PRETRIAL RELEASE: PRELIMINARY FINDINGS ON
CRIMINALITY FROM THE PHASE II NATIONAL EVALUATION STUDY

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by

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HIGHLIGHTS

This paper presents preliminary findings on criminality from the "Phase II" national evaluation of pretrial release. These findings are based on a random sample of 1421 defendants who were arrested over a one-year period in three of the sites studied: Baltimore City, Maryland; Santa Cruz County, California; and Jefferson County (Louisville), Kentucky. A total of 1209 of these defendants (86% of the sample) were released pending trial; the pretrial criminality findings relate only to these defendants.

Rearrest Rates and Charges

In the three jurisdictions 12.2% of the released defendants were rearrested while awaiting trial on the original charge, with the rates for individual areas ranging from 7.5% to 21.3%. Analysis by type of release found that defendants released on nonfinancial conditions had a rearrest rate of 10.4%, as compared with 16.6% for defendants released on financial conditions.

Analysis of rearrest charges showed that 31% of all rearrests were for Part I offenses, as classified by the FBI, and 69% for Part II crimes. Use of a more detailed crime classification found that most rearrests were for economic and property crimes (31%) and relatively minor crimes (31%), followed by crimes against persons (21%) and "victimless" crimes (17%). Additionally, a comparison of rearrest charges with the charges for the original arrest found that the rearrests were often for less serious charges than the first arrests.

Defendant Characteristics

Besides analyzing the extent and type of crime committed by the released defendants, the study considers the relation of defendant characteristics and pretrial rearrests. Major findings include:

- Persons with prior criminal records are more likely than others to be rearrested during the pretrial release period.

- Persons who are economically less well off than others are more likely to return as pretrial crime arrestees.

- Persons who fail to appear (FTA) for scheduled court appearances and those with lengthy trials are more likely than others to violate their release conditions by being rearrested.

Specifically, the findings show that criminal justice involvement or non-involvement of defendants at the time of their arrest is associated with whether or not they will be rearrested pretrial, as is the extensiveness of their criminal history. Also, defendants who are rearrested during release are employed less often and are more often recipients of public assistance than those not rearrested.

Several factors concerning the trials of defendants also seem related to pretrial arrest and crime. Most notably, fully 26% of those rearrested during the pretrial period also failed to appear at least once in the trials for their original arrests, as compared to an FTA rate of about 13% for released defendants who were not rearrested.

Concluding Remarks

A variety of additional analyses will be conducted as part of the Phase II evaluation of pretrial release. For example, discriminant and logit analyses will be used to assess the accuracy with which pretrial criminality can be predicted. Also, the effect of supervision and case disposition time on pretrial performance will be analyzed.

Finally, it should be stressed that this paper considers only pretrial criminality. The Phase II study encompasses broader concerns and analysis of many more topics. In particular, the study will consider the relationship of factors associated with pretrial criminality to factors associated with failure-to-appear and with the likelihood of securing release. The analysis of these interrelationships should provide considerable insight about the overall pretrial release process and its outcomes--for defendants, for the criminal justice system and for the community at large.

PRETRIAL RELEASE: PRELIMINARY FINDINGS ON CRIMINALITY FROM THE PHASE II NATIONAL EVALUATION STUDY

I. BACKGROUND

Since the Manhattan Bail Project began in the early 1960's, communities have made extensive changes in their pretrial release practices. Prior to 1960, the major means of securing pretrial freedom was the posting of a money bond, usually by paying a bondsman's fees. Today, many jurisdictions use a variety of release options, including:

- release on own recognizance (ROR), where a defendant is released upon promising to appear in court, and no money is needed to effect release;

- deposit bond, where a defendant posts a percentage of the total bond amount with the court, and most of the money is returned if the required court appearances are made;

- supervised release, where a defendant promises to comply with certain requirements, such as reporting to a pretrial release program on a regular basis; and

- citation release, where the arresting officer releases the defendant, who is given a "ticket" indicating the court date for the case.

The spread of pretrial release options has been accompanied by the development of formal programs to screen arrested defendants and recommend appropriate forms of release. More than 100 pretrial release programs are now located throughout the country, operating in a variety of ways.

A. The Phase II Study

Despite this general acceptance of pretrial release programs and the alternatives they offer to money bond, there has been little systematic analysis of the impact of various release practices. To close this knowledge gap, LEAA's National Institute of Law Enforcement and

Criminal Justice has commissioned a National Evaluation Program "Phase II" study of pretrial release. This evaluation, being conducted by The Lazar Institute, addresses major unresolved issues identified in an earlier "Phase I" study performed by the National Center for State Courts.[1] These issues include:

- What is the extent of criminality among pretrial releasees?

- What are the failure-to-appear rates of releasees?

- Are different types of release, such as money bail and release on recognizance, associated with different rates of criminality or failure-to-appear?

- Do certain defendant characteristics (e.g., age, race, sex, current charge, prior criminal record) seem to affect rates of pretrial criminality or failure-to-appear?

- What are the costs and benefits of alternative types of pretrial release?

To analyze these issues, the evaluation has several major components. First, a retrospective analysis is being conducted in eight jurisdictions. In each area a random sample of adjudicated defendants is selected for study and tracked through existing records from point of arrest until final disposition. Extensive data are collected on these defendants, including background characteristics, type of release, nature of program intervention (if any), criminality during the pretrial release period, court appearance performance and case outcome. Such data provide the basis for detailed analysis of the outcomes (i.e., court appearance performance, pretrial criminality) of defendants released under different mechanisms (e.g., ROR versus money bond, through a pretrial release program versus not, etc.). Additionally, these data permit analysis of

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[1] Wayne H. Thomas, Jr., et al., National Evaluation Program Phase I Summary Report: Pretrial Release Programs (Washington, n.C.: U.S. Department of Justice, April 1977).

whether certain types of defendants seem to be especially likely to fail to appear for court dates or to commit pretrial crimes.

To address issues relating to program impact more definitively, the Phase II evaluation also includes an experimental analysis of pretrial release practices in several jurisdictions. This analysis compares the outcomes of defendants who are processed by a pretrial release program with those of otherwise similar defendants who are not processed by the program. By comparing the outcomes of these two groups, the analysis can assess the extent to which program activities resulted in different rates of release or the release of different types of defendants (e.g., older, younger, richer, poorer, more versus less likely to appear in court or to commit pretrial crimes) than would probably have occurred without the program.

Besides the retrospective and experimental analyses of defendant outcomes, the evaluation includes assessments of the "delivery systems" used to provide pretrial release services in the various jurisdictions studied. This analysis considers in detail the operations of pretrial release programs and the interactions of those programs with other parts of the criminal justice system. Such analysis of pretrial release programs and their settings provides the perspective needed to interpret the findings from the outcomes analysis accurately.

As this brief description of the Phase II evaluation indicates, the study is a multi-faceted one, encompassing analysis of a variety of issues. This paper presents preliminary findings on only one of these issues: pretrial criminality. The paper also describes the more detailed analyses, now in progress, designed to provide further insight on this complex and controversial topic.

B. The Pretrial Criminality Issue

To date few analyses of pretrial criminality have been conducted. In fact, many pretrial release programs make no effort to assess the pretrial criminality rates of defendants released through their programs, much less to compare those rates with those of other groups of releasees. For example, a 1973 survey of 101 pretrial release projects found that only 20 projects maintained data on the rearrest rate for persons released on ROR; even fewer (six projects) had information on rearrests of bailed defendants.[2] A 1975 survey of 115 projects had similar findings: 19 programs had rearrest data for defendants on nonfinancial release, and 4 programs had rearrest information on defendants released with financial conditions.[3]

Programs' seeming lack of concern about pretrial criminality may stem from the fact that release decisionmakers must, under the laws of most jurisdictions, consider only the likelihood that defendants would return for court if released. Except in areas where preventive detention is authorized, such as the District of Columbia, the likelihood that a defendant may engage in criminality while awaiting trial is not supposed to be considered when determining release.

Another factor which may limit programs' interest in analyzing pretrial criminality is the difficulty of obtaining adequate data on this outcome. Although arrests are often used as a measure of criminal-

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[2]Hank Goldman, Devra Bloom and Carolyn Worrell, The Pretrial Release Program: Working Papers (Washington, D.C.: U.S. Office of Economic Opportunity, 1973).

[3]Wayne H. Thomas, Jr., op. cit.

ity, there are many limitations to this approach, including:

- More crimes occur than are reflected in arrest data.

- Arrest analyses often focus on one jurisdiction, although an individual may commit crimes in other areas as well.

- Charges are often dismissed or reduced soon after arrest.

- Arrests do not reflect guilt.

Moreover, it is often difficult to acquire arrest data at the local level—the information may be protected by a variety of confidentiality provisions, making access legally difficult; police agencies may be unwilling to cooperate with programs, thus making access hard as a practical matter; and the records themselves may be incomplete, poorly organized or otherwise difficult and time-consuming to use.

Although programs' lack of analysis of pretrial criminality can be understood in light of the preceding discussion, the issue has been one of great concern to many people. For example, in a 1974 survey of criminal justice policymakers in which the respondents were asked to rate 16 possible goals for pretrial release, "helping to ensure that individuals who might be dangerous to the community are granted pretrial release" was ranked second in importance by police chiefs, fifth by sheriffs, sixth by judges and eighth by county executives and district attorneys. Only public defenders and program directors ranked this goal in the bottom half of all possible goals, and each of these groups ranked it fourteenth.[4]

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[4] Robert V. Stover and John A. Martin, "Results of a Questionnaire Survey Regarding Pretrial Release and Diversion Programs," in National Center for State Courts, Policymakers' Views Regarding Issues in the Operation and Evaluation of Pretrial Release and Diversion Programs: Findings from a Questionnaire Survey (Denver, Colorado: National Center for State Courts, 1975).

The concern of criminal justice policymakers and practitioners with pretrial criminality issues is also shown by use of high bail to prevent the release of "dangerous" defendants. For example, an analysis of a sample of 858 indigent defendants arrested in New York City in 1971 found four variables that were significant predictors of bail amount:

- severity of charge facing the defendant;
- prior felony and misdemeanor records;
- whether the defendant was facing another charge; and
- whether the defendant was employed at the time of arrest.

None of these variables was significantly associated with the probability of failure to appear in court, but all except the last were associated with the probability of being arrested on a new charge while awaiting trial. Thus, the study concluded that bail was not being used to ensure appearance at trial but rather to detain defendants considered likely to be rearrested before trial.[5]

As the discussion above indicates, there is a substantial difference of opinion about the most appropriate role for pretrial criminality assessments in the overall release process. Consideration of this issue has been hindered in the past by the lack of adequate information about the pretrial criminality of released defendants. The Phase II study is designed, in part, to develop improved information and analysis of this topic.

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[5] William M. Landes, "Legality and Reality: Some Evidence on Criminal Procedure", _Journal of Legal Studies_, Volume III (2), June 1974, pp.207-333.

II. PRETRIAL CRIMINALITY FINDINGS

A. Introduction

The preliminary findings on pretrial criminality presented in this paper are based on retrospective analysis of the first three sites studied:

- Baltimore City, Maryland, where the pretrial release program attempts to interview all arrested defendants and provide release recommendations, based on a point scale, to the bail commissioners;

- Santa Cruz County, California, where the pretrial release program interviews about one-third of the arrested defendants and provides release recommendations, based on subjective evaluations, to the judges; and

- Jefferson County (Louisville), Kentucky, where the pretrial release program interviews about two-thirds of the arrested defendants, uses a point scale to determine eligibility for own recognizance release, and operates under Statewide guidelines.

Table 1 shows additional characteristics of the pretrial release programs in these three jurisdictions.

As part of the Phase II evaluation of pretrial release, 1,421 persons (556 from Baltimore, 430 from Santa Cruz and 435 from Louisville) were randomly selected for study, out of more than 80,000 defendants arrested over a twelve-month period during 1976-77. The pretrial criminality analysis which follows is based only on the released defendants, who comprise 86% (1,209 defendants) of the total sample.

B. Extent and Type of Pretrial Criminality

A major topic of interest, and debate, concerns the extent of pretrial criminality by released defendants. In the three jurisdictions studied, 12.2% of the released defendants (147 out of 1,209) were rearrested while awaiting trial on the original charge, with the rates

Table 1. Selected Characteristics of Pretrial Release Programs

Characteristics	Baltimore City	Santa Cruz County	Jefferson County
Eligibility	All Crimes	All Crimes	Most Crimes
Estimated percentage of eligible arrestees interviewed	85%	36%	65%
Annual number of defendants interviewed	37,540	1,960	19,290
Annual number of program-recommended releases on own recognizance	18,500	650	12,640
Release criteria	Point system	Subjective	Point system
Releasing official(s)	Bail commissioner, judge	Arresting officer, sheriff, judge	Judge
Major types of release used in the jurisdiction	Own recognizance, surety bond	Own recognizance, surety bond, citation, "Sheriff's O.R."	Own recognizance, deposit bond, surety bond
Annual budget	$489,330	$57,000	$376,500
Permanent staff positions	37	3	34
Public Service Employee positions	54	1	0
Region	South Atlantic	Pacific	East South Central

for individual cities ranging from 7.5% to 21.3%. Analysis by type of release shows that defendants released on nonfinancial conditions had a rearrest rate of 10.4%, as compared with 16.6% for defendants released on financial conditions.

In addition, for own recognizance releases, those defendants released with a positive program recommendation had a pretrial rearrest rate of 10.8%, while defendants released on OR without or against a positive program recommendation had a rearrest rate of 14.6%. Thus, the preliminary findings indicate that programs may do a better job of selecting "safe" defendants for release than is done by magistrates and judges who make unaided or unrecommended release decisions. More detailed analysis of this topic is now in progress.

When convictions are considered, rather than rearrests, the data indicate that about half of the pretrial rearrests resulted in convictions.[6] Analysis of the sentences imposed shows that 56% of the sentences stemming from pretrial rearrests involved incarceration, and about half of the incarcerations were for relatively less serious crimes (prostitution, drunkenness, driving while intoxicated, disorderly conduct, narcotics or paraphernalia possession, and violation of probation or parole).

These findings seem to indicate that the percentage of released defendants who commit serious crimes (and are apprehended for them)

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[6]This is probably an understatement of the "true" conviction rate, because the rate considers only the convictions for the rearrest charges. Some of the rearrest charges may have been dismissed in exchange for a guilty plea on the original charge. Thus, the case dispositions of the original and rearrest charges should be considered jointly when analyzing conviction rates. Such analysis will be conducted in the future.

while awaiting trial is small. Of all released defendants, those re-arrested amount to 12%; convicted of the pretrial arrest, 6%; incarcerated for the pretrial arrest, 3.3%, and incarcerated for the pretrial arrest when the charge is a serious one, 1.7%.

At the same time, it is important to point out there is a substantial group of defendants who do engage in pretrial criminality. Moreover, many of these defendants are arrested repeatedly while awaiting trial; more than one-fourth of all rearrested defendants were rearrested more than once. In one of the cities studied, one-third of the rearrested defendants were rearrested more than once.

Assessment of the seriousness of this pretrial criminality requires consideration of the types of charges for which defendants were rearrested.[7] Table 2, based on the classifications used in the FBI's Uniform Crime Reports, shows that 31% of all rearrests were for Part I offenses (criminal homicide, forcible rape, robbery, aggravated assault, burglary and theft) and 69% for Part II crimes.

Although the FBI's crime categorization assesses overall crime severity, it provides little insight about specific crime groupings of interest. For example, Part I offenses (and Part II offenses as well) include both crimes against persons and property crimes. To analyze these types of crime, the following offense categorization can be used:

- crimes against persons (murder, nonnegligent manslaughter, forcible rape, robbery, aggravated assault, other assaults);

- economic and property crimes (burglary, larceny, theft, arson, forgery, fraud, embezzlement, stolen property, vandalism);

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[7]All of the analyses by charge in this paper consider only the most serious charge for arrests involving more than one charge.

• "victimless" crimes (prostitution, gambling, liquor law violations, drunkenness, and possession of marijuana); and

• other crimes.

On this basis, as shown in Table 2, most rearrests are for economic (31%) and other, mostly minor, crimes (31%), followed by crimes against persons (21%) and victimless crimes (17%).

Table 2. Rearrest versus Original Charges, By Type of Offense

Type of Offense	Rearrest Charge		Original Charge	
	Number	Percent	Number	Percent
Part I	63	31%	81	40%
Part II	139	69%	121	60%
TOTAL	202	100%	202	100%
$\chi^2=3.083$ p=.09				
Crimes against Persons	42	21%	39	19%
Economic and Property Crimes	63	31%	90	45%
"Victimless" Crimes	35	17%	32	16%
Other Crimes	62	31%	41	20%
TOTAL	202	100%	202	100%
$\chi^2= 9.30$ p=.06				

A comparison of rearrest charges with the charges for the original arrest (see Table 2) shows that the rearrests are often for less serious charges. Forty percent of the rearrests were of defendants who had originally been charged with a Part I offense, but only 31% of the

rearrests were for Part I offenses. When the four-way crime classification discussed earlier is used, the major differences between original and rearrest charges are:

- 45% of the rearrests were of defendants who had originally been charged with economic or property crimes, while only 31% of the rearrests were for these charges; and

- 20% of the rearrests were of defendants originally charged with "other" crimes, while 31% of the rearrests were for "other" charges.

Table 3 provides additional insight about the patterns of original versus rearrest charges. Thirty-nine of the rearrests were of defendants who had originally been charged with crimes against persons, but only 12 of these rearrests (31%) were for crimes against persons. The rearrests in this category were as likely to be for "other" crimes as for crimes against persons.

For the other crime categories, a different pattern emerges. Almost half of the 90 rearrests of defendants originally charged with economic and property crimes were also for these crimes; the corresponding percentages for victimless and other crimes are 59% and 54%, respectively. Thus, for the defendants rearrested, the original charge is related to the subsequent charge for economic, victimless and other crimes much more than is the case for crimes against persons, the category of greatest concern to much of the public.

C. Characteristics of Rearrested Defendants

Besides assessing the extent and type of crime committed by released defendants, it is important to analyze the characteristics of rearrested defendants, to determine whether these differ significantly from those of defendants not rearrested. If significant differences exist, it may

Table 3. Type of Rearrest Charge versus Type of Original Charge

Original Charge Category \ Pretrial Arrest Category	Crimes Against Persons		Economic and Property Crimes		"Victimless" Crimes		Other Crimes		TOTAL	
	No.	%	No.	%	No.	%	No.	%	No.	%
Crimes against Persons	12	30.8%	9	23.0%	6	15.4%	12	30.8%	39	100.0%
Economic and Property Crimes	22	24.4%	43	47.8%	3	3.3%	22	24.4%	90	100.0%
"Victimless" Crimes	2	6.3%	5	15.6%	19	59.4%	6	18.8%	32	100.0%
Other Crimes	6	14.6%	6	14.6%	7	17.1%	22	53.7%	41	100.0%
TOTAL Rearrest Charges	42	20.8%	63	31.2%	35	17.3%	62	30.7%	202	100.0%

χ^2 (McNemar's) = 18.96   df = 6   p = .006

be possible to isolate "high-risk" defendants at the time of release and take various actions designed to lower this risk (e.g., providing greater supervision or speedier trials).

Three major findings emerge from the analysis of the relation of defendant characteristics and pretrial rearrests:

- Persons with prior criminal records are more likely than others to be rearrested during the pretrial release period.

- Persons who are economically less well off than others are more likely to return as pretrial crime arrestees.

- Persons who fail to appear (FTA) for scheduled court appearances and those with lengthy trials are more likely than others to violate their release conditions by being rearrested.

Specifically, the findings show that criminal justice involvement or non-involvement of defendants at the time of their arrest is associated with whether or not they will be rearrested pretrial, as is the extensiveness of their criminal history. Defendants who had been on some form of pretrial release, probation or parole at the time of arrest seem to be almost twice as likely to be rearrested once they gain release, as shown in Table 4.

Table 4. Status at Time of Original Arrest

Status of Releasee	Not Rearrested		Rearrested		Total	
	Number	Percent	Number	Percent	Number	Percent
Presently involved in criminal justice system*	143	78.57%	39	21.42%	182	100%
Not presently involved in criminal justice system	874	89.54%	102	10.45%	976	100%
Total of Releasees	1,017	87.82%	141	12.18%	1,158	100%

*On pretrial release, probation or parole.

$$\chi^2 = 17.29 \qquad p = .0000$$

Such defendants frequently also have extensive criminal records. Defining a "heavy" record as one where the defendant had at least three past arrests, of which two or more were for the same offense, we found that while less than one-half (36.39%) of the released defendants had a heavy record, they accounted for more than half (52.98%) of the rearrests. Put another way, the proportion of persons with heavy records who are rearrested is notably larger than that for persons without such a history, as shown in Table 5.

Table 5. Heavy Arrest Record* and Rearrest

Record Category	Not Rearrested		Rearrested		Total	
	Number	Percent	Number	Percent	Number	Percent
With heavy record	360	81.81%	80	18.19%	440	100%
Without heavy record	698	90.76%	71	9.24%	769	100%
Total Released	1,058	87.51%	151	12.41%	1,209	100%

*At least three prior arrests, of which two or more were for same charge.

$$x^2 = 20.53 \quad p = .0000$$

In keeping with the findings regarding arrest charges and rearrest, defendants with heavy records tend to be rearrested more often if their most frequent rap sheet charges were economic and property crimes, though such crimes are not more frequent than other types of crimes in the records of persons with heavy past involvement. (See Table 6.) Similarly, the more prior arrests and prior convictions a defendant has, the more likely the person is to be rearrested when released, as shown in Tables 7 and 8.

Table 6. Defendants with "Heavy" Records: Most Frequent Charges in Records

Crime Category	Not Rearrested		Rearrested		Total	
	Number	Percent	Number	Percent	Number	Percent
Persons	88	81.48%	20	18.52%	108	100%
Economic/Property	80	74.07%	28	25.92%	108	100%
"Victimless"	46	86.79%	7	13.21%	53	100%
Other	146	85.38%	25	14.62%	171	100%
Total Released	360	81.81%	80	18.19%	440	100%

$$x^2 = 6.292 \quad p = .09$$

Table 7. Number of Prior Arrests and Rearrest

Number of Arrests	Not Rearrested		Rearrested		Total	
	Number	Percent	Number	Percent	Number	Percent
0	429	93.27%	31	6.73%	460	100%
1	158	88.17%	19	10.73%	177	100%
2	92	88.47%	12	11.53%	104	100%
3	62	82.67%	13	17.33%	75	100%
4-5	106	88.44%	14	11.66%	120	100%
6-10	117	81.88%	26	18.18%	143	100%
11 or more	97	75.20%	32	24.80%	129	100%
Total Released	1,061	84.10%	147	15.90%	1,208	100%

$$x^2 = 39.06 \quad p = .0000$$

Table 8. Number of Prior Convictions and Rearrest

Number of Convictions	Not Rearrested		Rearrested		Total	
	Number	Percent	Number	Percent	Number	Percent
0	582	91.50%	54	8.50%	636	100%
1	179	86.47%	28	13.53%	207	100%
2	105	89.74%	12	10.26%	117	100%
3	62	83.50%	16	16.50%	78	100%
4-5	67	78.82%	18	21.18%	85	100%
6-10	52	82.53%	11	17.47%	63	100%
11 or more	14	63.63%	8	26.37%	22	100%
Total Released	1,061	88.01%	147	11.99%	1,208	100%

$$x^2 = 44.02 \quad p = .0000$$

The types of socio-economic background characteristics which seem associated with pretrial rearrests are consistent with the high frequency of economic/property crimes in persons' prior, current and rearrest records. Defendants who are rearrested during release are employed less often and are more often recipients of public assistance than those not rearrested. (See Tables 9 and 10.)

Table 9. Employment and Rearrest

Employment Category	Not Rearrested		Rearrested		Total	
	Number	Percent	Number	Percent	Number	Percent
Not Employed*	397	83.40%	79	16.60%	476	100%
Employed**	572	89.70%	65	10.21%	637	100%
Total Released	969	87.06%	144	12.94%	1,113	100%

*Includes full-time students and housewives.
**Includes students who are employed.

$$x^2 = 9.89 \quad p = .002$$

Table 10. Public Assistance and Rearrest

Assistance Category	Not Rearrested		Rearrested		Total	
	Number	Percent	Number	Percent	Number	Percent
Recipients	94	80.34%	23	19.66%	117	100%
Not Recipients	663	87.00%	99	13.00%	762	100%
Total Released	757	86.12%	122	13.88%	879	100%

$$\chi^2 = 3.76 \qquad p = .06$$

Several factors concerning the trials of defendants also seem related to pretrial arrest and crime. Most notably, fully 26 percent of those rearrested during the pretrial period also failed to appear at least once in the trials for their original arrests, as compared to an FTA rate of about 13% for released defendants who were not rearrested.

Whether a consequence of committing a pretrial crime (or failing to appear) and being apprehended for it or a true indicator of likelihood to be rearrested, the number of court appearances the defendant had to make, the number of postponements which occurred, and the number of ways in which the defendant was notified of scheduled court appearances all seem related to rearrest; that is, persons rearrested had more appearances, postponements, and notices than those not rearrested. (See Table 11.) What this indicates is that lengthy or complex trials are related to the occurrence of pretrial rearrest.

Table 11. Case Factors and Pretrial Arrest (N=1208)

Item	Not Rearrested	Rearrested
Mean Number of Appearances	1.58	2.25
Mean Number of Postponements	0.79	1.93
Mean Number of Appearance Notices	2.20	2.68

In sum, the findings on the relation of employment to pretrial rearrest are similar to those of Locke, et al.,[8] and Roth;[9] those regarding prior record agree with those of Landes,[10] Roth[11] and Clarke, et al.[12] Various techniques can be used to attempt to predict the likelihood of pretrial crime using these and other factors, as discussed in the next section.

[8]J.W. Locke, et al., Compilation and Use of Criminal Court Data in Relation to Pretrial Release of Defendants: Pilot Study (Washington, D.C.: U.S. Department of Commerce, National Bureau of Standards, August, 1970).

[9]Statement of Jeffrey A. Roth, Senior Economic Analyst, Institute for Law and Social Research, Washington, D.C. before the U.S. Senate Governmental Affairs Subcommittee on Governmental Efficiency and the District of Columbia, February 6, 1978.

[10]Landes, op. cit.

[11]Roth, op. cit.

[12]Stevens Clarke, Jean L. Freeman and Gary G. Koch, "Bail Risk: A Multivariate Analysis," The Journal of Legal Studies, Volume V (2), June, 1976, pp. 341-385.

III. FUTURE ANALYSIS

A variety of additional analyses will be conducted as part of the Phase II evaluation of pretrial release. For example, analysis now in progress considers the accuracy with which pretrial criminality can be predicted. Although past attempts to develop reliable predictive indicators have been notably unsuccessful,[13] further efforts are warranted by the possible usefulness of such indicators to pretrial release decisionmakers. Since the Phase II study's data base is much larger than those used in past predictive analyses, it will permit a more detailed consideration of this issue than has yet been possible.

The two major prediction techniques which will be used are discriminant analysis and logit analysis. Each of these types of analysis assesses how well two groups of individuals (for example, those who are arrested while on pretrial release and those who are not arrested while on pretrial release) can be "separated" by use of subsidiary information.

Discriminant analysis uses the relationship between group membership and subsidiary information in the form of values of independent variables to obtain a "separation."[14] Logit analysis and the closely

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[13]See, for example, Arthur R. Angel, et al., "Preventive Detention: An Empirical Analysis," _Harvard Civil Rights—Civil Liberties Law Review_, Vol. 6, 1971, and William M. Landes, op. cit.

[14]There is some controversy about the applicability of discriminant analysis to various types of data. In the original development (see R.A. Fisher, "The Use of Multiple Measurements in Taxonomic Problems," _Ann. Eugenics_, Vol. 7, 1936, pp.179-188), there are no distributional assumptions made but rather a concentration on the linear combination of the independent variables which maximizes the between-sample variance relative to the within-sample variance. One obtains, in one sense, the "best" separator of the samples when the linear discriminant function is used. Other developments, using multivariate normality and maximum likelihood or the T^2 statis-

related probit analysis use the relationship between group membership and subsidiary information in the form of values of independent vari- ables to obtain <u>probability</u> of membership in one group.[15]

These grouping procedures can, of course, be used in several ways besides the analysis of prediction. For example, point systems used by the programs studied can be analyzed, and strong and weak items identified. Analysis of various socio-economic variables with respect to group membership can lead to improvements in existing point systems or suggestions for new scales for use in release decisions.

Besides the analyses already discussed, there are three major areas which will receive further attention:

- the effect of supervision on performance;

- the relationship between case disposition time and the extent of pretrial criminality; and

- the interrelationships among variables which are associated with release, pretrial criminality and failure-to-appear.

Since the three jurisdictions discussed in this paper do not emphasize supervision of released defendants, the impact of supervision on pretrial

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tic and the union-intersection principle, can be found in D.F. Morrison, <u>Multivariate Statistical Methods</u>, Second Edition (New York, N.Y.: McGraw-Hill, 1976), pp.230-246. An excellent review paper concerning the various assumptions which can be made for this type of analysis is W.J. Krzanowski, "The Performance of Fisher's Linear Discriminant Function Under Non-Optimal Conditions," <u>Techno-metrics</u>, Vol. 19, 1977, pp.191-200.

[15]For a general discussion of logit analysis see William M. Landes, op. cit. For an alternate approach see T.E. Grizzle, C.F. Starmer, and G.G. Koch, "Analysis of Categorical Data by Linear Models," <u>Biometrics</u>, Vol. 25, 1969, pp.489-504.

performance cannot be studied for those areas. However, other juris-dictions included in the Phase II evaluation do provide supervision of selected defendants, and the relationship of supervision to pre-trial criminality rates will be analyzed for those sites.
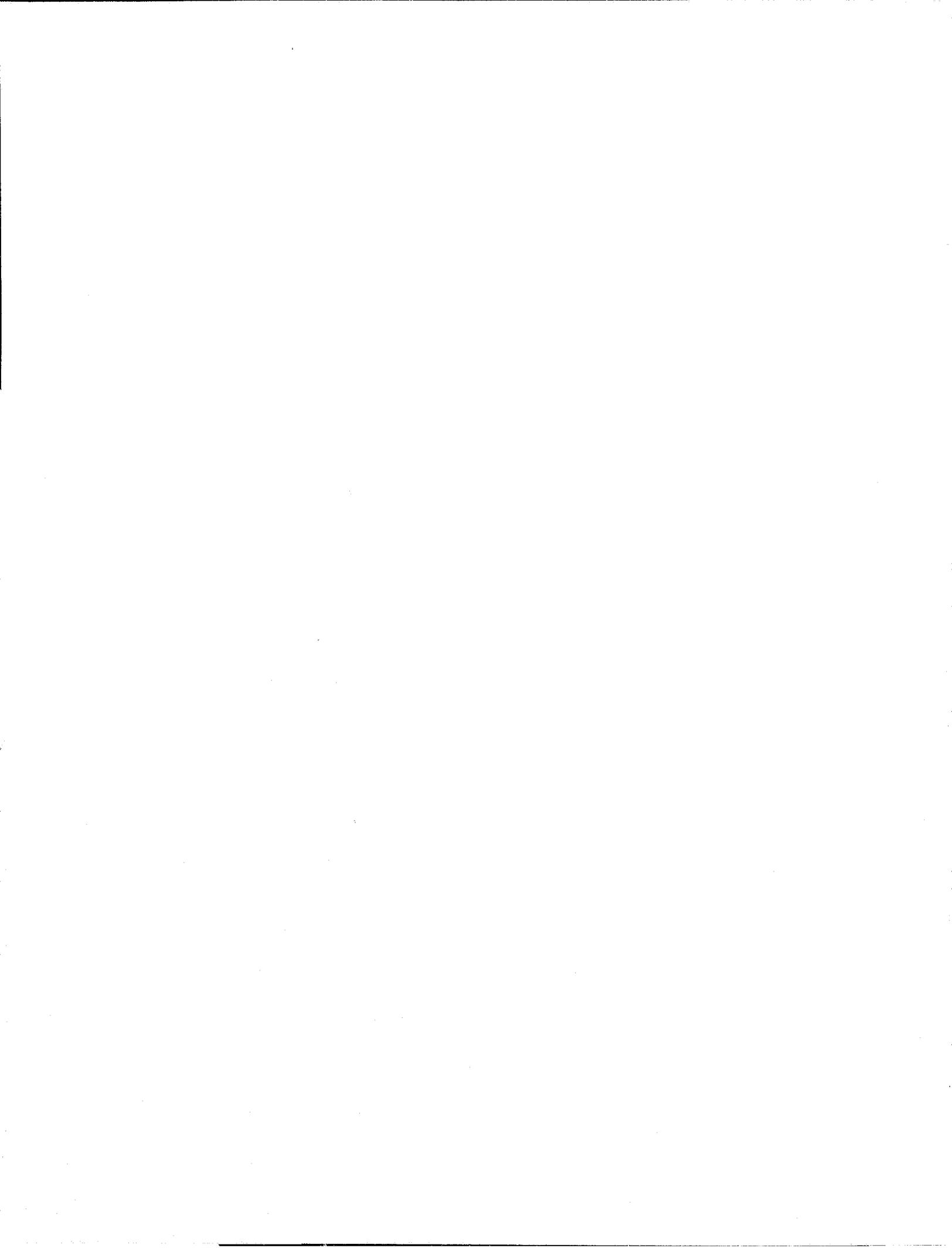
Another factor which may affect pretrial criminality is the length of time required for the case to reach disposition. Indeed, Clarke, et al., found that this was the most important variable affecting "bail risk" (i.e., the likelihood of being rearrested or failing to appear or both).[16] Similar findings from the Phase II study could suggest that efforts to provide speedy trials might greatly reduce the extent of pretrial criminality.

Finally, it should be emphasized that this paper has considered only pretrial criminality. The Phase II study encompasses broader concerns and analysis of many more topics. In particular, the study will consider the relationship of factors associated with pretrial criminality to factors associated with failure-to-appear and with the likelihood of securing release. The analysis of these inter-relationships should provide considerable insight about the overall pretrial release process and its outcomes—for defendants, for the criminal justice system and for the community at large.

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[16]Clarke, et al., op. cit.

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