that 44% of FTA's have 7 points or less compared to only 11% for non-FTA's implies that a similar point system requiring eligible defendants to obtain at least 8 points would serve as an effective predictor of future FTA's in Allegheny County. Both the objective system and the present CBA subjective system allow for the weighing of certain factors -- age, residence, family ties, prior record, employment --but only the objective system would ensure the weighing of such factors in a consistently uniform and equitable manner.

D. Achievement of Program Objectives

1. Perceptions of Others

As perceived by others familiar with the criminal justice system in Allegheny County, the Court Bail Agency is viewed as having a number of objectives. Among responses to the question of what the Agency's primary goal is, the evaluator received the following responses:

- a. To insure that reasonable bond is set;
- b. To see that the greatest number of defendants are released while awaiting trial;
- c. To determine which defendants are good risks for release;
- d. To insure the appearance of released defendants at trial;
- e. To insure that bail is not used to punish defendants charged with the commission of a crime;
- f. To eliminate inequities in the bail system; and
- g. To increase the number of defendants released on nominal bond.

Most of the above conform to the Agency's stated goals of:

- a. Increasing the number of defendants released on nominal and 8% bond;
- b. Reducing the number of bond forfeitures; and
- c. Insuring the setting of bail in an equitable manner.

All except three people interviewed feel that the Agency is presently accomplishing goals 1 and 3, while 7 of the 17 interviewed believe that CBA has not had an impact on the number of bond forfeitures.

The positions taken by the people interviewed shows that CBA is presently being credited with having a substantial impact on the number of defendants released on nominal bond, 8% bond, and overall, and the equitable application of the bail system in Allegheny County.

2. Actual Success in Achieving Program Objectives

a. Number of defendants released while awaiting trial

Although the agency is regularly thought of as the impetus for the increased use of nominal bond at arraignments, it appears that the increase from 13% of all cases in 1970 to 45% in 1973 (7/73-12/73) is due to other changes that have taken place in the Allegheny County criminal justice system -- among them a conscious reduction in the use of bondsmen by Magistrates and judges, open discussion of the inequities in the bail system as it existed prior to 1972, and official emphasis by judges of the Court of Common Pleas that the sole purpose of bail is to insure a person's appearance in court. Since both City Court and District Magistrates presently release defendants on nominal bond at the same rate (45%), it is fair to conclude that the increase in the use of nominal bond is due to influences other than the activity of the Bail Agency.

It is likely, however, that the Bail Agency has had an impact on the number of defendants released on 8% cash bond. That position is supported by the 10% variance in the percent of defendants released on 8% bond at arraignments by City Court and District Magistrates. However, since the overall rate of initial post-arraignment detention has remained relatively constant over the past four years, 26% in 1971 compared to 27% in the July-December, 1973 sample; it is evident that defendants presently released on 8% cash bond are probably defendants who would have been released on surety bond in the years prior to implementation of CBA.

As for the overall reduction in the number of defendants detained, the reduction is light. In 1971, the average population at the Allegheny County Jail was 384, and in 1973 it was 352. Assuming the number of sentenced prisoners, federal prisoners, and Westmoreland County prisoners has remained constant, the pre-trial detention population of Allegheny County has been reduced by approximately 8% over the past three years.

b. Reduction in the Percent of Bond Forfeitures

The individuals interviewed who perceive that CBA has not contributed to a reduction in the percent of bond forfeitures accurately interpret the available evidence. Simply stated, the net forfeiture rate for all bonds in 1971 (prior to implementation of CBA) was approximately 3%* compared to the sample rate (July-December) of 6%.

* 1971 Report of the Clerk of Courts.

This represents an increase in the net forfeiture rate of 100% over the past four years.

c. Insuring the Setting of Bail in an Equitable Manner

Most of the people interviewed during the term of the evaluation felt that bail was equitably administered in a non-discriminatory manner in Allegheny County. This position however, is not supported by the weight of available evidence. For example, in 1972 31% of all Black defendants were detained in jail compared to 13% for White defendants.* Despite attempts to treat all defendants objectively, the contention of certain Black community leaders that Blacks are not treated equally by the courts appears to have some credence. In the sample of cases used for the survey of initial bail decisions made in City Court, Black defendants were released at a rate lower than Whites in each bond category except 8% cash bond, and were detained at a rate approximately twice that for White defendants. Those figures are reflected in Tables D-1a and D-1b.

* See Analysis of Crime, Vol, II, page 63.

TABLE D-1a
ARRAIGNMENT DISPOSITION BY RACE FOR DEFENDANTS ARRAIGNED ON
MISDEMEANOR CHARGES IN CITY COURT

N = 79

Arraignment Disposition	Nominal Bond	8% Bond	Surety/Cash/Property Bond	Detained	Total
Race					
Race Unknown % n=22	73	18	0	9	100
Black % n=25	52	32	4	12	100
White % n=32	75	13	6	6	100
All defendants % n=79	67	20	4	9	100

TABLE D-1b
ARRAIGNMENT DISPOSITION BY RACE FOR DEFENDANTS ARRAIGNED ON
FELONY CHARGES IN CITY COURT

N = 112

Arraignment Disposition	Nominal Bond	8% Bond	Surety/Cash/Property Bond	Detained	Total
Race					
Race Unknown % n=20	20	20	25	35	100
Black % n=46	17	31	4	48	100
White % n=46	46	26	6	22	100
All Defendants % n=112	29	27	9	35	100

The pattern evident in Tables D-1 is especially disturbing because charge category, which magistrates acknowledge they weigh heavily when setting bail, is controlled for. Absent other variable factors, it is clear that White defendants are treated more leniently at arraignment than Black defendants.

After attempting to control for other variables by considering only those defendants eligible for nominal bond based on the PTSA point system, the pattern remained. Table D-2, which represents the arraignment dispositions in City Court by race for qualified defendants charged with felonies, shows that 22% of Black defendants are released on nominal bond compared to 50% for White defendants. Similarly, 32% of eligible Black defendants are detained compared to only 18% of the White defendants.

TABLE D-2

ARRAIGNMENT DISPOSITION BY RACE FOR ELIGIBLE*

DEFENDANTS ARRAIGNED ON FELONY CHARGES IN CITY COURT

N = 50

Arraignment Disposition	Nominal Bond	8% Bond	Surety/Cash/Property Bond	Detained
Race				
Black % n=22	22	36	9	32
White % n=28	50	28	4	18

* 6 or more points.

The Bail Agency might be partially contributing to the inequitable treatment of defendants by recommending 8% bail for a disproportionate number of Black defendants charged with felonies. Based on the observations of the evaluator, many defendants are recommended for a certain type of bond because the CBA investigator is aware of the proclivity of the magistrate to set certain bond. If individual investigators were unable to exercise such discretion and were required by a point system to recommend nominal bond when appropriate, there would at least be more uniformity in recommendations, the result of which would probably be a greater percent of eligible Black defendants being released on nominal bond at arraignments.

Implementation of a point system would at least insure that equally situated Black and White defendants would be treated equally by the Bail Agency when making recommendations.

E. Program Procedures and Structure

The following analysis is based on the evaluator's review of CBA's policies, observation of procedures, personal interviews with the CBA Director, staff members and representatives of other criminal justice agencies in Allegheny County, and the findings contained in Sections A-D, above.

1. Interviews:

CBA presently only interviews those defendants who are charged with indictable offenses and will be arraigned in City Court -- both day and night sessions -- and who are detained in County Jail after failing to secure their release at arraignment. Each morning at about 7:00 a.m., a CBA investigator reports to the lock-up area in the Pittsburgh Public Safety Building and examines the roster list to determine which defendants are eligible for an interview. A typical morning has about 10-12 defendants to be interviewed by the one CBA investigator assigned to City Court each day. A CBA investigator also reports to interview defendants prior to the night court sessions, although some of the investigators covering night court call in by telephone first to make sure there are some defendants to be interviewed.

The interviews conducted in the lock-up area in City Court are not personal interviews. To save time, CBA questionnaires (printed on the inside of what will become the defendant's case folder) are given to defendants to fill out on their own. Questionnaires for interviews conducted in County Jail are filled out by either the defendant or the

CBA investigator -- the procedure varies depending on who the investigator is and how much time he has available to conduct the interviews.

Every time the evaluator observed the interviewing process in City Court, several defendants filling out questionnaires did not understand the purpose of the questionnaire or had great difficulty comprehending what was requested by certain questions. When a questionnaire is not adequately completed by a defendant, a CBA investigator reviews the questionnaire with the defendant in order to collect necessary information. Approximately 53% of the interview forms in the July-December, 1973 sample were incomplete (information missing in at least two major categories - employment, residence, etc.).

Also, interview forms filled out by defendants are often messy and the information provided illegible. When a CBA investigator "corrects" what a defendant has written on the form, the form becomes more illegible. It is possible that such forms, after presented to a Magistrate or judge, would prejudice the court against setting nominal bail.

Another problem which arises from the filling out of interviews by the defendants themselves is that while waiting for the defendants to complete the forms some CBA investigators engage in conversations with defendants which are unrelated to the information needed to determine a defendant's eligibility for nominal or 8% bail. On several occasions, the evaluator overheard CBA investigators discussing the substance of cases against defendants with the defendants. It is advisable that CBA personnel not get involved or exhibit any interest in the immediate charges against defendants in order to avoid being

subpoenaed by either the prosecution or defense at a later date.

Although the evaluator has repeatedly suggested to the agency director that CBA might try to individually interview defendants in an effort to remedy some of the foregoing problems, no procedural modifications have been made because the agency director contends that he has insufficient staff to conduct individual interviews. However, CBA presently has the capacity to individually interview defendants when the following are considered.

a. It now takes a CBA investigator about 10 minutes per defendant to wait for all the defendants to fill out the CBA questionnaire initially, review the form, and re-question defendants to obtain missing information. However, it is estimated that at similar pre-trial release projects where individual interviews are conducted, an experienced interviewer needs only 10-12 minutes to interview a defendant. Therefore, individual interviews should not be any more time consuming than the procedure presently employed.

b. CBA investigators assigned to City Court might report to the Public Safety Building at 6:30 a.m. instead of 7:00 a.m. in order to have more time for interviewing.

c. CBA might employ a call-in system each morning similar to the one employed by some of the evening investigators in order to determine -- prior to reporting to the lock-up to interview -- how many defendants are being held.

d. A second investigator might be assigned to City Court each day on a contingency basis so that additional staff might be readily available on days when there are more than 10 or 12 defendants in the lock-up.

e. If any additional staff is needed to assist in performing the interviewing (and verification) required to adequately cover City Court, investigators presently assigned to County Jail (and bail reduction functions) might be re-deployed to City Court. This should not negatively affect CBA's capacity to perform its bail reduction function because increased efficiency in City Court would probably result in an increase in defendants released at that stage of the process, and a reduction in the 57% of all bail applications that come from defendants who fail to secure their release at City Court arraignments.

f. If interview forms were filled out by investigators the initial interview could be used in Common Pleas Court in subsequent bail reductions without re-interviewing defendants in County Jail.

If CBA were to adopt any combination of the above procedures, in order to enable it to individually interview defendants (and adequately verify a sufficient number of cases), the following benefits would likely accrue:

- a. More legible interview reports;
- b. Fewer incomplete interview forms;
- c. More time for verification of information;

d. Less time for discussions on the immediate charge against the defendant, thus avoiding the possibility of future subpoenas;

e. Increased capacity to collect and verify information, and recommendations based upon more accurate information than in the past;

f. Increase in the percent of CBA recommendations followed by City Court Magistrates due to improved CBA credibility and increase in the percent of defendants released on nominal bond at City Court arraignment;

g. Less chance that the amount and type of a defendant's bond would be prejudiced by messy and illegible forms; and

h. Reduction in the forfeiture rate due to more appropriate bail decisions being based on more accurate defendant background information.

2. Verification

The verification performance of CBA has only slightly improved over the past several months, although it remains difficult to determine definitely what that performance is. As in the past, CBA staff do not always indicate on interview forms which information is verified. Although investigators have been instructed to circle the number of each verified item on the questionnaire, and three of the agency's more efficient staff members are now assigned to City Court, only 45% of the City Court cases examined in the July-December, 1973 sample exhibited

any notation of having been verified. In the other 55% of the City Court cases, no information was recorded as verified, and although it might have been, it must be assumed that it was not.

Based on the personal observations of members of the evaluation team and discussions with CBA investigators, verification is not considered a very important task. This is not only reflected in the reluctance of staff members to record which information is verified, but also by the reluctance of certain investigators to make second telephone calls to verify information when they are unable to verify on the first attempt.

Improper verification can lead to recommendations being made to the court which are based on false information and are therefore inappropriate. Thus, a result of careless verification is the release of defendants on nominal bond who might not be qualified and whose failure to appear at future court appearances is evidenced by increased bond forfeiture rates. Also, some defendants who might be qualified for nominal bond would be detained.

In addition to the suggestions made in subsection 1, above, for the re-deployment of staff in order to provide adequate levels of manpower to conduct interviews and verify information prior to City Court arraignments, CBA management should stress that verified information provides the only foundation upon which appropriate bail decisions should be made.

Although CBA has recently assigned to City Court three investigators who understand the need to verify information, it is important that all CBA investigators be aware of the possible impact of basing recommendations on unverified information.

3. Objectivity

At the present time, CBA has still not seriously considered adopting an objective system in evaluating defendants for nominal and 8% bond. Each investigator is expected to determine subjectively, with reference to the criteria described in Rule 4004 of the Rules of Criminal Procedure of the Supreme Court of Pennsylvania, as amended July 23, 1973, whether a defendant should be recommended for release on nominal or 8% bond. While both a subjective and objective system would theoretically use the same criteria (listed in the Description of Project Section of this report), which generally correspond to the categories of residence, employment, family ties, prior record, and nature of present charge, objective standards force the defendant to be judged on those factors only. Even if, using an objective test, there is some leeway in how a defendant is rated, the investigator is not free to deny a defendant his release on some ground other than the specific relevant factors. With a subjective test, an investigator is in a position to make such a denial based on an irrelevant factor such as the defendant's attitude toward the investigator.

As CBA's present system operates, every CBA investigator asked places reasonably heavy weight on the severity of the charge against the defendant. For example, one staff member stated that he asks higher bail on severe charges (armed robbery, burglary), and lower bail on less severe charges (disorderly conduct, resisting arrest). Another investigator "has a thing with weapons cases and cases involving kids", while still another doesn't like to recommend nominal bail in felony cases. The impact of this is that the magistrates, or judges, who have the responsibility and discretion to determine whether a defendant is a good risk for nominal bail, base their bail decisions on subjective, and in most cases, partially

unverified information.

The review of bond forfeitures by charge category described in Section C, above, shows that there appears to be little relationship between the charge against a defendant and whether he will appear when required. Although all the magistrates interviewed and nearly all the CBA investigators questioned consider severity of charge important in setting bail, undue emphasis placed on it might be a violation of a defendant's constitutional right to due process (see previous discussion in Section C). Basing bail solely on severity of charge is tantamount to employing bail as punishment, thereby violating the presumption that the defendant is innocent until proven otherwise.

A similar violation might be made when CBA investigators stress a defendant's prior arrest record when determining their recommendation. Not only is such consideration contrary to Rule 4004 which calls for review of the defendant's conviction record in determining appropriate bail -- not arrest -- but also contrary to the presumption of the defendant's innocence in those cases that have not been properly adjudicated and disposed of.

As far as objectivity is concerned, the investigator should gather information from each defendant, verify it, and present that information to the magistrate who has the responsibility to decide what conditions of release are appropriate -- including the amount and type of bail. Objective point systems are employed by most bail programs in the United States and those projects regularly recommend a greater percent of defendants for ROR (nominal bond) than those utilizing a subjective system.

As discussed earlier in Section A, the point system used

at the Pre Trial Services Agency in Brooklyn, New York was applied to the 45% of the City Court sample cases that were verified. Of those defendants who had 6 points or more based on available verified information, 51% were released on nominal bond, 26% on 8% cash bond, 5% on surety, property or straight cash bond, and 18% were held in lieu of bail. If CBA were using a similar point system upon which it based its recommendations for nominal bail, it would have to have 49% of its recommendations rejected by the court to match its present performance. In other words, CBA's present performance represents an acceptance rate of 51%, which is lower than 7 other bail programs surveyed which use objective point systems.

It is probable that if a point system were adopted by CBA, the number of defendants released on nominal bonds in City Court would increase, and the number of defendants who appear to be qualified for nominal bail, but are detained (18%) would decrease.

Also, a point system would probably help to alleviate the disproportionate number of Black defendants who are qualified for nominal bond based on the point system but under the current system are unable to secure their release at arraignment -- including 32% of those charged with felonies.

4. CBA recommendations to court

CBA presents oral recommendations to both the City Court and Court of Common Pleas to assist in setting bail. Recommendations are based on information obtained from interviews with defendants and the subjective evaluation of that information by an investigator.

The close relationship that has developed between CBA and the Courts might serve to hinder CBA's actual impact on the setting of bail in both courts. At City Court it appears that many recommendations varied to conform to the known or perceived preferences of arraigning magistrates. For example, although CBA might believe a defendant qualified for nominal bail, CBA recommends 8% because the investigator knows that the magistrate would not set nominal bail in that case. CBA should work to develop better credibility with the City Court magistrates so that it might be more secure in recommending defendants for release on nominal bond, regardless of the known or perceived preferences of certain magistrates.

The failure of CBA to record its recommendations makes it virtually impossible to accurately determine the extent to which CBA recommendations are accepted by the court, and therefore, its real impact on the bail decisions being made in City Court. A concerted effort should be made by CBA to have all its investigators routinely record all recommendations made to court so that the agency's impact can be monitored.

Recommendations for nominal and 8% cash bail should be based on verified information only. Present CBA procedures do not include any criteria by which an investigator can determine at what point a

case is considered "verified". If an objective system is not adopted, at least some method should be developed to guide investigators in determining how much information should be verified before a recommendation is based on it.

Last, there are no criteria in use by CBA investigators to assist in the determination whether a recommendation for nominal bail or 8% bail should be made. Guidelines, other than the test for severity of charge, should be adopted by CBA to enable investigators to uniformly recommend nominal or 8% bail in similar cases.

5. Follow-up before trial

When a defendant is released on nominal or 8% bond he receives a card which requests that he report in to the agency on the day after his preliminary hearing and once a month thereafter until the case is assigned for trial, and in addition, that he notify the agency of any change of address or employment. When the defendant checks-in after hearing, he is assigned a specific date to call back and CBA maintains a master card for each defendant on which check-in requirements and actual check-ins are recorded.

No contact is made with defendants by the CBA between arraignments and the preliminary hearings because the time is fairly short. Generally, hearings are one week after arraignment, and by rule not less than 3 nor more than 10 days. Although it is generally advisable for a pre-trial release project to maintain contact with and notify defendants of all court appearances, the .5% failure to appear rate at hearings shows that there is no need to modify the present procedure.

Three week trial lists are prepared by the District Attorney's Office, and each defendant is notified of his trial date by letter sent from that Office. However, it is sent to the address listed at the time of the defendant's arrest. Similar notice is sent to his surety and his attorney of record if any is noted. CBA receives a copy of the trial list but in the past has not notified defendants directly by letter or phone call. An effort to up-date the District Attorney's address list has been made only when letters sent by that office are returned.

In the future, CBA plans to notify all defendants -- except those with commercial surety -- by mail of their trial dates approximately 3-4 weeks before trial. The defendant will be required to call in to CBA upon receipt of the letter at which time CBA will advise the defendant to appear at trial with his attorney.

Although the above procedure might help to reduce the gross forfeiture rate, further improvement in enforcement of check-in requirements will also be necessary. Defendants who fail to check-in with CBA either on the day after their hearing or on the required monthly date are not adequately followed-up by CBA as potential "skips". During most of the term of the evaluation, follow-up on defendants who failed to check-in when required was extremely lax due to a composite of the following reasons:

- a. Incompetent and disinterested clerk was responsible for monitoring defendant check-ins;
- b. Lack of emphasis by CBA on the importance of checking in and follow-up, and the positive impact compliance with CBA procedures might have on bond forfeiture rates; and

c. Failure of CBA to assign staff to follow-up on defendants who failed to check-in when required.

CBA is moving to improve its present performance in this area by making some modifications, some of which have already been implemented and should be closely monitored to determine their impact, if any, on bond forfeiture rates. The CBA changes are:

- a. Replacing the check-in clerk with more competent staff. This has recently be done;
- b. Sending a letter to each defendant immediately after his hearing to further explain the purpose of CBA and the defendant's obligations and responsibilities in accordance with his release on nominal or 8% bond;
- c. Requiring each defendant to check-in with CBA when he receives the letter;
- d. Requiring only one additional check-in after the initial check-in at the mid-term of the defendant's release -- approximately 3 months after arraignment due to the Pennsylvania Supreme Court's 180 day rule -- or upon notification of grand jury;
- e. Notifying defendants of trial dates by CBA and requiring defendants to check-in with CBA upon receipt of the letter of notification; and
- f. Following-up on defendants who fail to check-in when required.

Two investigators presently assigned to post-forfeiture follow-up should be assigned this task.

Implementation of the foregoing procedures should provide CBA with a mechanism to:

- a. Monitor and enforce the agency's check-in requirements;
- b. Substantially reduce the number of accidental forfeitures; and
- c. Reduce the present effort spent on the time consuming process of investigating bond forfeitures and assisting in the reinstatement of forfeited bonds.

The new follow-up procedures should be closely monitored to determine whether they achieve the results anticipated.

Serious consideration should also be given to having the Community Release Agency follow-up on all defendants released on nominal and 8% bond who live in that agency's catchment areas. This would relieve some of the follow-up burden from CBA, and provide the county with an opportunity to test the effectiveness of different follow-up procedures.

6. Post-forfeiture follow-up

Another area in which the CBA has been successful is bond reinstatements. After a defendant fails to appear at trial and a bench warrant is issued, the defendant's name is forwarded to CBA where one of two investigators tries to contact the defendant to determine whether the forfeiture was willful or accidental and whether the defendant might be eligible to have his bond reinstated. If, after contact from CBA, the defendant voluntarily reports to the CBA office, a CBA investigator will reinterview the defendant and make a recommendation to the court that his bond be reinstated. The 39% overall reinstatement rate is an indicator of the success CBA has had in this area.

The only modifications that should be made concerning CBA's post-forfeiture follow-up procedures are:

a. All warrants should be stayed 3-4 days to provide CBA an opportunity to contact defendants before the sheriff's department is requested to enforce the warrant; and

b. The two follow-up investigators should be assigned to tracking down defendants who fail to meet their CBA check-in requirements in an effort to reduce the number of accidental forfeitures caused by notification and related contact problems.

7. Filing and Forms

The CBA has made several improvements related to filing which should prove to be more efficient than past procedures. For example, the master card used to monitor check-ins provides a simple case summary on one card and eliminates the need to check double diaries and logs to

determine the present status of a certain case, and the filing of case files numerically rather than alphabetically greatly improves the accessibility of case information.

However, new questionnaires should be designed to conform to the needs of the point system. Even if a point system is not adopted, the questionnaire presently in use should be redesigned to make them easier for the magistrates and judges to read when they are filled out with information. They should also include space to show specific CBA recommendations.

8. Administration and personnel

CBA has a highly intelligent and motivated staff, but it has had its share of personnel problems over the past 6 months. First, the check-in clerk "resigned", although there was substantial evidence that she was incompetent and uninterested in performing her assigned tasks. Second, one investigator was dismissed for engaging in an altercation with CBA's Associate Director, and another was dismissed after a question arose concerning his possible theft of property from a defendant.

The prompt attention given these problems indicates that CBA is determined to maintain a high caliber staff, despite some problems that hinder tight administration of the project. For instance, Bill Ivill, the Director of CBA, has no absolute authority over who is hired and fired. That power rests with the Bail Committee of the Court of Common Pleas, and more specifically with Judge Strauss. Until fairly recently, no staff members were ever reprimanded or dismissed by the

project director -- despite evidence of insubordination and incompetence -- because there was too much "red tape" involved.

The reason the Court plays such an active role in the administration of the agency is that the Court -- especially Judge Strauss -- appears to believe that the setting of bail and all functions related thereto are judicial functions and should be closely supervised by the Court. But it should be noted that the operation of a bail agency is an administrative rather than judicial function and does not impinge upon the authority of the court. It is thus not necessary, or perhaps even appropriate, that the day to day operations of the agency be closely scrutinized by the Court.

In addition, the fact that Judge Strauss has some say in who is hired and fired by CBA, has heard most of the applications to reduce bail presented by the same CBA staff members whose hiring he approved, and hears cases in which he previously reviewed the defendant's prior record and other inadmissible information at the bail hearing, presents an ethical conflict.

This possibility has recently been reduced by the assignment of another judge to hear bail applications.

However, although Judge Strauss has divested himself of much of the control he once exercised over the agency, he still remains the dominant figure in determining bail policies in Allegheny County. Almost all the Common Pleas Judges interviewed expressed concern over Judge Strauss' influence over the bail agency and stated they would welcome the opportunity to have their viewpoints considered by the agency. The Court's Bail Committee is viewed by many judges merely as a mechanism by which Judge Strauss can maintain control over the agency.

CBA should develop and maintain lines of communication with all Common Pleas Criminal Court Judges, and should consider their suggestions for improving the agency's effectiveness. In an effort to keep all the judges updated on CBA operations, CBA might issue periodic reports and send them to all the judges of the Criminal Division.

Last, Bill Ivill, the CBA Director should be given more authority to review the performance of CBA staff and to hire, reprimand and dismiss personnel when appropriate.

9. Relationship with Community Release Agency

The relationship between the CRA and CBA has improved greatly over the past six months. At present, most of the previously existing problems between the two agencies have been resolved, and CRA is functioning as a supervised release agency with the assistance of CBA.

The following are evidence of the newly developed cooperation between the two organizations.

a. Each morning a CRA representative reports to CBA to screen CBA files to determine how many defendants who were arraigned the previous day are detained in County Jail, and which ones might be good candidates for CRA's program.

b. CRA is permitted to make photocopies of CBA interview forms as well as available "rap sheets".

c. After CRA determines that a defendant is a good candidate for supervised release, CBA approves the application to reduce bail and assist in the presentation of the case to the court.

In light of the new working relationship which has been established between the two agencies, we would strongly urge that CRA be assigned the function of following-up on all defendants who are released on nominal and 8% bond who live in the CRA catchment area. As discussed previously, this would afford an opportunity to evaluate the effectiveness of different follow-up procedures in securing the appearance of defendants at court when required.

10. New District Magistrate Night Court

A new Night Court has been established in Allegheny County to provide for twenty-four hour coverage of arraignments. District Magistrates serve the court on a rotation basis.

At the present time, CBA has not attempted to perform pre-arraignment interviewing and verification due to inadequate staff. Given CBA's present manpower levels, it is not advisable for CBA to try to cover the new court, although the establishment of the court presents the opportunity for CBA to make recommendations to District Magistrates at arraignments -- a long standing logistical problem to the agency.

If CBA is expected by the County to adequately cover the new Night Court, it is clear that at least 3, and preferably 5, new investigators will be needed to perform that function. CBA should not attempt to cover the new court with present staff. If additional personnel are added, the number of new staff members should reflect the number of staffers assigned to the new court. In other words, new staff members should be assigned to the new court rather than to helping out with other tasks the agency currently has sufficient manpower to perform.

F. Appropriateness of Present Funding and Financial Benefit

1. Funding level

The present level of funding for the agency seems to be nearly adequate for the tasks required of the CBA. Present funding provides for 11 full time investigators who have the responsibility of covering City Court -- day and evening sessions, bail reductions in Common Pleas Court, and follow-up on defendants who forfeit bond.

As the CBA is now structured, the agency has some difficulty in covering those tasks -- even when the staff is at full strength -- because there is no coordination of effort and overall planning of functions. The lack of such coordination gives the impression that the agency is understaffed and therefore cannot operate effectively.

A closer look shows that understaffing is not necessarily the reason for CBA's inability to adequately cover City Court -- including individual interviews of defendants and sufficient time to verify information, or to follow-up on defendants who fail to check-in when required. The primary reason for those inadequacies is emphasis on inappropriate functions. For example, CBA has emphasized its effectiveness in achieving bail reductions -- 57% of which come from City Court -- while not stressing the importance of developing the capacity to cover City Court. Very simply, if CBA were to do a better job covering City Court, there would be fewer bail reduction applications from City Court and the investigators presently assigned to reductions could be redeployed to assist with pre-arraignment interviewing and verification. The benefit to defendants would be that they might be released at arraignment rather than 2 1/2 days later on a bail application.

A similar redeployment of present staff from post-forfeiture follow-up to follow-up on defendants who fail to meet their check-in obligations between hearing and trial, would probably result in a reduction in the percent of bonds forfeited thereby reducing the post-forfeiture follow-up caseload.

Despite CBA contentions that present funding levels are inadequate to permit efficient performance of its tasks, overall coordination of the agency's functions and a shift of emphasis to the arraignment and pre-forfeiture stages in the process would provide CBA sufficient personnel to function effectively and efficiently.

This does not mean that CBA has enough staff to cover the newly established Magistrate Night Court. Covering that court represents assignment of a new function to CBA and should be accompanied by sufficient funding to hire at least 5 new investigators. Coverage of the new court also represents an opportunity to solve the old standing problem of CBA not being able to interview defendants before District arraignments. However, for the sake of program efficiency, CBA should not attempt to cover the new County Court until such time as it is able to adequately cover City Court.

Last, additional funding should be made available to the agency in order to hire a research director. The research director should receive a salary equal to that of associate director, and be responsible for monitoring the impact of CBA's procedures and practices on:

1. the percent of defendants released on nominal and 8% bond by City Court magistrates;
2. the percent of defendants who fail to appear at *required court appearances and forfeit bond; and

3. the number of bail reduction applications;

The research director might also closely monitor and evaluate the appropriateness of risk criteria presently in use in Allegheny County, and the relevance of certain factors as predictors of future "skips".

2. Financial benefit

It is impossible to accurately determine or evaluate the financial benefit of the Court Bail Agency due to the unavailability of information relating to its direct impact on the criminal justice system in Allegheny County.

Since no record is kept of recommendations made to the City Court at arraignments, it is impossible to determine how many defendants are released on nominal and 8% cash bond based on the direct input of CBA. The difficulty in estimating the number of defendants so released is compounded by the fact that in our sample of initial bail decisions, the same percent of defendants were released on nominal bond by District and City Court Magistrates.

The only aspect of the CBA program and record keeping procedures that permitted any cost benefit to be determined was in the area of bail reduction. Based on information from the case sample analyzed (100% of all reduction activity from July - December, 1973), CBA was directly responsible for:

1. A total reduction of \$325,422 in bail set;
2. A real saving of \$89,848.85 to defendants

released on nominal bond after having their bail reduced;

Although release information was available on only 106 of the 366 defendants in the sample, based on an average stay at the County

Jail of only 2.4 days, the total cost to the Jail for maintaining those defendants -- figured at the 1973 Jail rate of \$11.20 per man/jail day -- was only \$2849.28. In 1971 -- before the establishment of CBA -- the average stay in jail for defendants detained at arraignments was 10 days. If CBA was not able to secure the release of the 106 defendants within 2.4 days, and they were detained 10 days, the cost of detention would be \$28,282.80. This represents a real savings to the County, in only six months -- July - December, 1973 -- of \$25,633.52. Projected over a full year, this represents a certain saving to the county of approximately \$51,267. It is, however, important to remember that this figure is based on only 106 defendants who are known to have been definitely released from County Jail. Since the post arraignment release rate is more in the vicinity of 50%, it is probable that approximately 185 defendants were actually released over that period. Therefore, the projected savings to the County represent real savings, but are most likely underestimated by about 40%.

Although the CBA's bail reduction activity has obviously resulted in some savings to the County and to defendants released from County Jail, it is impossible and inappropriate to make any definitive statement on cost benefit due to the incompleteness of the bail reduction data and the unavailability of arraignment recommendation data.

V. Summary and Recommendations

The Allegheny County Court Bail Agency is a pre-trial release program designed to assist judges and magistrates in determining which defendants seem to be "good risks" to appear at future court appearances and therefore qualify for release on nominal bond or 8% bond.

Its objectives, as stated in its own application for Governor's Justice Commission funds, are:

1. To increase the number of criminal case defendants released on nominal and 8% bond while awaiting trial of their cases;
2. To reduce the number of bond forfeitures by keeping track of defendants released through its facilities; and
3. To insure that the setting of bail is performed in an equitable and non-discriminatory manner.

Based on the findings of the evaluator which are included in the main sections of this report, there is uncertainty as to CBA's success in achieving its objectives. Although the percent of defendants released on nominal bond has increased greatly over the past few years in Allegheny County, the cases reviewed during the evaluation show that both City and District Magistrates currently release 45% of all defendants on nominal bond at arraignments. Since CBA presents formal recommendations to City Court Magistrates and not to District Magistrates at arraignments, the uniformity of release on nominal bond by both City and District Magistrates implies that the increased use of nominal bond is due to the development of a favorable outlook on bail reform rather than the direct influence of CBA. It is probable, however, that CBA's presence in the County has had some indirect impact on the percent of defendants released on nominal bond at ar-

raignments. The evaluator is prohibited from making a more definitive statement of CBA's direct impact on nominal bail setting at arraignments because the agency does not keep a record of defendants recommended for nominal bail despite numerous requests by the evaluator to maintain such records.

Furthermore, there is evidence that CBA has had difficulty achieving goals 2 and 3. This conclusion cannot be avoided because the net forfeiture rate of 6%, although reasonably moderate when compared to several other jurisdictions, represents an increase of 100% over the 3% net forfeiture rate in 1971-before CBA was in operation. Also, the disproportionate number of Black defendants presently detained at arraignments in City Court, 12% of those charged with misdemeanors, and 48% of those charged with felonies compared to 6% and 22%, respectively, for White defendants charged with misdemeanors and felonies shows that bail is still not being equitably administered in a racially non-discriminatory manner.

Although CBA has had some difficulty in achieving its specific stated objectives, the following indicate a general pattern of improvement in the bail system in Allegheny County, some of which directly reflect the impact of CBA's activities:

1. An 8% reduction in the population of the Allegheny County Jail over the past three years;
2. The successful operation of a bail reduction program which has reduced the average stay in County Jail of defendants who are initially detained and eventually released from 10 days to 2.4 days;

3. A variance of +10% in the percent of defendants released on 8% bond at City Court arraignments compared to District arraignments;

4. An unestimatable savings to defendants in bail money saved;

5. A real savings of nearly \$90,000 to defendants who had their bail reduced to nominal bail upon application to the Court of Common Pleas during the period studied (July-December, 1973); and

6. A projected minimum annual savings to the County of \$51,267 in detention costs at the Allegheny County Jail for defendants who are released through CBA's bail reduction program.

Although the Bail Agency might actually have a greater impact on the setting of bail in City Court and the amount of financial savings to both criminal defendants and the County, it is impossible to be more definitive due to the Agency's failure to record its recommendations made at arraignments -- despite repeated requests by the evaluator to do so -- and to accurately record the release/detention outcome of bail application hearings. Furthermore, for the months of October, November and December, 1973, CBA investigators failed to have defendants fill out supplemental interview forms supplied by the evaluator.

If CBA is to have a substantial impact on the setting of bail and the increasing forfeiture rate in Allegheny County, procedural modifications and staff re-deployment should be undertaken and program emphasis changed. Generally, better interviewing techniques, more efficient verification of information, re-deployment of staff to cover City Court adequately, more effective check-in and follow-up procedures, and redeployment of staff to enforce check-in requirements

would help CBA to achieve its stated objectives. Implementation of these changes would represent a shift in the program's emphasis from trying to rectify inappropriate decisions and errors that already occurred -- by securing bail reductions through bail applications and by tracking down defendants after they forfeited bonds -- to improving the quality of decisions being made initially and to preventing avoidable forfeitures.

On the recommendation of the evaluator, CBA is making the following changes:

1. Improvement in check-in procedures by contacting defendants who fail to comply with the conditions of their release by failing to check-in with the Agency;
2. Improvement in trial notification procedures by sending letters to all defendants other than those with commercial surety to notify them of upcoming trial dates; and
3. Tighter control over staff as evidenced by the dismissal or resignation of three staff members charged with incompetence or insubordination.

But these changes represent only minor procedural improvements compared to the substantive shift in emphasis that will be necessary for CBA to effectively and efficiently achieve its objectives.

To date, the Agency has resisted implementation of most of the evaluator's specific recommendations on the grounds that it does not have adequate staff. However, a shifting of present staff from bail reductions to City Court would probably result in CBA's more efficient

performance in City Court and reduction in the 57% of bail reductions currently coming from City Court, and thus an overall reduction in bail reduction activity. Likewise, the re-assignment of CBA investigators presently assigned to post-forfeiture follow-up to follow-up on defendants who fail to comply with CBA check-in procedures would probably result, along with the new notification procedure, in a reduction in the gross forfeiture rate by reducing the number of defendants who fail to appear at trial due to insufficient and inadequate pre-trial contact. This shifting of program emphasis to improve the quality of initial bail decisions and to reduce the overall forfeiture rate can be accomplished simply by re-deploying present staff members without adding new personnel.

The following is a summary of specific recommendations discussed in the report which are designed to help the agency develop a more effective program with the capacity to achieve its primary objectives. All recommendations have been discussed with the Project Director during the term of the evaluation, although most have not been implemented. Those noted by an asterisk are recommendations included in the December, 1972 evaluation report which have not been implemented.

- 1.* Defendants should be individually interviewed and interview forms filled out by CBA staff members rather than the defendants.
2. To insure that CBA always has sufficient staff on call to cover all defendants being held in the Pittsburgh "lock-up", one or more of the following should be implemented:
 - a. Each morning a CBA investigator should report to the "lock-up" at 6:30 a.m. rather than 7:00 a.m. as is the current practice.
 - b. More than one CBA investigator should be assigned to City Court each morning.

c. A CBA investigator should be kept in reserve on a contingency call basis to help out when more than 10-12 defendants are in the "lock-up".

d. Each morning prior to reporting to the "lock-up" the CBA investigator assigned to City Court that day should call in to determine how many defendants are being held so that he may seek assistance from other staff members if necessary.

3.* When verifying information, several attempts should be made until it is certain that the information is unverifiable.

4. Additional staff should be assigned to help cover pre-arraignment interviewing and verification in City Court in an effort to improve the present incomplete interview rate of 53% and verification rate of 45%. The staff should be re-assigned from present bail reduction functions.

5. A point system should be adopted to avoid the personal feelings of investigators serving as the basis of recommendations for nominal and 8% bail.

6.* CBA interview forms should be redesigned to conform to the needs of a point system.

7. Criteria should be developed to help investigators determine whether defendants should be recommended for nominal or 8% bail.

8. Charge severity and prior arrest record should not be considered by CBA in determining whether a recommendation for nominal or 8% bail should be made.

9.* All positive recommendations made to either magistrates or judges should be based on verified information only. In situations when CBA is unable to verify information, the appropriate judicial officer should be notified.

10. If recommendation #1 above is implemented, the initial interview form should be used when the bail set is re-evaluated on application to reduce bail. It should not be necessary to reinterview defendants previously interviewed in City Court.

11.* All recommendations made to magistrates and judges as well as all bail dispositions at relevant arraignments and hearings should be recorded by CBA.

12.* When defendants fail to check-in with CBA in accordance with the Agency's new check-in procedures, attempts should be made to contact defendants by telephone and letter. Failing to make contact by those methods, one of the two CBA follow-up investigators should be assigned to contact those defendants.

13.* When defendants fail to acknowledge receipt of the trial notification letter which, in accordance with another new CBA follow-up procedure will be sent to defendants to inform them of their trial dates, attempts should be made to contact them by telephone. Failing telephone contact, a CBA follow-up investigator should be assigned to try to contact them.

14.* To implement recommendations 12 and 13, the emphasis of the follow-up investigators' activities should be shifted from performing post-forfeiture functions to pre-forfeiture functions.

15. The responsibility for keeping track of defendants who live in the Community Release Agency's catchment areas -- regardless of the type of bond on which they are released -- should be transferred to CRA. Some additional funds might be needed by CRA to perform this function, but implementation of this procedure would relieve CBA's follow-up burden and would provide the County with an opportunity to

monitor the effectiveness of different follow-up procedures. Both CBA and CRA have tentatively agreed to implementation of this recommendation contingent on the availability of necessary funding.

16. Five new staff members should be added to the CBA staff to enable the agency to cover the new District Magistrate Night Court. Since CBA now has adequate staff to perform its current functions, the addition of staff members to cover the new court should be conditioned on CBA's re-deployment of present personnel to more efficiently cover its present responsibilities in the areas of City Court interviewing and verification and follow-up of defendants who fail to conform to the conditions of their release.

17. A Research Director should be added to the staff of CBA at a salary level equal to that of the Associate Director.

18. CBA should establish and maintain regular lines of communication with all the judges of the Criminal Division of the Court of Common Pleas. In addition to soliciting the viewpoints of the judges, CBA should issue monthly, or bi-monthly, performance reports and provide them to appropriate representatives of all the criminal justice agencies in Allegheny County.

19. Judge Strauss should have less influence on the Agency's administrative, procedural and policy decisions.

20. The Project Director should be granted more authority to evaluate staff performance and to hire, reprimand, and dismiss staff for reasons of incompetence or insubordination when appropriate.

21. When a defendant fails to appear at trial and a bench warrant is issued, it should be stayed for 3 or 4 days to provide CBA

an opportunity to try to contact the defendant to determine whether he might be eligible to have his bond reinstated before the Sheriff's Department starts to enforce the warrant.

The Vera Institute is available to assist in the implementation of any recommendation presented in this report.

CBA CASE INFORMATION REPORT

DEFENDANT'S NAME: _____ TOTAL: _____

DOCKET NO: _____ CBA FILE NO: _____

RESIDENCE

- 1. Allegheny County Address _____ Yes _____ No
- 2. Time at Present Residence _____ Yrs. _____ Mos.
- 3. Time at Prior Residence _____ Yrs. _____ Mos.
- 4. Time in Allegheny County _____ Yrs.

FAMILY

- 1. Lives with: _____ Spouse _____ Children _____ Parents _____
 _____ Family Relative _____ Non-family Reference
- 2. Regular Contacts with Immediate Family: _____ Yes _____ No

EMPLOYMENT, SCHOOL, RESOURCES

- 1. Time at Present Job _____ Yrs. _____ Mos.
 Can Return _____ Yes _____ No
- 2. Time at Prior Job _____ Yrs. _____ Mos.
- 3. Unemployed _____ Yes _____ No
 How Long _____ Yrs. _____ Mos.
- 4. In School _____ Yes _____ No
 Attending Regularly _____ Yes _____ No
 Left School _____ Months Ago
- 5. Financial Assistance From: _____ Unemployment Compensation
 _____ Welfare
 _____ Family

HEALTH

- 1. Poor Health _____ Yes _____ No
 Regular Dr./Clinic Visits _____ Yes _____ No
- 2. Alcoholism _____ Yes _____ No

PRIOR RECORD OF CONVICTIONS

- 1. Adult Felonies _____ Number
- 2. Adult Misdemeanors _____ Number
- 3. If No Convictions check here _____

RESEARCH INFORMATION

- 1. Defendant's Ethnicity: _____ Bl _____ Wh _____ Sp _____ Other
- 2. Charge Category: _____ Felony _____ Misdemeanor
- 3. Information Verified by CBA: _____ Yes _____ No
 If No, Why: _____

INITIAL BOND DETERMINATION

- 1. Which Court: _____ Judge: _____
- 2. CBA Recommendation: _____ Nom. _____ 8% _____ Other
- 3. Disposition: _____ Nom. _____ 8% _____ Surety _____ Prop. _____ Straight
- 4. Released: _____ Detained: _____ How long: _____

BOND REVIEW

- 1. CBA Recommendation: _____ Nom. _____ 8% _____ Other
- 2. Judge: _____; Disposition: _____ Nom. _____ 8% _____ Bond Reduced
- 3. Failure to Appear: _____ Appearance; Reason: _____
 Bond Reinstated: _____ Yes _____ No

APPENDIX

CBA SAMPLE
POINT SCHEDULE

To be recommended, defendant needs:

1. An Allegheny County address where he can be reached.
2. A total of 5 points from the following categories:

VERIF.

RESIDENCE

- | | |
|---|--|
| 3 | Present residence 1 year <u>OR</u> present and prior residence 1 1/2 years |
| 2 | Present residence 6 months <u>OR</u> present and prior residence 1 year |
| 1 | Present residence 4 months <u>OR</u> present and prior residence 6 months |

TIME IN ALLEGHENY COUNTY

- | | |
|---|--|
| 1 | Four years or more in Allegheny County |
|---|--|

FAMILY TIES

- | | |
|---|---|
| 4 | Lives with spouse and children |
| 3 | Lives with parents or spouse |
| 2 | Lives with other family relative |
| 1 | Lives with non-family friend whom he gives as a reference <u>OR</u> has regular contact with immediate family |

EMPLOYMENT, SCHOOL, RESOURCES

- | | |
|---|---|
| 4 | Present job 1 year or more where employer will take back |
| 3 | Present job 1 year or more |
| 2 | Present job 4 months <u>OR</u> present and prior job 6 months |
| 1 | Current job <u>OR</u>
Unemployed 3 months or less with 9 months on single prior job <u>OR</u>
Receiving unemployment compensation |
| 4 | Presently in school, attending regularly |
| 2 | Out of school less than 6 months, but employed |
| 1 | Out of school less than 3 months, unemployed |

HEALTH

- | | |
|----|---|
| 1 | In poor health (regular visits to doctor or clinic) |
| -1 | Definite knowledge of alcoholism |

VERIF.

PRIOR RECORD

No convictions .

Negative points assessed on the basis of the total number of offense units achieved. Offense code is as follows:

- 1 adult felony conviction = 7 units
- 1 adult misdemeanor conviction = 2 units

UNITS

-1	4 5 6
-2	7 8 9 10 11 12 13
-3	14 15 16 17 18 19 20
-4	21 and over

CBA EVALUATION INTERVIEW

Statement of purpose of the interview by the interviewer: _____

1. What are the goals of the Bail Agency, and what is the Agency's order of priority of those goals? _____

2. How frequently is a Bail Agency representative present at:

a. City Court Arraignments? _____

b. Court of Common Pleas bail hearings? _____

3. Does the Bail Agency make formal recommendations to:

a. District Justices at arraignments? _____

b. Common Pleas Judges at bail hearings? _____

4. Are the Bail Agency's recommendations written, oral, or both? _____

5. Are you satisfied with the manner (form) of the Agency's recommendations? _____

a. Why? _____

b. Would you recommend any changes or modifications in the form or manner of the Agency's recommendations? _____

6. Does the content of Bail Agency recommendations vary among interviewers? _____

a. What effect does the variance have on bail decisions that are made at:

i) City Court Arraignments? _____

ii) Bail hearings? _____

7. What weight do you feel magistrates give to Bail Agency recommendations for nominal bail in:

a. Felony cases? _____

b. Misdemeanor cases? _____

8. What weight do you feel Court Judges give to Bail Agency recommendations for nominal bail in:

a. Felony cases? _____

b. Misdemeanor cases? _____

9. In situations where the Bail Agency does not make a recommendation, what weight is given to the fact that no recommendation for nominal bail was made by the Agency? _____

10. Does the Bail Agency provide the Court with information it obtains from defendants? _____

- 11. How often does the Bail Agency verify the information it obtains from defendants? _____

- 12. Does the Bail Agency notify the appropriate magistrate or judge which information has been verified in a certain case? _____

- 13. Does the Bail Agency provide any other agencies with information it obtains from defendants? _____
Which Agencies receive information from the Bail Agency? _____

- 14. Do you think the Bail Agency should collect any additional information other than the information presently gathered? _____
How should it be used? _____

- 15. Would you like to see the Bail Agency provide information on defendants to any other agencies in the criminal justice system? _____

- 16. Is the information provided by the Bail Agency generally reliable? _____

- 17. What has been the Bail Agency's impact on the number of defendants who are released while awaiting trial? _____

- 18. What impact has the Bail Agency had in increasing the number of defendants released on their own recognizance or nominal bond? _____

- 19. What impact has the Bail Agency had in reducing failures to appear? _____
How do you account for such a positive or negative impact? _____

- 20. Since the implementation of the Bail Agency, are bail setting policies more or less lenient? _____

END

