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SUFFOLK PROBATION'S 'RELEASE-ON-RECOGNIZANCE'  
AND LEGAL AID ELIGIBILITY SERVICES:  
AN OPERATIONAL ANALYSIS

June, 1979

Pre-Trial Services - 1979  
Report #1

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ACQUISITIONS

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### SUMMARY OF PROGRAM HIGHLIGHTS

1. The number of cases that received pre-trial services from Probation's ROR/LA Unit in 1978 totalled 15,960 cases. This total is contrasted to the 1,521 cases that received services during 1968, the first full year of program operation.
2. Of the total of 15,960 cases in 1978, 8,202 or 51.4% were ROR pre-arraignment cases; 4,775 or 29.9% were legal aid eligibility cases; and 2,983 or 18.7% were cases excluded from 'Release-On-Recognizance' consideration because of the 'automatic-exclusion' criteria.
3. The cost for the 1978 total of 15,960 cases averaged \$13.39 per case.
4. Of those cases scored as 'good-risks' that were ROR'd by the Courts; 89.4% returned as scheduled between January and May, 1979 as compared to 87.9% in 1978. (The number of additional cases that returned to Court on their own volition, but late, is not available at this time.)\*
5. Of those cases eligible for ROR consideration during May, 1979, 84.18% were released on their own recognizance or released after posting bail. (Refer to Section V2C, p. 19.)
6. An analysis of the automatic exclusion category during April, May and June of 1978 illustrates that 20.7% had fugitive, probation and parole warrants outstanding and 68.6% were excluded for the following reasons: the respondent was a non-resident (28.7%); had no permanent address (20.5%); or had just recently moved into the area and was without community attachments (19.5%). Thus, 89.4% were excluded because of legal status or resident characteristics. 10.6% were excluded because of a variety of reasons including refusal of the respondent to be interviewed; incoherent or intoxicated behavior; willingness to pay fine now; submission of false identify; etc. (Refer to pp. 21-22.)
7. Of the 168 Suffolk Jail cases in May, 1979, 60 or 35.7% were released on bail shortly after remand; and according to type of offenses, were distributed as follows: 34% accused violent offenders released; 30.3% accused non-violent offenders released; and 46.7% warrant cases released. (Refer to Section V3, p. 19.)
8. There are three major pre-trial service areas of research in various stages currently being conducted by the Suffolk Probation Department:
  - A) Statistical Validation of the Risk-Assessment Instrument.
  - B) In-depth analysis of the 'failure to return' population.
  - C) Pre-trial alternatives for specific sub-groups of the defendant population.

Recommendations for potential pre-trial service alternatives will be made upon completion of these studies in 1979.

\*An additional 4.8% of the criminal cases returned to Court on their own volition. 2.0% had warrants executed; and 3.8% had warrants outstanding. A total of 94.2% returned to Court on their own volition.

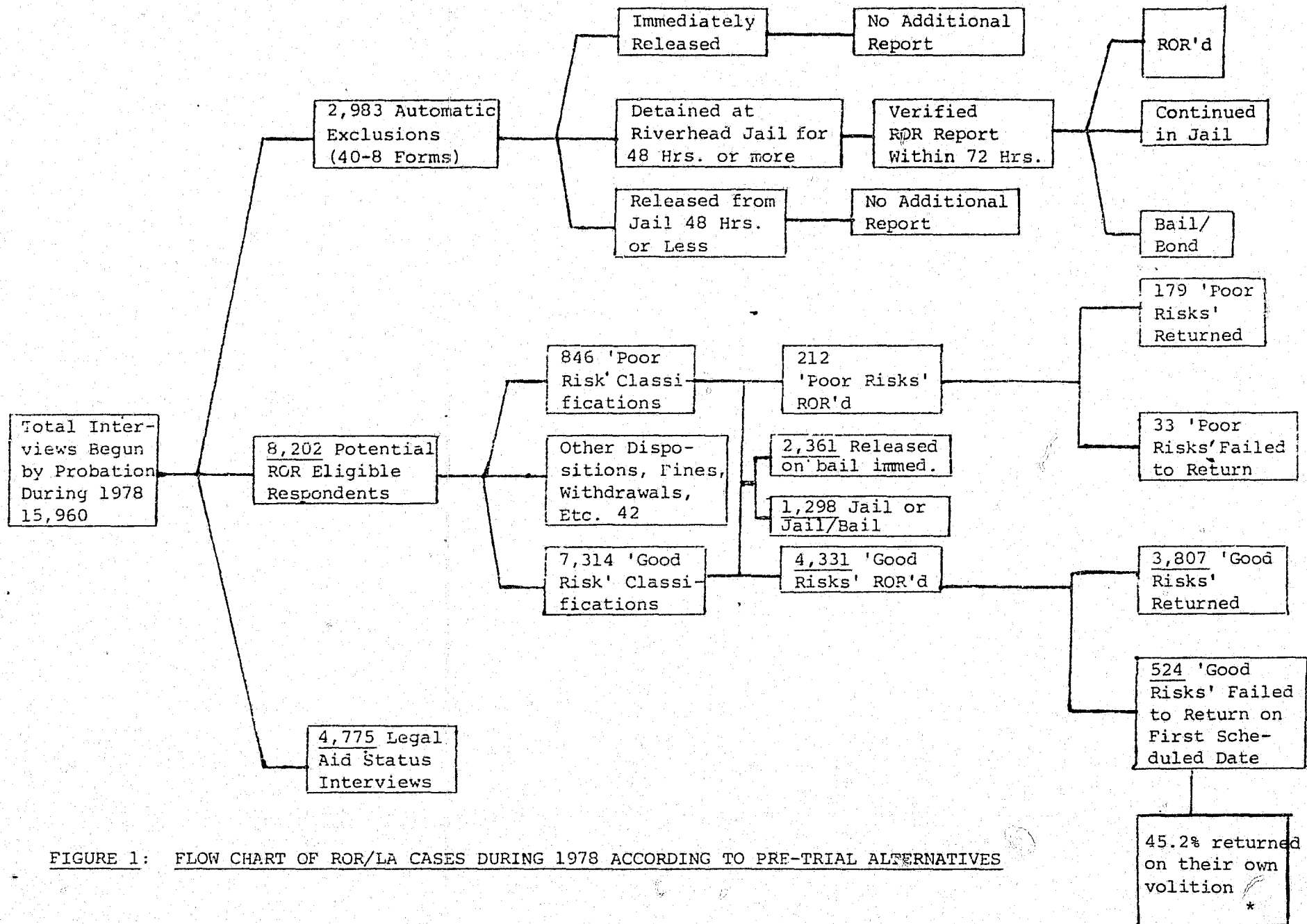


FIGURE 1: FLOW CHART OF ROR/LA CASES DURING 1978 ACCORDING TO PRE-TRIAL ALTERNATIVES

\*Note: A total of 94.2% of the respondents returned to Court on their own volition.

## I. INTRODUCTION

The purpose of this report is to describe and evaluate the services provided by the Suffolk County Department of Probation's 'Release-On-Recognition/Legal-Aid-Eligibility' (ROR/LA) Unit. The major objectives of this program are presented and program effectiveness assessed. In addition, the annual ROR/LA workload and patterns of increase or decrease are documented. A brief analysis of the cost savings realized by the Suffolk County criminal justice system because of this program is also included.

This investigation attempts to trace the historical development of the ROR/LA program in Suffolk County; define the major objectives; describe current procedures; develop a brief profile of cases automatically excluded; present the annual workload; determine cost-benefits; describe areas of ongoing and future research; and offer an analysis of strengths and limitations of the current system.

This study attempts to provide an overview of the current ROR/LA services offered by Suffolk Probation during 1978 and 1979. This study is not a statistical validation study of the risk-assessment instrument currently utilized by probation; although specific systemic and offender characteristics are offered for analysis.

Several additional research efforts are currently in process by Probation and include; 1) an analysis of individuals who failed to return to Court and; 2) a statistical validation study of the risk assessment instrument. Both efforts will be completed in 1979.

## II. HISTORICAL ANALYSIS

The Bail Review (ROR) and Legal Aid Eligibility program originated in Suffolk County in 1967. In 1973, this program operated by the Suffolk County Department of Probation expanded <sup>to include</sup> and moved to the new District Court Building in Hauppauge. The major purpose of this program is to provide competent and timely information to assist the Court in making decisions regarding eligibility of detained individuals for release on their own recognizance. This service, therefore, enables more individuals to remain in the community awaiting Court proceeding rather than in jail. Release is subsequent to arraignment and prior to trial or disposition. The ROR/LA service is strictly of an advisory nature for the court whereby additional information is gathered for consideration at arraignment. The court integrates this information with other indicators at its disposal and makes the final decision.

In early 1967, this program was initiated in Suffolk with the initial staff of three (3) Probation investigators plus clerical assistance operating out of the Riverhead Center. During 1968, the first full year of operation, a total of 1,521 cases were opened for ROR investigation and this program saved the County an estimated 4,397 jail days. In 1969, the ROR program received 1,534 referrals from the court, of which 910 (59.3%) were selected for ROR investigation. Of those cases excluded from ROR selection, 108 had outstanding warrants; 269 were committed to jail without bail set; 150 were able to furnish bail; and 97 were freed by the court without benefit of investigation. In 1970, the fourth year of operation, the ROR investigative unit expanded to five (5) investigators and one (1) clerk. During 1970, there were 2,204 referrals received from the court of which 1,071 were selected for investigation. Time savings of jail remands amounted to

an estimated 5,911 days. During 1971 and 1972, there were 1,495 and 1,939 referrals received from court. Of these totals, the number of potential ROR eligible cases selected were 1,196 and 1,279 for 1971 and 1972 respectively.

In 1973, the ROR probation program was expanded and moved to the new District Court building in Hauppauge. In addition to providing bail review investigative services, this unit also began to determine legal aid eligibility. These additional services were given to the ROR unit because much of the areas of information needed for the ROR interviews were duplicated for the determination of legal aid eligibility. This unit became the ROR/LA unit and the legal aid eligibility determination services enabled the legal aid attorneys to concentrate on delivery of professional legal services. In 1973, 8,396 referrals from court were received which represented a 333% increase over 1972. There were 6,822 bail review cases and 1,574 non-custody legal aid cases investigated. The increase was directly attributable to the expansion of services to the Hauppauge District Court facility. In 1973, this service was provided on a 7-day a week, 52 week a year basis.

In 1974, the Bail Review Program (ROR/LA Unit) completed its first full year since expanding a moving to the new District Court in Hauppauge. There were 15,046 referrals from court received which represented an increase of 79% or 6,650 investigations over 1973. There were 10,876 bail review cases and 4,170 legal aid cases investigated. The 1975 total equalled 15,796 referrals including 11,032 ROR investigations and 4,764 legal aid interviews. In 1975, there were 1,441 automatic exclusions as compared to 1,500 in 1974. The 1976, 1977 and 1978 total referrals from court were 14,808, 15,039, and 15,960 respectively. As of 1978, the staff of the ROR/LA Unit was comprised



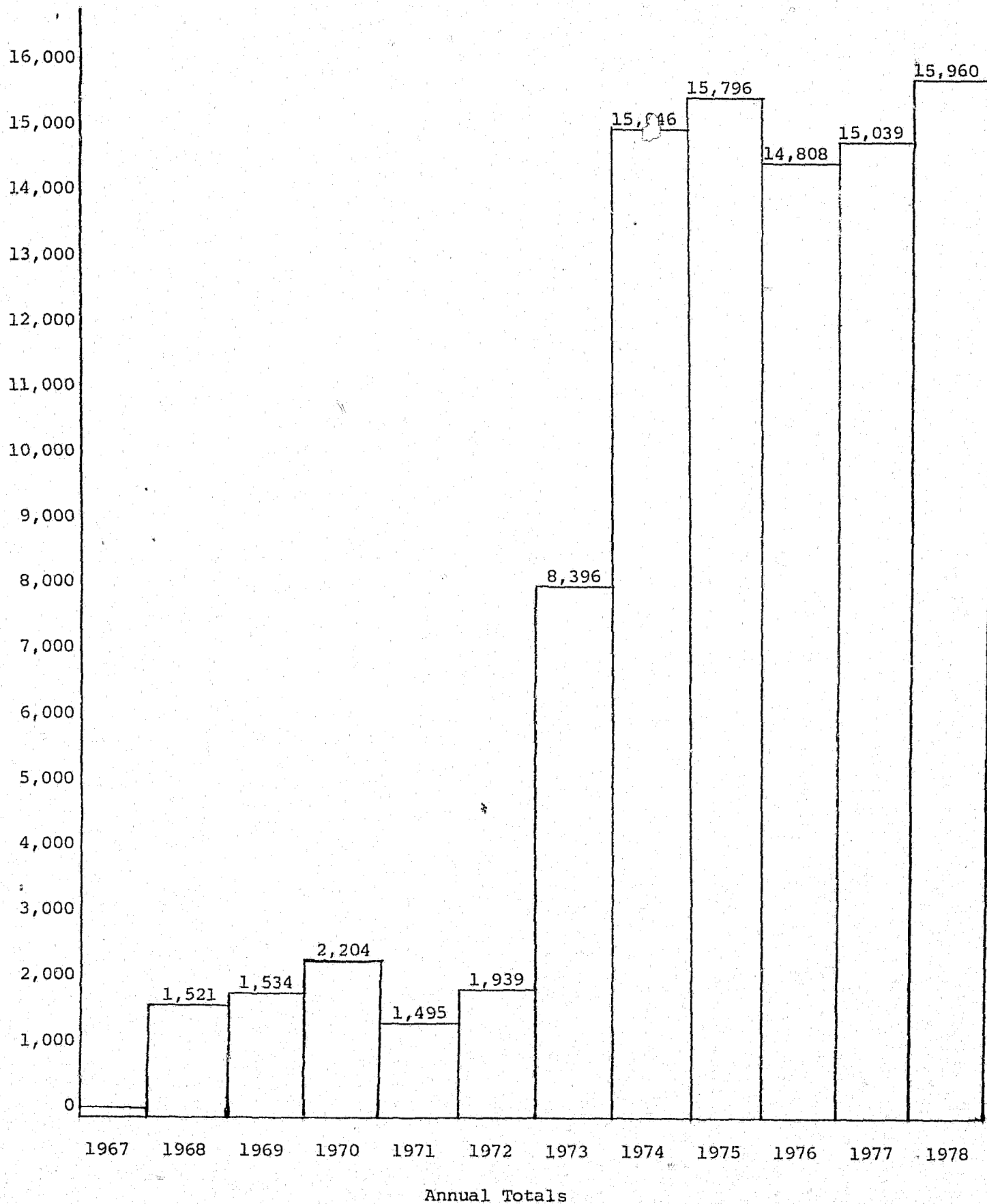


FIGURE 2: HISTORICAL ANALYSIS OF COURT REFERRALS TO THE BAIL REVIEW UNIT

of one (1) ROR investigation supervisor, 13 ROR/LA investigators and 1 clerk. During the first five (5) months of 1979, there were 6,927 referrals received from court.

The next section outlines the objectives and rationale of the ROR/LA services which continues to operate on a 7-day per week, 52 week per year schedule.

### III. OBJECTIVES AND RATIONALE

#### 1. Release On Recognizance Services

The legal citation for the Bail Review (ROR) program is Section 500.10 of the Criminal Procedure Law and the purpose of the investigation is to discover indicators as to the individuals stability in the community and probability of subsequent appearance in Court.

The major goal of the Bail Review service is to provide competent and timely information to assist the court in making decisions regarding eligibility of detained individuals for release on their own recognizance.

Sub-goals are as follows:

A) To permit eligible individuals to continue to function in their normal roles in the community, thereby alleviating potential psychological, social and financial problems for the individual and family which could accrue as a result of pre-trial detention.

B) To provide a cost savings to the County and State by utilizing procedures which permit eligible individuals to return to the community, thereby avoiding costs of detention and possible public assistance requests by the family.

#### 2. Legal Aid Eligibility Services

In addition to the Bail Review (ROR) services, the Suffolk Probation program enhanced its program in 1973 to include the determination of legal-aid-eligibility. This function began as an adjunct and rather minor service but has developed into a major component of the ROR/LA program. In 1978, there were 4,775 legal aid eligibility investigations. The major goal of these services is to provide timely, accurate information to the court at arraignment regarding the individual financial status to assist in the determination of eligibility of legal aid services. A sub-goal of probation

conducting this service is to free the legal aid lawyers so that they can provide more legal services to their clients.

The rationale for Probation assuming the 'legal-aid-eligibility' function in addition to the Bail Review information is that much of the information necessary for both procedures are the same and the combination of services into the ROR/LA Unit would avoid duplication of services. This program design would also be the most cost effective.

#### IV. STATISTICAL ANALYSIS OF SERVICE WORKLOAD

##### 1. 1978 Annual Total

As illustrated in Table 1, there were 15,960 total cases serviced by the ROR/LA Unit in 1978. The quarterly workload comparisons were distributed as follows: January - March - 3,900 cases; April - June - 4,140; July - September - 3,805; and October - December - 4,115. Of the total of 15,960 cases, 8,202 were ROR pre-arraignment cases; 4,775 were legal aid eligibility cases; and 2,983 were cases excluded from ROR consideration because of the 'automatic-exclusion' criteria, refusal by the defendant, etc.

Of the 8,202 potentially eligible ROR cases, 7,314 or 89.2% were classified as good risks as compared to 846 'poor-risk' classifications. There were 4,543 'good-risk' classifications ROR'd and 212 'poor-risks' ROR'd. Of the 4,331 good risks released on their own recognizance, dispositions were available on 3,283 cases and 87.9% returned as scheduled. Dispositions were available on 149 'poor-risk' cases ROR'd and 84.6% returned as scheduled. There are no return rate statistics available regarding the subgroup of "automatic exclusion" cases that were ROR'd.

##### 2. January 1, 1979 - May 31, 1979 Total

As illustrated in Table 2, there were 6,927 cases for ROR/LA screening during the first 5 months of 1979. There were 3,462 pre-arraignment ROR cases, 2,197 legal aid eligibility cases and 1,268 interviews not completed because of automatic exclusions, refusal by the defendant, etc. Of the 3,462 cases potentially eligible for ROR, 3,136 were classified as good risks and 326 as poor risks. Of those labelled 'good risks' according to probation ROR rating instrument, 1,847 were ROR'd as compared to 43 of the 326 cases classified poor risks.

TABLE 1: PROBATION DEPARTMENT ROR ANNUAL REPORT TOTAL FOR 1978

	Jan.-March	April-June	July-Sept.	Oct.-Dec.	Total
I. Total Interviews Begun by Probation	<u>3,900</u>	<u>4,140</u>	<u>3,805</u>	<u>4,115</u>	<u>15,960</u>
1) ROR Status Int.	1,959	2,131	2,045	2,067	8,202
2) Legal Aid Status Int.	1,244	1,265	1,016	1,250	4,775
I. Int. Not Completed	<u>697</u>	<u>744</u>	<u>744</u>	<u>798</u>	<u>2,983</u>
1) Refusal By Def.	26	45	36	32	139
2) Automatic Excl.	441	477	465	492	1,875
3) Other (Incl. Arr. Before Int.)	230	222	243	274	969
II. Pot. eligible for ROR (Based on Report)	1,959	2,131	2,045	2,067	8,202
V. Completed Reports Recom. to Ct.					
1) Good Risk	1,736	1,914	1,779	1,885	7,314
2) Poor Risk	209	215	236	186	846
V. ROR'd	<u>1,072</u>	<u>1,139</u>	<u>1,175</u>	<u>1,157</u>	<u>4,543</u>
1) Good Risk	1,020	1,096	1,115	1,100	4,331
2) Poor Risk	52	43	60	57	212
VI. Good Risk	<u>1,020</u>	<u>1,096</u>	<u>1,115</u>	<u>1,100</u>	<u>4,331</u>
1) ROR'd & Returned	728	733	709	716	2,886
2) No Appearance	64	93	152	88	397
3) Disposit. N/A	228	270	254	296	1,048
VI. Poor Risk	<u>52</u>	<u>43</u>	<u>60</u>	<u>57</u>	<u>212</u>
1) ROR'd & Ret.	30	29	35	32	126
2) No Appearance	5	2	12	4	23
3) Disposition Not Avail.	17	12	13	21	63

TABLE 2: PROBATION DEPARTMENT/RELEASE ON RECOGNIZANCE  
REPORT BETWEEN JANUARY - MAY, 1979

	<u>Jan.</u>	<u>Feb.</u>	<u>Mar.</u>	<u>April</u>	<u>May</u>	<u>Total</u>
I. Total Interviews Begun by Probation	<u>1,558</u>	<u>1,168</u>	<u>1,478</u>	<u>1,357</u>	<u>1,366</u>	<u>6,927</u>
1) ROR'd (Pre-Arraignment)	729	586	786	678	683	3,462
2) Legal Aid (After Arraig. Non-Custody)	<u>531</u>	<u>349</u>	<u>443</u>	<u>416</u>	<u>458</u>	<u>2,197</u>
II. Interviews Not Completed	<u>298</u>	<u>233</u>	<u>249</u>	<u>263</u>	<u>225</u>	<u>1,268</u>
1) Refusal by Defendant	15	4	15	7	7	48
2) Automatic Exclusion (Warrants)	191	144	143	161	122	761
3) Other Incl. Arraigned Before Interview	<u>92</u>	<u>85</u>	<u>91</u>	<u>95</u>	<u>96</u>	<u>459</u>
III. Potentially Eligible for ROR Based on a Probation Report	<u>729</u>	<u>586</u>	<u>786</u>	<u>678</u>	<u>683</u>	<u>3,462</u>
IV. Completed Report's Recommendation	<u>729</u>	<u>586</u>	<u>786</u>	<u>678</u>	<u>683</u>	<u>3,462</u>
1) Good Risk	657	537	714	623	605	3,136
2) Poor Risk	<u>72</u>	<u>49</u>	<u>72</u>	<u>55</u>	<u>78</u>	<u>326</u>
V. Released on Recognizance						
1) Good Risk	426	223	402	380	416	1,847
2) Poor Risk	<u>10</u>	<u>5</u>	<u>11</u>	<u>4</u>	<u>13</u>	<u>43</u>
VI. Good Risk	<u>426</u>	<u>223</u>	<u>402</u>	<u>380</u>	<u>416</u>	<u>1,847</u>
1) ROR'd & Returned	268	149	271	237	284	1,209
2) No Appearance	40	13	19	36	35	143
3) Disposition Not Available	<u>118</u>	<u>61</u>	<u>112</u>	<u>107</u>	<u>97</u>	<u>495</u>
VII. Poor Risk	<u>10</u>	<u>5</u>	<u>11</u>	<u>4</u>	<u>13</u>	<u>43</u>
1) ROR'd & Returned	5	3	6	2	9	25
2) No Appearance	1	1	1	1	1	5
3) Disposition Not Available	<u>4</u>	<u>1</u>	<u>4</u>	<u>1</u>	<u>3</u>	<u>13</u>

TABLE 3: 1978 ROR UNIT STATISTICS BY TYPE BY MONTH

	<u>ROR/LA</u>	<u>NON-CUSTODY LEGAL AID</u>	<u>AUTOMATIC EXCLUSIONS (40-8)</u>	<u>TOTAL</u>
January	539	437	250	1,126
February	656	270	197	1,123
March	764	537	250	1,551
April	695	469	237	1,401
May	726	389	257	1,372
June	710	407	250	1,367
July	682	315	263	1,260
August	673	316	223	1,212
September	690	385	258	1,333
October	710	448	291	1,449
November	639	388	262	1,289
December	718	414	245	1,377
TOTAL	8,202	4,775	2,983	15,960



Of those 1,847 cases released, there were dispositions regarding return to court behavior available on 1,352 cases. The return-to-court rate was 89.4% at the correct time of court appearance on the exact date. 10.6% of the cases failed to appear as scheduled for a variety of reasons. Of the 43 "poor risk" cases released, there were dispositions immediately available on 30 cases; and 25 or 83.3% returned as scheduled as compared to 16.7% that failed to return. There is no information available regarding the 'return-to-court' rate of the 'automatic-exclusion' cases that were released.

### 3. Annual Comparisons 1968 - 1978

As illustrated in Figure 1 in Section II, the ROR program was began in 1967 and 1968 represents the first full year of program operation. There were 1,521 ROR investigations conducted in 1968; 1,534 in 1969; 2,204 in 1970; 1,495 in 1971; and 1,939 in 1972. The program was expanded during 1973 and moved to the new District Court Building in Hauppauge. In addition, the new function of determining legal aid eligibility was added to the ROR/LA units responsibilities. The 1973 total workload increased to 8,396 under the new program design in Hauppauge.

The 1974 workload total represents the first full year of expanded program services and there were 15,046 total interviews begun by Probation. The 1975 total increased to 15,796 and the workload for the subsequent year through 1978 are as follows: 1976 - 14,808; 1977 - 15,039; and 1978 - 15,960.

### 4. Number and Type of Pre-Trial Alternatives Used During May, 1979

In order to estimate the number and type of pre-trial alternatives used on a yearly basis, the total defendant population for one month, May, 1979, was selected for analysis. The one month sample is used to give an approximate distribution and is not meant to be a statistically valid sample.

**TABLE 4: 1978 MONTHLY ROR WORKLOAD BY SEVERITY OF OFFENSE  
AND ROR/LA OR NON-CUSTODY CLASSIFICATION**

	<u>ROR/LA</u>			<u>NON-CUSTODY</u>			<u>TOTAL</u>
	<u>Fel.</u>	<u>Misd.</u>	<u>Viol.</u>	<u>Fel.</u>	<u>Misd.</u>	<u>Viol.</u>	
January	291	400	98	73	328	36	1,226
February	294	462	97	48	207	15	1,123
March	365	516	133	102	396	39	1,551
April	312	521	99	59	378	32	1,401
May	348	512	123	58	298	33	1,372
June	396	470	94	85	292	30	1,367
July	334	480	131	69	223	23	1,260
August	347	446	103	74	211	31	1,212
September	392	439	117	75	280	30	1,333
October	388	513	100	75	330	43	1,449
November	353	434	114	62	293	33	1,289
December	363	487	113	64	310	40	1,377
<b>TOTAL</b>	<b>4,183</b>	<b>5,680</b>	<b>1,322</b>	<b>844</b>	<b>3,546</b>	<b>385</b>	<b>15,960</b>

**TABLE 5: TOTAL ANNUAL FELONY, MISDEMEANOR & VIOLATION  
OFFENSE CLASSIFICATIONS FOR 1978 ROR CASES**

	<u>Felony</u>	<u>Misd.</u>	<u>Violation</u>	<u>Total</u>
ROR/LA	363	487	113	963
Non/Custody	64	310	40	414
Combined Total	427	797	153	1,377

As illustrated in Table 8 of Section VC of the total number of ROR eligible cases (683) for May 1979, 59.4% or 406 cases were ROR'd; 95 or 13.91% posted bail and were released at arraignment; 10 or .015% paid a fine and were released; 3 had their cases dismissed and were released; and 1 failed to show. The number of respondents released at arraignment totalled 515 cases or 73.33% of the total eligible population. In addition, 60 cases or 8.8% posted bail after being detained at the Riverhead County Jail. Thus, of the total ROR eligible population, at least 82.13% were released at arraignment or shortly thereafter. Additional cases were released on bail beyond a 72 hour detainment period but this study was not able to capture the exact number.

5. The Percentage of Jail Remands that Utilized the Bail Alternative

Table 9 of Section V-3 analyzes the number of jail cases that used the bail alternatives set by the court. Of the 168 jail cases in May, 1979, 60 or 35.7% were released on bail. A total of 16 out of 47 violent offenders were released on bail; 23 out of 76 non-violent offenders were released; and 21 out of 45 individuals with outstanding fugitive, probation or parole warrants. Section V-3 analyzes the type of violent cases continued in remand.

TABLE 6: RECOMMENDED GOOD RISK CATEGORY  
DISPOSITIONAL OUTCOME BETWEEN  
January 1, 1979 & May 31, 1979

<u>OUTCOME</u>	<u>Month</u>					<u>Total</u>
	<u>January</u>	<u>February</u>	<u>March</u>	<u>April</u>	<u>May</u>	
Returned	268	149	271	237	284	1,209
No App.	<u>40</u>	<u>13</u>	<u>19</u>	<u>36</u>	<u>35</u>	<u>143</u>
TOTAL	308	162	290	273	319	1,352

Returned 89.4%

Failed 10.6%

(1/1/79-5/30/79) Total 100.0%

TABLE 7: RECOMMENDED 'GOOD-RISK' CATEGORY  
DISPOSITIONAL OUTCOME DURING 1978

<u>OUTCOME</u>	<u>Jan.</u>	<u>Feb.</u>	<u>Mar.</u>	<u>April</u>	<u>May</u>	<u>June</u>	<u>July</u>	<u>Aug.</u>	<u>S</u>	<u>O</u>	<u>N</u>	<u>D</u>	<u>TOTAL</u>
Returned	219	177	332	228	233	272	215	222	272	278	191	247	2,886
No App.	16	13	35	18	27	48	47	55	50	35	20	33	397
TOTAL	235	190	367	246	260	320	262	277	322	313	211	280	3,283

Returned 87.9%

Failed to Return\* 12.1%

Total 1978 100.0%

\*Failed-to-return to the first scheduled Court appearance. May have returned by own volition on following day, etc.

## V. OPERATIONAL PROCEDURES

The Bail Review unit conducts 'release on recognizance' reports for the court according to a risk-assessment rating instrument; and also determines legal aid eligibility. These investigations are conducted before arraignment as an aid to the Court in determining pre-trial remand alternatives. If an individual is detained at the Suffolk County Jail a verified report is conducted.

Efforts are made to verify all information for jail cases. If the individual does not have a telephone, verification of family, residence, employment is conducted as discreetly as possible so as not to jeopardize the respondent's standing in the community. The verified reports are forwarded to the Court as an aid in decision making. This section reviews the methods used for this program as well as outlines the systemic distributions of pre-trial alternatives used by the Court.

### 1. The Risk Assessment Rating Sheet

This form was developed according to the VERA Institute criteria and is illustrated in Appendix A. It contains five major scoring areas: A) residence; B) Family Trees; C) employment or school; D) Prior Record; E) situational factors (discretionary). If any individual is not automatically included and is a Nassau or Suffolk Resident and scores a total of 5 points or more, he is categorized a good risk and this evaluation is forwarded to the Court.

### 2. Sub-Groups of the ROR Population

A. Automatic Exclusion Treatment is given in the Suffolk system based on the probability of return to court. Individuals can be automatically excluded from the full interview if they have had a recent ROR report and the information is still current. A 40-8 form is forwarded to Court with the prior ROR report. However, an individual can also be automatically excluded

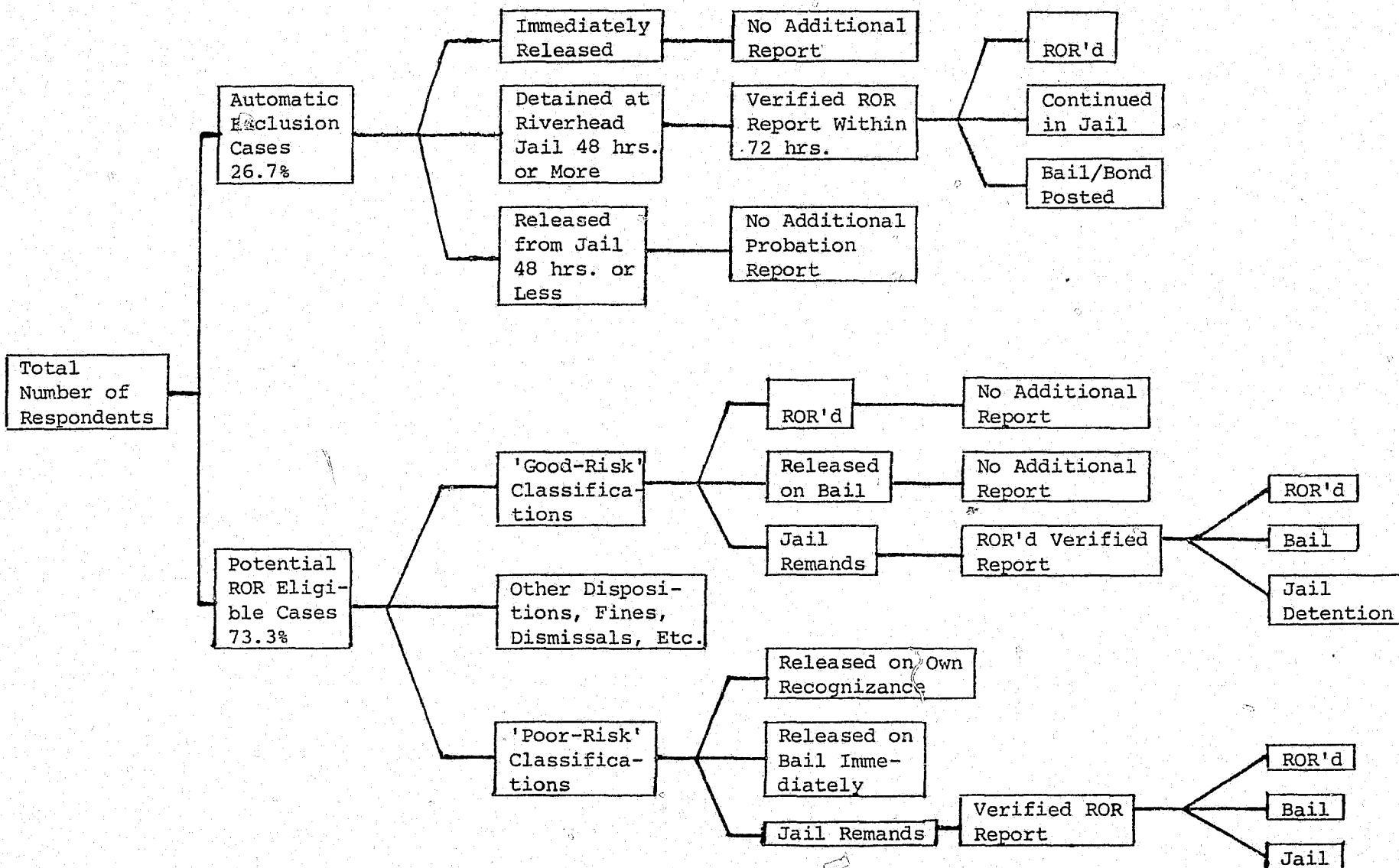


FIGURE 3: SYSTEMIC FLOW CHART OF PRE-TRIAL ALTERNATIVES

from release-on-own-recognizance consideration for the following reasons: non-resident, no permanent address, insufficient time in area, fugitive, probation or parole warrant outstanding, refused interview, or due to a violation of probation proceeding in progress. Full interviews are not conducted with these cases but a 40-8 form is completed and sent to court. Section V illustrates the number and percentages of automatic exclusion during April, May and June 1979 according to the specific reason for exclusion recommendation.

#### B. Pre-Arraignment ROR & Release

In order to analyze the percentage of each disposition used by the Courts, individuals eligible for ROR during May 1979 were selected for study. As illustrated in Table 8, of the 683 cases eligible for ROR, 406 cases or 59.4% were released on their own recognizance. The vast majority of these cases scored 5 points or more and were considered good risks.

#### C. Jail Detainment Cases

Table 8, also reveals that for May 1979, 13.9% or 95 cases posted bail at the time of arraignment and 8.8% or 60 additional cases posted after detention at the Riverhead Jail. However, 15.82% or 108 cases failed to meet the bail requirement and remained in jail awaiting Court proceedings.

TABLE 8 : Criminal Court Pre-Trial Dispositions During May 1979

<u>Type of Alternative</u>	<u>Number</u>	<u>Percentage</u>
Release On Recognizance	406	59.4%
Jail/Bail Paid	60	8.80%
Jail/Failed to Post Bail	108	15.82%
Bail (at arraignment)	95	13.91%
Paid Fine	10	.015%
Case Dismissed	3	.005%
No Show	<u>1</u>	<u>-</u>
TOTAL	683	100%

When the number of cases resolved by paying of a fine or dismissed of charges are computed, coupled with those cases ROR'd or released on bail; the total percentage of cases released in the community awaiting court outcome equals at least 84.18%. (Additional cases may have been able to post bail after the initial followup period of this study.) 15.82% of the accused offender population were held in lieu of bail at the Suffolk County Jail. The next section explores the type of jail remand case outcome.

### 3. Bail Utilization by Jail Cases

As illustrated in Table 9 , there were 168 cases remanded to the Suffolk County Jail in May 1979. Of this total, 47 were violent offenses; 76 were non-violent offenses, and 45 were outstanding warrants. Of the violent offenses, 16 out of 47 or 34 % posted bail, compared to 23 out of 76 or 30.3% non-violent accused offenders; and 21 out of 45 or 46.7% warrant cases. A total of 60 out of 168 or 35% were able to post bail after being remanded to the jail.

TABLE 9 : The Number of Jail Remands for May 1979 That Utilized the Bail Alternative Set by the Court

	<u>Bail Paid</u>	<u>Remanded</u>	<u>Total</u>
Violent Offenses*	<u>16</u>	<u>31</u>	<u>47</u>
Non-Violent Offenses	<u>23</u>	<u>53</u>	<u>76</u>
Warrants	<u>21</u>	<u>24</u>	<u>45</u>
TOTAL:	<u>60</u>	<u>108</u>	<u>168</u>

\*The 31 accused violent offenders that failed to make bail immediately were accused of the following offenses: Murder 2nd (1), Rape 1st (3), Attempted Robbery 1st (1), Robbery 3 (1), Arson 3rd. (1), Assault 2nd (7), Assault 1st (1), Assault 3rd (3), Attempted Assault 2nd (1), Resisting Arrest (5), Criminal Possession of Weapons (3), Reckless Endangerment (1), Sodomy 1st (1), Leaving Scene of Accident (1).



VI. AUTOMATIC EXCLUSIONS BETWEEN 1/1/79 - 6/23/79

According to the Suffolk County ROR system, some cases automatically are excluded from full interview services, and a recommendation to the court for release is not made. These cases are automatically excluded from consideration for an ROR interview, and a 40-8 form is prepared and sent to court. The 40-8 form contains the following information:

1) Date of Report, 2) Date of Birth, 3) Charge, 4) Address, 5) Legal Aid Eligibility, 6) Disposition, 7) Prior Record, and 8) Reasons for Exclusion.

Specific reasons for exclusion are as follows: 1) NR - Non-Resident (outside of Nassau or Suffolk Counties); 2) Warrant - if a probation or fugitive warrant exists; 3) Ref.Int. - Refused Interview; 4) N.P.A. - no permanent address; 5) V.O.P. - Violation of Probation outstanding; 6) I.T.A. - Insufficient Time in Area; 7) II - Incomplete Interview; 8) P.R.S. - Prior Report Submitted (if another ROR report was recently completed, a 40-8 form is attached to that form instead of a new interview); 9) Will Pay<sup>f</sup> fine - (if the legal involvement is resolved with immediate payment of a fine); and 10) Incoherent.

During 1978, there were 2,983 automatic exclusion cases that required 40-8 forms. Between January 1, 1979 and May 31, 1979, there were 761 automatic exclusion cases due to warrants, refusal by the defendant, etc.

In addition there were 459 cases that did not have interviews completed for other reasons including completion of arraignment before the interview was completed.

An analysis of automatic exclusion classifications during April, May, and June of 1979 illustrates the exact reason for exclusion of new ROR interviews. As Table 11, illustrates, there were 660 automatic exclusions between April 1st. and June 23, 1979. The major reason for automatic exclusion (40-8) was due to the non-resident or transient nature of the accused offender. Of the total 40-8 forms submitted to Court during

this period, the major reasons were as follows: Non-Resident - 159, No Permanent Address - 114, and Insufficient Time in the Area - 108. These three factors accounted for 381 out of the total 660 40-8 forms submitted. If the PRS category (recent Prior Report Submitted) is excluded from the other automatic exclusion categories, the non-resident, no-permanent address, and insufficient time in area reasons account for 68.6% of all automatic exclusions. (Refer to Table 10.)

TABLE 10 : Reasons for Automatic ROR Exclusions Form Submission (40-8)  
Exclusive of the PRS (Prior Report Submitted) Category

<u>REASONS FOR EXCLUSION</u>	<u>NUMBER</u>	<u>PERCENTAGE</u>
Non-Resident	159	28.7%
No Permanent Address	114	20.5%
Insufficient Time In Area	108	19.5%
Warrant (Fugitive, Parole, Prob.)	89	16.0%
Violation of Probation	26	4.7%
Refused Interview	17	3.0%
Other	<u>42</u>	<u>7.6%</u>
TOTAL	555	100%

As illustrated in Table 10 , 89 cases or 16% received automatic exclusion treatment because of an outstanding fugitive, parole or probation warrant. In addition, 26 or 4.7% of these cases have outstanding Violations of Probation. Also 17 cases or 3% refuse to participate in the interview, and 42 cases or 7.6% received automatic exclusion treatment for 'other' reasons. The 'other' category includes the following reasons: intends to leave country, false identity, incoherent or intoxicated, willing to pay fine now, etc.

In summary, 68.6% of the automatic exclusion classifications based on risk or legal status are due to the fact that the respondent is a non-resident, has no permanent address or has just recently moved into the

TABLE 11: Reasons for Automatic ROR Exclusions During April, May and June 1 - 23, 1979

Reason for Auto. Exclusion (40-8)	April 79		May 79		June 1-23,79		Total	
	#	%	#	%	#	%	#	%
Non-Resident (NR)	56	21.3	56	24.9	47	27.3	159	24.1
No Permanent Address (NPA)	50	19.0	42	18.7	22	12.8	114	17.3
Insufficient Time in Area (ITA)	34	12.9	39	17.3	35	20.4	108	16.4
Prior Report Submitted (PRS)	52	19.8	31	13.8	22	12.8	105	15.9
Warrant (Fugitive,Parole,Prob.)	34	12.9	29	12.9	26	15.1	89	13.5
Violation of Probation (VOP)	10	3.8	12	5.3	4	2.3	26	3.9
Refused Interview (RI)	7	2.7	7	3.1	3	1.7	17	2.6
Other*	20	7.6	9	4.0	13	7.6	42	6.3
Total	263	100%	225	100%	172	100%	660	100%

\*The 'Other' category includes the following reasons: intends to leave country, false identity, incoherent or intoxicated, willing to pay fine now, etc.

\*\*The June total is for the periods between June 1st. and June 23rd., 1979 and does not represent a complete month.

area (and is without attachments). A large percentage of those cases (20-30%) that have insufficient time in the area (ITA) have recently been released from incarceration. Our sample revealed that of this category individuals were released from either the day before to several months before from Attica, Suffolk County Jail, Danamora Prison, Nassau County Jail, Honor Farm, etc.

In addition to the non-resident or transient status of the respondent, a large percentage of the automatically excluded cases (115 or 20.7%) have fugitive, probation, or parole warrants outstanding or have Violation of Probation proceedings outstanding. Thus 89.4% of the automatic exclusion cases receive this treatment because of outstanding warrants, and violations of probation; because they reside outside of Nassau and Suffolk Counties; have no permanent address; or have spent insufficient time in the area because of recent incarceration or transient life style.

The remaining miscellaneous cases that receive automatic exclusion treatment 10.6% are because of the respondent refusing to participate in the interview, incoherent or intoxicated behavior, willing to pay the fine now, submission of false identity, plans to leave the country, etc.

## VII. COST BENEFIT ANALYSIS

The first full year of ROR services was in 1968 and at that time it was estimated that 4,397 jail days were saved by this program for the 1,521 cases referred to Probation. This early figure was computed from the time of the subject's release from jail after the investigation had been reviewed by the Judge to the time of the final disposition of the case. Savings in jail days for subsequent years were estimated as follows: 1969 - 6,029 days; 1970 - 5,911 days; 1971 - 5,213 days, and 1972 - 3,339 days.

The method for determining the cost-benefit for ROR programs are varied and quite often exaggerated. There are few true cost-benefit studies available in the literature. Part of the reason for this deficiency is that the Courts would release many individuals without a report either on their own recognizance, or with bail or bond. Many of the individuals receiving services in specialized programs would have made bail or bond after a certain period of time, but it is difficult to tell the exact savings in jail days. This section will avoid that issue and present the cost of the Bail Review services per referral. The total cost savings of this or any other similar program will have to wait for a comprehensive prospective study.

In addition to bail review services, however, the Probation ROR/LA Unit conducted 4,775 investigations into legal aid eligibility for the Courts. This function is performed by the ROR/LA Unit because much of the information is the same for both reports and duplication of resources is avoided. Although legal aid eligibility determination was introduced as a minor adjunct service, it is currently a major function of this unit's pre-trial services. Therefore, referrals and investigations for both bail review services and legal aid eligibility will be computed into overall costs.

In 1978, there was the following staff: 20% of time of 1 Principal Probation Officer, 1 Supervising Investigator (Probation Officer status, Grade 19); 13 Investigators (Grade 15), and 1 clerical position. The total salary cost was \$156,498 while fringe benefits totalled \$39,125. Thus, salary and fringe benefits totalled \$195,623. This figure represents administrative, supervisory, line and clerical positions. In addition, the approximate cost of telephones, space, utilities, computer time, supplies, etc. equals \$18,000. This includes \$1,000. per month space cost, \$300. per month telephone, \$1,400 supplies (based on \$100. per year per employee), and \$1,000 computer terminal utilization for a total of \$18,000. supplies, and \$213,623 total cost for program operation in 1978.

The total number of referrals received from Court in 1978 was 15,960. This total includes screening for automatic exclusions (40-8 forms); potential ROR cases; and legal aid eligibility cases. Many of the jail cases require multiple reports and the jail status requires verified reports. Thus 40-8 screening is quite often followed by a complete verified ROR report to the court. If an individual in jail does not have a telephone, the Cole's Directory is used to discretely confirm the respondent's residence from neighbors. Employers are contacted using methods to protect employment.

This cost benefit section will essentially focus on the cost of the ROR/LA services; and the expense is computed as follows:

- 1) Program Cost - \$213,623.
- 2) Total Annual Cases - 15,960
- 3) Cost Per Case - \$13.39

Thus, the average cost of each case is thirteen dollars and thirty-nine cents (\$13.39). The estimate number of jail days saved because information is verified, or the risk level calculated to be good, will not be attempted

in this report for the reasons previously stated. However, the savings for conducting legal-aid eligibility investigations at the same time is programatically the most cost effective way of providing services.

# VIII. AN OUTLINE OF ONGOING AND FUTURE RESEARCH

There are three major pre-trial service areas of ongoing and future research that are currently in the planning stages or being conducted by the Suffolk Probation Department and they are as follows:

- 1) Statistical Validation of the Risk Assessment Screening Procedure,
- 2) In-depth analysis of the 'failure-to-return' population;
- 3) Pre-Trial Alternatives for specific sub-groups of the defendant population.

The first area involves revalidating the risk assessment instrument that was originally based on the Vera Institute research. This form has not recently been statistically validated by Probation, although return rates have been routinely recorded. There is a need to validate differential classification risk-assessment instruments periodically because of changes realized in the program population. The return rate is currently measured by appearance or non-appearance at the exact time of the Court date, and does not measure willingness to return. The judiciary has stated many individuals arrive too late, or on the next day because of transportation problems. This measure has to be analyzed further for program planning purposes.

In addition, the score on the risk assessment instrument is only one factor that the judge may use in making their decision regarding pre-trial release. Not all 'good risks' are released on their own recognizance and not all 'poor risks' or 'automatic exclusions' are detained. In order to statistically validate the risk assessment instrument, these other factors must be controlled for.

The analysis of return rates or failure to return rates must be expanded to include return voluntarily within a reasonable time or the issuance and execution of a warrant. Return to court on the date and time expected is obviously important but is not the only measure of program effectiveness. It is necessary to look closely at the varied reasons for



failure to return rates for defendants who wish to cooperate. In addition, the automatic exclusion criteria i.e. warrants, etc. must be evaluated, especially the characteristics of those who are release and return.

Finally, the Suffolk County Department of Probation is exploring possible program modifications that would help to reduce jail congestion while insuring the stated goals of this program. These modifications will be at least partially based on the research previously mentioned. It must be remembered that the ROR/LA programs acts strictly in a service capacity to the courts by attempting to provide timely and accurate information. It is the Court that makes the ultimate decision regarding detention, bail/bond or release.

The research described in this section will be completed in 1979.

IX. ANALYSIS AND CONCLUSION

Pending completion of the research currently being conducted by Probation, specific conclusions and recommendations for change are deferred at this time. The revalidation of the risk-assessment instrument has been identified as necessary but is part of the ongoing research.

APPENDIX A

R O R BRANCH  
RATING SHEET

RE: \_\_\_\_\_

To be considered, defendant needs:

1. A Suffolk-Nassau address where he can be reached,  
AND
2. A total of five points from the following categories:

Int    Ver

I. RESIDENCE (In Suffolk-Nassau area steadily)

- |   |   |   |
|---|---|---|
| 3 | 3 | One year at present residence.  |
| 2 | 2 | One year at present or last prior residence <u>OR</u> 6 months at present residence.        |
| 1 | 1 | Six months at present and last prior residence <u>OR</u> in Suffolk-Nassau 5 years or more. |
| 0 | 0 | Not verified.   |

II. FAMILY TIES (In Suffolk-Nassau area)

- |   |   |  |
|---|---|--|
| 3 | 3 | Lives in established family home <u>AND</u> visits other family members. (Immediate family only) |
| 2 | 2 | Lives in established family home.  |
| 1 | 1 | Visits other of immediate family.  |
| 0 | 0 | Not verified.  |

III. EMPLOYMENT OR SCHOOL

- |   |   |   |
|---|---|---|
| 3 | 3 | Present job one year or more, steadily.   |
| 2 | 2 | Present job 4 months <u>OR</u> present and prior 6 months.  |
| 1 | 1 | Has present job which is still available,<br><u>OR</u> Unemployed 3 months or less and 9 months or more steady prior job,<br><u>OR</u> Unemployment Compensation,<br><u>OR</u> Public Assistance. |
| 3 | 3 | Presently in school, attending regularly.   |
| 2 | 2 | Out of school less than 6 months but employed, or in training.  |
| 1 | 1 | Out of school 3 months or less, unemployed and not in training.   |
| 0 | 0 | Not verified.   |

IV. PRIOR RECORD

- |    |    |  |
|----|----|--|
| 2  | 2  | No convictions.  |
| 0  | 0  | One misdemeanor conviction or Y.O. Adjudication.             |
| -1 | -1 | Two misdemeanor or one felony conviction.                    |
| -2 | -2 | Three or more misdemeanor or two or more felony convictions. |
| 0  | 0  | Not verified.  |

V. DISCRETION

- |    |    |  |
|----|----|--|
| +1 | +1 | Positive, over 65, attending hospital, appeared on some previous case. |
| -1 | -1 | Negative intoxicated intention to leave jurisdiction.                  |

cm 40-4 (DC)

Docket # \_\_\_\_\_ Return Date \_\_\_\_\_

SUFFOLK COUNTY DEPARTMENT OF PROBATIONRELEASE ON RECOGNIZANCE REPORT AND LEGAL AID ELIGIBILITY\*

Date \_\_\_\_\_

Name \_\_\_\_\_ Age \_\_\_\_\_ Dob \_\_\_\_\_

I. RESIDENCE:

Present Address \_\_\_\_\_ Phone \_\_\_\_\_

Prior Address \_\_\_\_\_

Lives with \_\_\_\_\_ Relationship \_\_\_\_\_

\*Type of Residence \_\_\_\_\_ \*Rent/Mortgage \$ \_\_\_\_\_ /Mont

\*Market value \_\_\_\_\_ \*Mortgage balance \_\_\_\_\_ \*Bank \_\_\_\_\_

Total Consecutive Residence in Suffolk County \_\_\_\_\_

If released, will reside at \_\_\_\_\_

With whom \_\_\_\_\_ \*Do you wish the Court to assign an attorney? \_\_\_\_\_

II. FAMILY:

\*If you do not live with your wife and children, how much do you contribute their support? \_\_\_\_\_ By Court Order? \_\_\_\_\_ Court \_\_\_\_\_

\*Marital status \_\_\_\_\_ \*Spouse's name \_\_\_\_\_

\*Age \_\_\_\_\_ \*Address \_\_\_\_\_

\*Spouse's employer \_\_\_\_\_ \*Salary \_\_\_\_\_

## \*Children:

NameAddressAge

## Parents:

NameAddressAgePhone

Other relatives in contact who might assume responsibility for appearance of accused:

NameAddressRelationshipPhone

1. \*ASSETS:

Do you, your spouse and/or children have in your name or jointly with others insurance policies, stocks, bonds, trust accounts, or any other investments? If your answer is Yes, describe the asset, the location and the amount in any bank account and the value of any asset.

Do you or your spouse own a car? Yes \_\_\_\_\_ No \_\_\_\_\_

If yes, Year and Model \_\_\_\_\_ Monthly payments \_\_\_\_\_

Bank or Finance Co. \_\_\_\_\_ No. of payments owed \_\_\_\_\_

2. \*EXPENSES:

Mortgage or Rent \_\_\_\_\_

Food \_\_\_\_\_

Utilities (Heat, Water, Elec., Phone) \_\_\_\_\_

Car expenses \_\_\_\_\_

Insurance premiums \_\_\_\_\_

Loans \_\_\_\_\_

Other \_\_\_\_\_

Total \_\_\_\_\_

\*INCOME:

My Salary \_\_\_\_\_

Spouse's Salary \_\_\_\_\_

Other Income \_\_\_\_\_

Total \_\_\_\_\_

\*EMPLOYMENT:

Present or Last Employer \_\_\_\_\_

Address \_\_\_\_\_

Phone \_\_\_\_\_ Length of Employment \_\_\_\_\_ Salary \_\_\_\_\_

Type of Business \_\_\_\_\_ Occupation \_\_\_\_\_

Possibility of Retention \_\_\_\_\_

If the answers in this questionnaire are not in your handwriting, were the questions and answers read to you and are your answers true? \_\_\_\_\_

\_\_\_\_\_, being duly sworn, deposes and says that his answers to the questions in this statement are true and that he knows that the information is being furnished by him for the purpose of enabling the Court, the Probation Department, the Legal Aid Society of Suffolk County, Criminal Division or assigned counsel, to determine whether or not he is able to retain his own attorney, and he further gives permission to these agencies to make any inquiries or investigation concerning the answers given in this report.

Have you been advised that if you intentionally gave false answers to any of the questions in this statement, you could be prosecuted for the crime of perjury?

\_\_\_\_\_  
Signature

Sworn to before me this

day of \_\_\_\_\_, 197 .

RECOMMENDATION:

Based upon the information contained in this report, it appears that the subject is eligible/ineligible for consideration for Legal Aid services.

\_\_\_\_\_  
Investigator

Approved by: \_\_\_\_\_  
Supervising Probation Officer

Previous Employment:

Name

Address

Phone

Length of  
Employment

Evaluation by Present, Previous Employers:

VI. LEGAL INFORMATION:

1. Committing Magistrate\_\_\_\_\_
2. Court\_\_\_\_\_ 3. Bail Amount\_\_\_\_\_
4. Confined at Suffolk County Jail since\_\_\_\_\_
5. Outstanding Warrants:

Current Charge (Describe)

VI. LEGAL INFORMATION (cont'd)

Prior Legal History

Institutional History

VII. PERSONAL EVALUATION:

Mentality

Normal

Dull

Barely reads or writes English

Illiterate

Other Language

(Literate, Illiterate)

Unusual Proclivities

References and their comments:

Name

Address

Relationship

Age

Other Factors which might effect Release on Recognizance Status:



VIII. SUMMARY AND EVALUATION TO THE COURT:

Submitted by: \_\_\_\_\_  
Investigator

Approved by: \_\_\_\_\_  
Supervising Probation Officer

\_\_\_\_\_  
Designee

Disposition \_\_\_\_\_

Date \_\_\_\_\_

**END**