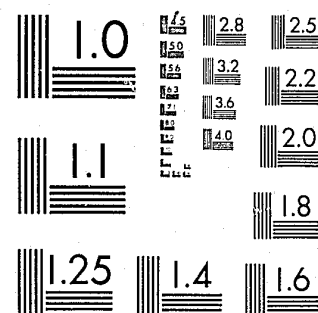


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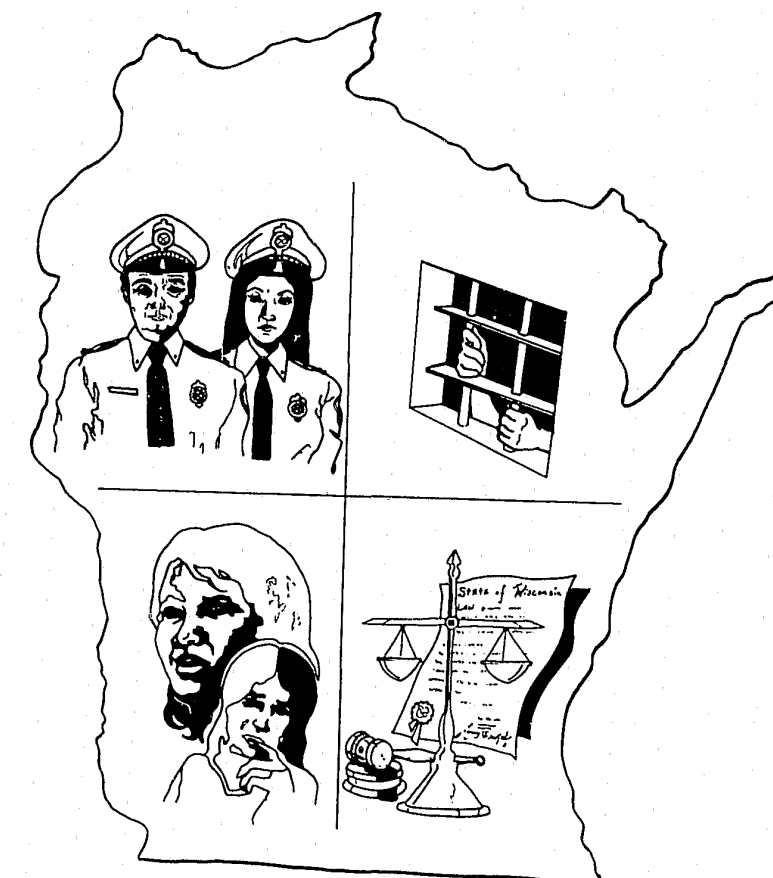
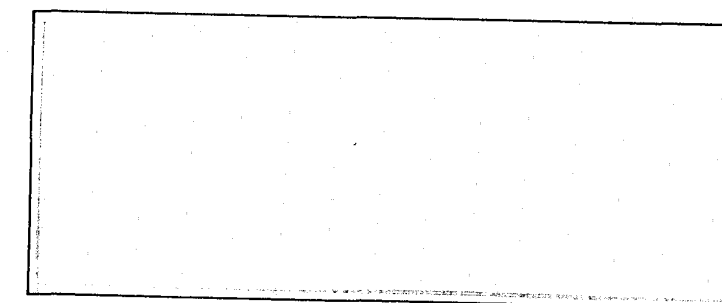
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State of Wisconsin \ OFFICE OF THE GOVERNOR

WISCONSIN COUNCIL ON CRIMINAL JUSTICE



78350

PROGRAM EVALUATION REPORT



State of Wisconsin \ OFFICE OF THE GOVERNOR

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✓ SEEDY TRIALS AND PRETRIAL CRIME
IN WISCONSIN

Preliminary Report

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January 1981

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Executive Summary

The purpose of this research study is to answer several basic questions regarding two problems facing the criminal justice system in Wisconsin: case processing delay and pretrial crime. The study has been designed to examine the relationship of several offense and case processing factors to these two problems and to examine the relationship of the problems to each other. To accomplish this purpose, data were first collected from a representative sample of all felony cases disposed in 1979 and reported to the Wisconsin Court Information System (WCIS); data were then collected on all new felony and misdemeanor offenses committed by defendants in the original sample. It should be noted that Milwaukee County does not report data to the WCIS; and was not included in the sample. This report describes the general characteristics of cases in the original sample and examines preliminary findings about the incidence of pre-disposition felony offenses.

The findings in this report are based on data collected from an original sample of 502 cases from 11 counties. Two hundred thirty (230) cases are from four "urban" counties and 272 cases are from seven "rural" counties (terms are defined in Study Methodology). The main body of the report is divided into two parts; Part I describes characteristics of the original 502 cases studied, focusing on charges filed, characteristics and pre-disposition release status of defendants and case processing time; Part II examines the frequency and type of new felony offenses committed by defendants in the sample prior to disposition of their original charges.

Summary of Part I

Original Charges: Data were collected on the major charge filed against the defendant in each case. Most of the defendants in the study were

charged with property crimes. The violent crimes of sexual assault, other assault and robbery were charged in 15.8% of the cases. Almost half of the charges, 47.3%, were class C felonies; less than 10% were the more serious class A or B felonies.

Defendant Characteristics: Data on defendant characteristics were often limited. Available data show that most defendants were young (median age: 23) and male (92%). Most defendants were White, with Blacks making up 7% and other minorities making up 3.3% of the sample. Defendants had a prior felony record in 30.7% of the cases.

Release Status: Seventy eight percent of defendants were released sometime prior to the disposition of their case, although 22.8% of those released did spend some time in custody. Of those defendants released after spending time in custody, over half were not released until the original conditions of release were modified. The majority of the defendants released were released on a signature bond; 37% were released on some type of cash bail. Defendants in rural counties, however, posted cash bail substantially more often than did urban county defendants. The likelihood of release was found to be significantly affected by the existence of a prior felony record and by the class (seriousness) of the felony charged. Defendants convicted of a felony but not immediately sentenced were released to await sentence in 66% of the relevant cases. A defendant's release status at this point in the proceedings was found to be significantly related to the type of sentence received; that is, a defendant released prior to sentencing was more likely to receive a non-prison sentence.

Case Processing Time: On the average, the original cases in this study were disposed within 127 days of their initial court appearance. The

median time to disposition was 91 days. Although most cases were disposed within generally acceptable time limits, a minority of cases took considerably longer; 22% of the cases, for example, were still pending after six months. Several factors, including the defendant's release status and whether the case was from an urban or rural county, were found to be significantly related to case processing time. Cases were processed significantly faster in rural counties and when the defendant was in custody.

Summary of Part II

Frequency of New Felonies: Defendants in 23 (4.6%) of the 502 original cases were arrested for a total of 25 pre-disposition felony offenses. All the defendants who committed new felonies were male, with 19 (82.6%) being White. There was a significant difference between the urban and rural cases in the frequency of new felonies; 18 (72%) of the 25 new felonies were committed by defendants from urban counties.

New Charges: Of the 25 new offenses, the major charge in 20 (80%) was a property crime; three new offenses were violent crimes (two robbery, one assault). In 17 of the 20 new property crimes and all three of the new violent crimes, the major charge in the defendant's original case was a property crime.

Time of New Offense: The pre-disposition felonies occurred in an average of 78 days and a median of 55 days after the initial appearance. Further analysis shows that 60% of the new felonies occurred within 60 days of the initial appearance and that new felonies occurred significantly sooner in rural cases than in urban cases. Despite the fact that most of the new felonies occurred relatively early in the processing of the original case, original cases in which the defendant committed a pre-disposition felony took substantially longer to process than other original cases in the

sample. This suggests that early new offenses may help prolong a pending felony case.

Disposition of New Offense: Of the 25 pre-disposition offenses, 17 (68%) resulted in conviction. The eight defendants who were charged but not convicted of a new offense were all convicted in the original case against them; hence, none of the defendants charged with a new offense escaped conviction totally.

Introduction

During the 1979-80 session of the Wisconsin Legislature a great deal of attention was focused on bail and pretrial release of persons accused of crimes. Much of the attention resulted from a few highly publicized incidents where violent crimes were committed by persons on pretrial release. In response, the legislature, which had earlier eliminated the use of commercial bondsmen, approved bills to:

- allow courts to revoke bail for persons charged with additional serious crimes while awaiting trial;
- eliminate the provision allowing defendants to be released on a deposit equal to 10% of the required cash bond;
- establish a Special Committee on Pretrial Release to examine the use of bail and bail evaluation programs; and
- amend the State Constitution to allow courts to deny release to persons accused of certain crimes. (Note: Before the amendment can take effect it must be approved by a second elected legislature and a public referendum.)

During the discussions in the legislature and the media it became clear that very little information existed about bail and pretrial crime in Wisconsin. The few adequate studies done in other parts of the country offered little hope for simple policy solutions to the problem of reducing pretrial crimes. While several studies found defendants' characteristics such as prior criminality to be generally associated with pretrial crime, none have demonstrated an ability to predict in individual cases which defendants would commit crimes. After an extensive review of the research available, John Galvin, in Instead of Jail, Volume 2: Alternatives to Pretrial Detention, concluded that "at this time common sense and political judgment are the best sources of guidance in selecting people for pretrial release..."¹

More recent studies of note have been conducted by the Institute for Law and Social Research (1980) and the Lazar Institute (final report not yet published.)² Those studies also conclude that pretrial crime is a relatively infrequent event which makes any effort to predict pretrial crime in individual cases likely to be unsuccessful.

Faced with our inability to know with certainty who will commit pretrial crimes, and knowing that most defendants will not commit pretrial crimes, the problem becomes one of finding some course of action which will reduce the general level of risk of pretrial crimes occurring.

One approach that has been suggested is to reduce the "risk" period. Speedier trials, some say, would be an effective means of reducing pretrial crime. Support for this contention comes from studies such as one conducted in Boston³ which found that most pretrial crimes occurred more than 90 days after the defendant had been released. The data from these studies suggest there is great potential for reducing the risk of pretrial crime by reducing the length of time from arrest to trial.

While the Boston study, and others with similar findings, appear to point out an effective policy direction, the results have not been consistently affirmed in other studies. The Lazar Institute, for example, reports that two-thirds of the rearrests of pretrial defendants in their study occurred within eight (8) weeks of the original arrest, suggesting that speedier trials would be unlikely to significantly reduce pretrial crime.⁴

The apparent contradictions between these studies may arise out of differing circumstances in the locations under study. For example, jurisdictions in which the pretrial period is lengthy may reasonably be expected to have higher rates of crimes occurring later in the release

period than areas with speedier trials. In addition, study results may be affected by the researchers' choice of measure (for example, date of arrest vs. date an offense was committed; arrest for any violation vs. arrests for serious crimes). Before these findings can be reasonably applied to Wisconsin it is necessary to resolve some of these questions and to determine more about the nature and extent of the problem in Wisconsin.

The intent of this study is to address these and other basic questions about pretrial release and pretrial crime in Wisconsin. In addition, the study provides data to determine whether adjustments in case processing time could be expected to have an impact on the amount of pretrial crime in Wisconsin.

This report presents the preliminary results of the study. The data presented reflect broad areas of concern. Detailed analysis of issues and relationships brought to light by these findings will be presented in later papers.

¹ Galvin, John, et al, Instead of Jail, Vol. 2: Alternatives to Pretrial Detention, LEAA, Washington, D.C., 1977, p. 98.

² Roth, Jeff and Paul Wice, Pretrial Release and Misconduct in the District of Columbia, Institute for Law and Social Research, 1980.

Toborg, Mary and Martin Sorin, National Evaluation of Pretrial Release, Lazar Institute. (From a paper presented to the American Society of Criminology, November 7, 1980.)

³ Angel, Arthur, et al, "Preventive Detention - An Empirical Analysis," Harvard Civil Rights - Civil Liberties Law Review, Vol. 6, 1971.

⁴ Toborg and Smith, op cit., p. 5

Study Methodology

Since most of the discussion about reforming Wisconsin's bail system focuses on risks posed by persons charged with serious crimes, this study is limited to cases where the major offense charged was a felony. The study consists of 502 felony cases from eleven counties. Counties were selected on the basis of case volume and geographic location. Counties are classified as "urban" or "rural" according to the volume of cases reported to the Wisconsin Court Information System in 1979. Urban counties were those which disposed more than 300 felony cases in 1979. Cases were selected in a manner which would preserve the proportionate distribution of urban and rural cases in the state.

A data collection instrument was developed and pre-tested in Dane County. The pre-test enabled the research team to add, delete or refine certain measures and to determine the most efficient means of data collection. The final instrument was administered in each of the selected counties during July, August and September 1980. County Clerk of Court offices were visited by research teams with lists of case numbers of felony cases disposed in 1979. Case records were examined for information about the defendant, offenses(s) charged, case processing and disposition. Court dockets were then reviewed for indications of new charges filed against defendants in the sample. Where new charges existed the researchers examined those case records for data on offense, relevant dates and disposition. In some counties, information about defendant characteristics and custody dates which was missing from case records was obtained by reviewing booking records at the jail.

To be certain that new offenses which may have been committed outside the county were included in the study, record requests were submitted to

the Department of Justice Crime Information Bureau (CIB). Those records provided information about defendants' law enforcement contacts throughout the state. New arrests were recorded, and in those cases where the offense charged was a felony or had a statute number which included felonies and misdemeanors, the District Attorney's office in the reporting county was contacted for information on offense date and class. CIB records were also used to supplement information about defendants' prior criminal record.

All data collection and preparation was completed by the end of December 1980. Each "case" involves one defendant. It should be noted, however, that a few defendants were involved in more than one case in the sample. Thus the number of different defendants represented by these data is slightly less than 502. The final sample consists of 272 cases from the "rural" counties (Crawford, Jackson, Juneau, Oneida, Portage, Vernon and Vilas) and 230 "urban" cases (Brown, Kenosha, Racine and Waukesha).

The reader should note that Milwaukee County was not included in the sample studied. Since Milwaukee differs from the rest of the state in several important respects (e.g. population, volume of cases, ethnic breakdown), findings and conclusions should not be generalized to Milwaukee. The amount of time and resources necessary to study Milwaukee precluded its inclusion. While this limits the utility of the research findings it does not detract from the validity of the conclusions for the rest of Wisconsin.

PART I: SAMPLE OVERVIEW

A. Type of Offense

For each case in the sample, data were recorded on the major charge filed against the defendant. In those cases where multiple charges were filed, the offense carrying the most severe penalty was recorded as the major charge. Table 1 describes the most frequent major offenses charged. (Offenses charged in less than ten cases are not listed individually.) The offenses specifically listed account for 80% of the sample offenses. Table 1 shows that burglary was by far the most frequent charge and all other offenses accounted for relatively small proportions of the total sample of cases.

Table 1
MOST FREQUENT OFFENSES CHARGED

STATUTE	TITLE	URBAN (%)	RURAL (%)	% OF TOTAL SAMPLE
943.10	Burglary	31.2%	27.3%	29.0%
943.20	Theft	8.2%	10.3%	9.4%
Ch. 161	Controlled Substances	13.4%	3.3%	8.0%
943.38	Forgery	7.8%	6.3%	7.0%
943.23	Operating Vehicle Without Owners Consent	5.6%	7.0%	6.4%
940.225	Sexual Assault	6.5%	4.8%	5.6%
940.20	Assault: Special Circumstances	2.2%	5.5%	4.0%
943.32	Robbery	5.2%	2.6%	3.8%
940.19	Assualt; Aggravated	1.3%	3.3%	2.4%
943.34	Worthless Checks	2.6%	2.2%	2.4%
49.12	Public Assistance Offenses	1.7%	2.6%	2.2%
All Other Offenses		14.3%	24.7%	19.9%
TOTAL		100.0%	100.0%	100.0%

(* Sum of Column Entries May Not Equal 100.0% Due To Rounding Error)

The urban-rural breakdown of offenses shows relatively few differences in the types of offenses charged although urban cases had a slightly higher proportion of drug offenses (Chapter 161) and rural cases had more of the "infrequent" offenses not listed seperately.

The major charge data show that most cases involved profit motivated offenses without the use or threat of harm to any persons. The most frequent violent offense in the total sample was sexual assault although these were slightly outnumbered by Assault: Special Circumstances (for example, Battery to Police Officer) in rural areas.

The specific charge often does not describe the seriousness of the criminal act since offenses such as theft and sexual assault cover broad ranges of "harm." Table 2 provides a general breakdown of the "seriousness" of offenses by listing the class of the major charges. Almost half of the charges were Class C offenses (ten year maximum sentence) and less than 10% of the cases involved the more serious class A or B offenses. There were no substantial differences in the "seriousness" of offenses based on urban-rural classification.

Table 2
CLASS OF MAJOR OFFENSES CHARGED

CLASS	URBAN (%)	RURAL (%)	TOTAL (%)	MAXIMUM PENALTY (YEARS)
A	0.0%	0.4%	0.2%	Life
B	9.6%	7.7%	8.6%	20
C	48.7%	46.1%	47.3%	10
D	7.5%	12.6%	10.2%	5
E	17.5%	23.6%	20.8%	2
Not Classified*	16.7%	9.6%	12.8%	Variable
TOTAL	100.0%	100.0%	99.9%	

*Includes Drug Violations, Public Assistance Offenses, Habitual Criminal, etc.

B. Defendant Characteristics

The amount of information available on defendant characteristics varied greatly from one case to the next. Table 3 presents data on defendant characteristics. Although background data on defendants were sometimes unavailable, data were available on each of the variables reported in at least 70% of the cases. The following describes the data collected on defendant characteristics:

- Most of the defendants were in their late teens or early 20's (54% were 23 or younger) although the sample included defendants as much as 70 years old.
- Most defendants were White. Black and Spanish defendants were found almost exclusively in urban cases and Native Americans were most often found in rural cases.
- Females were defendants in approximately 8% of both urban and rural cases.
- Most defendants were residents of the county in which they were charged. Defendants in rural cases were slightly more likely than urban defendants to reside outside the county.
- The proportion of defendants with a prior felony conviction was approximately equal in urban and rural cases (30.8 and 30.6 respectively). Urban defendants were more likely to have had a prior misdemeanor conviction.

Table 3
DEFENDANT CHARACTERISTICS

	URBAN	RURAL	TOTAL SAMPLE
AGE:			
Median (yrs.)	23	22.5	23
Range	17-70	17-66	17-70
RACE:			
White	109 (76.8%)	204 (89.5%)	313 (84.6%)
Black	23 (16.2%)	3 (1.3%)	26 (7.0%)
Spanish Surname	2 (1.4%)	0 (---)	2 (0.5%)
Native American	8 (5.6%)	21 (9.2%)	29 (7.8%)
Missing	88	44	132
SEX:			
Male	213 (92.6%)	249 (91.5%)	462 (92.0%)
Female	17 (7.4%)	23 (8.5%)	40 (8.0%)
RESIDENCE:			
County Resident	151 (78.6%)	156 (67.0%)	307 (72.2%)
Not County Resident	41 (21.4%)	77 (33.0%)	118 (27.8%)
Missing	38	39	77
PRIOR RECORD:			
*Prior Felony	56 (30.8%)	55 (30.6%)	111 (30.7%)
*Prior Misdemeanor	95 (51.4%)	72 (40.7%)	167 (44.9%)
No Prior Record	78 (42.2%)	92 (51.1%)	170 (46.6%)
Missing	46	92	138

*Categories Are Not Mutually Exclusive.

Percentages based on number of known cases.

C. Pretrial Release Experiences

A central issue in the study of pretrial crime is the rate at which defendants are released to await disposition of their case. In this report, "release" refers to release following the initial appearance in court on the offense charged. While pretrial release may occur prior to this point, the initial appearance is usually the first opportunity for release conditions to be determined by the court.

In the cases studied, release was an issue in 457 cases. (The remaining cases were either resolved at the initial appearance or the defendant was not present.) In the relevant cases, 77.9% of the defendants were released prior to disposition of their charges. Table 4 describes the amount of time defendants

spent in custody before securing release. As can be seen from the table, a majority of defendants (60.2%) were able to obtain release on the day of the initial appearance. However, a substantial proportion of defendants (22.8% of all released defendants) were in custody at least one day after initial appearance and in a few cases defendants were held for a considerable length of time before release.

Table 4
TIME FROM INITIAL APPEARANCE TO RELEASE (n = 457)

	Urban (%)	Rural (%)	Total (%)	% Of Released Defendants
Released Same Day	59.7%	60.6%	60.2%	77.2%
1-5 Days	7.4%	8.7%	8.1%	10.4%
6-15 Days	5.1%	3.3%	4.2%	5.3%
16-30 Days	1.4%	2.5%	2.0%	2.5%
30-90 Days	2.3%	2.5%	2.4%	3.1%
90-180 Days	0.0%	1.2%	0.7%	0.8%
181 + Days	0.5%	0.4%	0.4%	0.6%
Not Released	23.6%	20.8%	22.1%	---
Total	100.0%	100.0%	100.1%	99.9%

While Table 4 describes proportions rather than numbers of cases, there were 182 defendants who were unable to meet the conditions of release on the day of initial appearance. Of these, 101 defendants (55.5%) were not released prior to disposition. The remaining 81 defendants eventually were released but in 46 of these cases release came after the original conditions of release were modified. Thus, only 35 defendants (19.3%) who were unable to secure their immediate release were able to meet the original conditions for release at a later time. From these data it appears that defendants who cannot be released immediately have a better than even

chance of remaining in custody until disposition.

Table 5 describes the proportion of defendants having certain characteristics who were able to obtain their release. A factor that appears to have a major effect on the likelihood of release is the presence of a prior felony conviction. In both the urban and rural subsets defendants with a prior felony were released at much lower rates than other defendants. Chi-square tests on both subsets were significant ($p < .01$). There was also a significant relationship between release and class of felony charged. The data show that release rates declined as offenses grew more serious. An apparent exception to the pattern is shown for Class D offenses, which had a low rate of release. This may be explained in part by the fact that this category includes offenses such as Bail Jumping and Escape from State Institutions. For such offenses the low rate of releases is not surprising.

Table 5
RELEASE STATUS BY DEFENDANT CHARACTERISTIC

CHARACTERISTIC	URBAN	% RELEASED RURAL	TOTAL
<u>SEX:</u>			
Male	74.9%	76.8%	75.9%
Female	93.3%	100.0%	97.3%
<u>RACE:</u>			
White	76.0%	80.3%	78.8%
Black	59.1%	33.3%	56.0%
Spanish Surname	100.0%	---	100.0%
Native American	37.5%	66.7%	57.7%
<u>RESIDENCE:</u>			
County Resident	72.3%	80.1%	76.2%
Not County Resident	84.6%	78.8%	80.1%
<u>PRIOR RECORD:</u>			
Prior Felony	52.7%	46.7%	50.0%
No Prior Felony	84.9%	85.3%	85.1%
<u>CLASS OF FELONY CHARGED:</u>			
A	---	0.0%	0.0%
B	59.1%	75.0%	69.0%
C	73.0%	76.3%	75.8%
D	53.3%	71.9%	66.0%
E	90.0%	82.1%	85.4%
Not Assigned	90.3%	94.7%	92.0%

The data show that female defendants had a higher likelihood of release than male defendants and that Whites were released at a higher rate than either Black or Native American defendants. A chi-square test of the relationship between race (white, non-white) and release status for the urban cases was initially significant ($p < .05$). However, further analysis of this relationship was conducted while controlling for the presence of a prior felony conviction. When this third variable was introduced, the relationship between race and release was no longer statistically significant, suggesting that prior record is a more important factor in release than is race.

No significant relationship was found relating defendant's residence status to likelihood of release. Defendants who were not residents of the county in which they were charged were released at a slightly higher rate, but the differences are small and the rates should be considered to be virtually even.

Throughout the data examined so far there are few differences between urban and rural cases. The defendants, offenses and release rates have been comparable in most respects. One measure on which there is a statistically significant difference ($p < .02$) is the means by which defendants obtained release. Table 6 describes the conditions under which defendants were released. (Data were not recorded for defendants not released; it is presumed that cash bail was required in most of those cases.) The data in Table 6 show that actual payment of full or partial bond was more prevalent in rural cases than in urban cases. Rural defendants posted full cash bonds approxi-

mately twice as often as did urban defendants. However, signature bonds were the most frequent conditions of release in both groups of cases, and even though the differences are statistically significant they may have little practical importance.

Table 6
CONDITIONS OF RELEASE

	Urban	Rural	Total Sample
Signature Bond	54.7%	49.2%	51.8%
% Deposit Bail	18.9%	21.8%	20.4%
Cash Bail	10.7%	21.8%	16.6%
Other	15.7%	7.3%	11.3%

D. Pre-Sentence Release

Up to this point, discussions of release have focused on pre-trial release. There is however another aspect of release which usually receives much less attention than does release before trial, that is, release after a judgment or finding of guilt pending imposition of a sentence. The extent to which this becomes an issue depends on the number of cases in which courts delay sentencing after a finding of guilty. Pre-sentence investigations are often requested to enable judges to determine a fair sentence, but these investigations require time for collecting and verifying information and scheduling another court appearance. In some other cases, the court may not request a pre-sentence investigation but may delay sentencing for some other reason.

In this data set, information on release after conviction was collected for 328 cases. (Cases where the charges were dismissed or the defendant was acquitted account for most of the reduction in sample size. However, there were 18 cases in which a sentence was imposed but it was not clear whether the defendant was released pending sentencing.) There was a slight difference between urban and rural cases in whether or not release was an issue. Defendants were sentenced on the day of conviction in 60.1% of the rural cases, compared with 50.0% of the urban cases. This may be a direct function of community size, since judges in rural courts are more likely to know defendants than are judges in more populous areas who handle a higher volume of criminal cases.

For those cases in which release was an issue, that is, when sentencing occurred some time after conviction, the urban and rural cases were again very similar. Seventy-one percent of the urban defendants and 70.7% of the rural defendants were released to await sentencing. These figures include defendants whose major charge at conviction was a misdemeanor (approximately 37% of convicted defendants). Of the defendants convicted of a felony and not sentenced on the day of conviction, 65.8% were released to await sentencing.

The proportion of convicted felons released to await sentencing appears to be quite high. Given the serious nature of a felony conviction the figure may be regarded by some as being higher than is desirable. However, when pre-sentence release precedes a disposition other than imprisonment it may in fact be reasonable and desirable. Table 7 contrasts the sentences

received by defendants convicted of a felony for those released to await sentencing, those not released, and those sentenced on the day of conviction. The data show that a significant relationship does exist between release status and type of sentence imposed (chi-square test significant at $p < .001$), and that release prior to sentencing is associated with a high probability of receiving a non-prison sentence.

Table 7
SENTENCE TYPE BY PRE-SENTENCE RELEASE STATUS FOR
DEFENDANTS CONVICTED OF FELONY OFFENSE

	RELEASED	NOT RELEASED	SENTENCED ON DAY OF CONVICTION	TOTAL SAMPLE
Prison	9.6%	55.3%	37.4%	30.7%
Jail (Only)	0.0%	2.6%	12.1%	5.9%
Jail and Probation	50.7%	26.3%	23.1%	33.7%
Probation	32.9%	13.2%	18.7%	22.8%
Fine	1.4%	0.0%	3.3%	2.0%
Other	5.5%	2.6%	5.5%	5.0%
Total Incarceration (Combine Prison, Jail (Only) and Jail and Probation Sentences)	60.3%	84.2%	72.6%	70.3%

Table 7 shows that for all categories of release status a majority of convicted felons received a sentence involving incarceration. However, defendants released prior to sentencing were likely to serve their sentences in county jail. That is, the sentences were less than one year, while defendants not released were most likely to receive prison sentences. Defendants sentenced on the day of conviction were almost equally split between jail and prison sentences. Defendants not released were sentenced to prison almost six times as often as those who were released prior to sentencing (55.3% to 9.6%, respectively).

The data on sentencing shows that the apparently high rate of release of convicted felons is actually a fairly accurate reflection of the severity of the ultimate disposition. In fact, if we consider as "errors" those cases in which defendants who were released received prison sentences or those in which defendants not released received probation sentences the data show that courts primarily "erred" on the conservative side (13.2% of defendants who were not released received probation sentences without jail as a condition while 9.6% of released defendants received prison sentences).

E. Case Processing Time

One of the purposes of this study is to determine if changes in the statutes relating to Speedy Trials could be expected to reduce the number of pretrial crimes. A necessary prerequisite to that analysis is to determine how quickly cases are disposed. This section provides a brief overview of the time from initial appearance through the major steps in the court process to disposition. "Disposition" refers to case conclusion, whether it be sentencing, acquittal or dismissal. A few variables found to be related to case processing time are presented, but detailed analysis of the factors affecting processing time is left for a future paper.

Table 8 presents the time taken by cases in the study to reach various stages. In discussions of processing time it is helpful to distinguish between average times and median times. The median time is that point at which 50% of the cases had reached a particular stage and 50% had not. The distinction is useful because a few cases with unusually long or short

processing times will disproportionately affect the "average" processing time but will affect the median very little.

Table 8 demonstrates how the presence of some extreme values affect the interpretation of processing time data. Although half the cases had reached the preliminary hearing stage within about two weeks of initial appearance, the average time was more than one month (32.3 days). Similar effects are shown for each subsequent stage.

Table 8
TIME TO MAJOR STAGES IN PROCESSING

Days From Initial Appearance To:	Average	Median
Preliminary Hearing	32.3	14.4
Information Filed	36.8	19.7
Arraignment	56.8	33.9
Judgment	114.0	76.8
Disposition	126.6	91.0

Looking only at the median times, it appears that most cases are processed within time frames close to those advocated in various sets of standards. However, the average times indicate that a substantial number of cases take considerably longer. In this sample of cases, six months after the initial appearance 22% of the cases had not been disposed, 18% had not had a judgment rendered and 5% had not yet been arraigned.

Several variables were significantly related to the length of time to disposition. An analysis of variance was performed on several case characteristics (variables). This test basically determines whether the average time to disposition differed significantly when broken down by the categories of a given variable. All the variables in Table 9 discussed below

exhibited significant differences among their categories ($p < .01$) Table 9 shows that cases from urban counties, which experience a higher volume of cases, averaged about 60% more time to completion than did rural cases. There were differences in time for different classes of felonies although no clear pattern emerged. Defendants who were not released before disposition had their cases disposed considerably faster than did released defendants. The type of disposition was also related to processing time. As expected, the longest case averages were for cases that went to trial, and trial cases resulting in convictions logically took longer than acquittals since conviction cases require an additional step in the process (sentencing). Interestingly, cases resolved by plea averaged about four months time and were only marginally longer than dismissed cases. From this analysis the relative effects of each variable on processing time cannot be determined. Future analyses will address this issue.

Table 9

AVERAGE TIME TO DISPOSITION BY SELECTED
CASE CHARACTERISTICS

<u>Characteristic</u>	<u>Average Time (Days)</u>
County:	
Urban	159.1
Rural	98.8
Felony Class Charged:	
Class A	113.0
Class B	159.8
Class C	110.1
Class D	108.4
Class E	118.2
Not Classified	199.1
Release Status:	
Released	145.3
Not Released	89.6
Disposition Type:	
Convicted (At Trial)	245.9
Acquitted (At Trial)	219.7
Convicted (Plea)	121.8
Dismissed	116.3
Total Sample	126.6

PART II: PRE-DISPOSITION CRIMES

A. Definitions

Although criminal activity by persons on bail or other forms of release is generally referred to as "pretrial" crime, a more precise description of the data in this section is "pre-disposition" crime. As seen in Part I, the risk period often extends beyond the date of trial or conviction and crimes occurring between judgment and sentencing are also of interest.

It is worth repeating that the basic unit of analysis is a "case." New offenses and arrests are described for each case. If a defendant was involved in more than one original case any new arrest would be recorded for each case. This approach is used because each original case involved a separate release decision regardless of whether the defendant had been involved in other cases.

B. Pre-Disposition Arrests

The most convenient measure of criminal activity is the number of times a defendant was arrested. In this study of 502 cases, defendants in 42 cases (8.4%) had a total of 50 new arrests before disposition of their original charges. Thirty (30) of these arrests involved new felony charges and 20 involved misdemeanors. The number of arrests in a given period does not accurately reflect the pattern of crime, however, since an arrest can occur long after an offense. For eleven (37%) of the 30 pre-disposition felony arrests, the new offense occurred prior to the defendant's initial appearance

in the original case. Another five arrests were made after the original disposition for offenses which occurred while the original case was pending. For one pre-disposition felony, the arrest date was not available. In total, there were 25 felony offenses and 14 misdemeanor offenses (involving only misdemeanor charges) which occurred between the filing and disposition of the original case.

Since this study is concerned with criminal activity, further discussion (unless otherwise noted) will refer to offenses rather than arrests. The following section of this report will discuss new felony offenses that occurred between the initial appearance and disposition of the original case.

C. Pre-Disposition Felony Offenses

Defendants in 23 (4.6%) of the 502 cases were arrested for a total of 25 new felony offenses. The 23 defendants, all of whom were male, included three Blacks and one Native American. The major charges filed for the 25 new felonies are presented in Table 10, categorized according to the major charge in the original case.

The table shows that 20 (80%) of the new offenses were property crimes (Ch. 943). Three (12%) of the new offenses were directly related to previous involvement by the defendant with the criminal justice system: two bail jumping charges and one escape charge (Ch. 946). In 17 of the 20 new property crimes (68% of the total new offenses) the original major charge was also a property crime. For the remaining offenses, the new charge was not clearly related to the original charge.

Table 10

NEW FELONY MAJOR CHARGE BY ORIGINAL FELONY MAJOR CHARGE

ORIGINAL FELONY CHARGE							
	Ch. 161 Controlled Substance	Ch. 940 Personal Injury	Ch. 941 Public Safety	Ch. 943			Total
				Burglary	Forgery	Other	
Ch. 161 Controlled Substance						1	1
Ch. 940 Personal Injury				1			1
943.10 Burglary	2	1		3	3	1	10
943.38 Forgery				3	1		4
Ch. 943 Other Property				2	2	2	6
Ch. 946 Government		1	1			1	3
Total	2	2	1	9	6	5	25

Three of the 502 cases (0.6%) had a pre-disposition felony involving the use or threat of violence. The three new offenses were robbery (two cases) and assault. None of the defendants in these cases had originally been charged with violent offenses; two had been charged with burglary, one with forgery.

Of the 25 new felonies, 18 (72%) were committed by defendants from urban counties and seven (28%) by rural county defendants. This large difference (corrected chi-square $p < .025$) is somewhat striking since there were no significant differences between the original urban and rural cases in terms of type of offense, seriousness of offense or prior felony record of defendants. As indicated in Part I, Section E, however, there is a large difference in the average processing time between

urban and rural counties. The longer time "at risk" for urban county defendants may be related to their higher recidivism rate. However, the nature of this relationship is not clear, and in fact it may be that new offenses tend to delay the proceedings on the original charges.

The 25 pre-disposition felony offenses occurred an average of 78 days and a median of 55 days after the initial appearance in the original cases. The time period from pretrial release to the new offense is only slightly shorter, having an average of 68 days and a median of 50 days for 24 of the 25 new felony offenses (one offense was committed by a defendant not released).

As was the case in Part I, Section E on page 20, the difference between the average and the median shows that there are a few long time-periods in these data. Because their extreme values tend to bias the average, the median or other measure of rank is usually a better estimator of central tendency for time period data. Table 11 below provides a more detailed picture of the time period from original case filing to new offense for the 25 pre-disposition felonies.

Table 11

TIME FROM ORIGINAL CASE FILING TO NEW FELONY

<u>Days From Filing</u>	<u>No. Felonies</u>	<u>% Felcnies</u>	<u>Cumulative %</u>
0-30	4	16	16
31-60	11	44	60
61-90	4	16	76
91-120	4	16	92
Over 120	2	8	100

The table shows that 60% of the new felonies were committed within 60 days of the original initial appearance; 24% were committed after 90 days. The largest proportion of new felonies were committed between 31 and 60 days after the original case filing.

Although the discussion of the time periods of initial appearance and release to the new offense has thus far focused on all 25 new cases, there appears to be a notable difference in these time periods between the urban and rural cases. For clarity, the average and median of these two time periods for urban and rural cases are presented as Table 12 below.

Table 12

TIME TO NEW FELONY OFFENSE FOR URBAN AND RURAL CASES

		<u>Average</u>	<u>Median</u>	<u>Number of Cases</u>
Urban	From Filing	90.6	60	18
	From Release	83.9	60	18
Rural	From Filing	32.4	41	7
	From Release	35.5	36	6

The table shows that there are substantial differences in these time time periods between urban and rural cases. The difference is particularly evident in the averages. In fact the difference between the urban and rural averages is statistically significant ($p < .05$) for both time periods. Again, as was often the case in Part I, Section E, the difference between the average and median for each period should be noted. For the urban cases, this difference indicates there are a few very long time periods present which increase the average. For the rural cases, the difference indicates that

the time periods cluster closer to, and even above, the mean. Note that for one rural case the release to new offense time period cannot be determined. The defendant in this case was not released, but committed a new felony while in custody within five days of the original initial appearance. This accounts for the fact that the average time from initial appearance is lower than the average time from release for rural case.

The two time periods of initial appearance and release to new offense are naturally limited by the original case processing time. The original cases of the defendants with the 25 new offenses were processed in an average of 186 and a median of 173 days. Perhaps surprisingly, despite large differences between urban and rural cases in the average time to new offense and the average original case processing time for the entire data set, the average original case processing times for urban and rural cases with new offenses were essentially equal (186 and 187, respectively). For both groups, but particularly for the rural cases, the average processing time for those cases in which the defendant had a new offense was notably higher than each group's average for the entire data set. This implies that there may be a relationship between the occurrence of a pre-disposition felony offense and the length of criminal proceedings in the original case. The extent that one of these factors may be causing the other cannot be fully determined at this point; however, the fact that many of the new offenses were committed early in the original case processing suggests that an "early" new offense

may help prolong a pending case. This issue will be examined more closely in future analyses.

The dispositions of the new felony cases are presented in Table 13, categorized by the major charge in the new case. As shown in the table, 17 (68%) of the 25 new cases resulted in a conviction. The 17 convictions include two cases in which the charges were consolidated with, or read-in to, another case. In the remaining eight (32%) cases the charges were dismissed or the defendant acquitted. This report has not focused closely on the outcomes of either the original or the new felony cases since many complicated factors are involved in determining those outcomes. It may be noted, however, that none of the defendants charged with pre-disposition felonies escaped conviction totally. The defendants in the eight new cases which did not result in a conviction were each convicted in the original case against them. In fact, the original case did not result in conviction in only two of the 25 new felony cases; and the defendants in those two cases were convicted in the new felony case.

Table 13
NEW FELONY DISPOSITION TYPE BY NEW FELONY CHARGE

NEW FELONY CHARGE							
	Ch. 161 Controlled Substance	Ch. 940 Personal Injury	Ch. 943			Ch. 946 Government	Total
			Burglary	Forgery	Other		
			Convicted			9	
Dismissed	1	1			4		6
Acquitted			1			1	2
Total	1	1	10	4	6	3	25

Conclusion:

The data presented in preceding sections demonstrate several significant points about pretrial release, pretrial crime and case processing time.

Among these findings, the data show that:

- A majority (77.9%) of defendants were released prior to disposition of their charges. Likelihood of release was significantly affected by the seriousness of the offense and by prior record.
- Arrests for new felonies which occurred between initial appearance and final disposition of original charges were relatively rare events; 4.6% of the defendants in this sample were charged with new felonies prior to the original disposition.
- The average time from initial appearance to disposition was longer for defendants charged with new felonies (186 days) than for the sample as a whole (126.6 days). While the presence of a new felony is associated with longer processing times it is not clearly a cause or a result of long processing times. In fact, however, 60% of new felonies occurred within 60 days of initial appearance and only 8% occurred after 120 days, suggesting the possibility that "early" new offenses help prolong a pending felony case.

One purpose of this research is to determine whether speedier trials would reduce pretrial crime. While the preliminary findings show that reductions in case processing time could have some impact on the number of pre-disposition felonies, the data also show that most cases are currently processed within generally accepted time limits. In fact, the relative speed with which most cases were processed may account for the relatively low number of new offenses. Considering the low incidence of

new felonies occurring in this sample it may be extremely difficult to reduce disposition times to a level that would eliminate a substantial number of pre-disposition felonies.

END