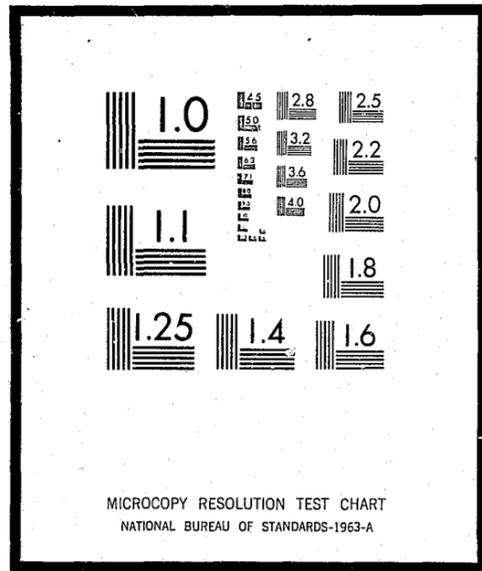


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MARYLAND DISTRICT RULE 77 *

Right to Release Before Conviction

Before conviction, a defendant charged with an offense not punishable by death shall be entitled to be released pending trial, subject to the provisions of this Rule. A defendant charged with an offense punishable by death may be released pending trial in the discretion of the court.

* The full text of the Rule is reproduced in Appendix A.



PRETRIAL RELEASE IN MARYLAND

A STUDY OF MARYLAND DISTRICT RULE 777

1974

NATIONAL COUNCIL ON CRIME AND DELINQUENCY
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To: The People of Maryland

The Survey and Planning Center of the National Council on Crime and Delinquency is pleased to submit to you its final report on our study of pretrial release in Maryland.

This study was commissioned by the Maryland Court of Appeals to seek an objective evaluation of the operation of Maryland District Rule 777, which governs pretrial release, so that it could be determined whether revisions of the rule are needed.

Rule 777 was a forward-looking policy when it was adopted in 1971. Our study has demonstrated to us that its primary reliance on personal recognizance rather than traditional money bail to secure a defendant's appearance at trial did not constitute a misplaced trust. The findings of our study are contained in this volume, and it is our hope that you will draw the same conclusion.

NCCD is pleased to have been of service to the people of Maryland, and looks forward to further opportunities to do so.

Sincerely,

Milton G. Rector
President

May, 1974

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CHAPTER I

INTRODUCTION

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INTRODUCTION

With the promulgation of Maryland District Rule 777 in 1971 the Court of Appeals of Maryland adopted a new policy on release of defendants prior to trial. Rule 777 grants the defendant charged with any offense not punishable by death the *right* to release pending trial, subject to certain conditions set out in the rule.¹ It further sets up release on personal recognizance as the norm:

Any defendant charged with an offense not punishable by death shall, at his appearance before a judicial officer, be ordered released pending trial on his personal recognizance unless the officer determines that such a release will not reasonably assure the appearance of the defendant as required.

When it is determined that release on recognizance will not suffice, the judicial officer may impose conditions on the release to assure appearance, and the rule sets out the order in which other conditions should be considered. The guidelines that are to be followed in determining which conditions of release will reasonably assure appearance forbid the use of a predetermined schedule of amounts fixed according to the nature of the charge. Instead, the rule specifies that: "Conditions of pretrial release ... shall in each case be the result of an individualized decision, taking into account the special circumstances of each defendant."

The Maryland Legislature provided statutory authority for such a policy in 1965 when it passed the law codified as Section 638A of Article 27, which states: "When from all the circumstances the court is of the opinion that any accused person in a criminal case will appear as required for trial ... the person may be released on his own recognizance."² This section further states as a general policy that: "This section shall be liberally construed to effectuate the purpose of relying upon criminal sanctions instead of financial loss to assure the appearance of an accused person...."³

Rule 777 stipulates that this individualized decision is to be based on "information available to or developed by [the judicial officer] in a pretrial release inquiry" that takes into account:

- (a) the recommendation of any agency or arm of court whose functions include conducting pretrial release investigations;
- (b) any stipulation entered into by the State's Attorney with respect to conditions of pretrial release;
- (c) the defendant's family ties and relationships, his employment status and history, his financial resources, his reputation, character and mental condition, and the length of his residence in the community;
- (d) the defendant's prior criminal record insofar as it reveals information respecting appearance at future court proceedings or of flight to avoid prosecution or failure to appear at court proceedings;
- (e) the nature and circumstances of the offense charged, the weight of evidence against the defendant, and the likely sentence upon conviction, insofar as these factors are relevant to the risk of non-appearance;
- (f) any other factors indicating the defendant's ties to the community or bearing on the risk of willful failure to appear.

The judicial officers to whom this decision usually falls are the district court commissioners. The commissioners are on duty at the court 24 hours a day, seven days a week, and all persons arrested are supposed to be brought before them "without unnecessary delay." It is the commissioner's job to inform the arrestee of the charges against him and of his rights, to set the trial date, and to make the pretrial release decision.⁴ A district court judge holds a bail review hearing each weekday, at which the commissioner's release decision can be overruled. The judge reviews the decision on all arrestees for whom the commissioner's decision has resulted in detention -- whether because bail was set too high for them to raise, or because release was denied.⁵

In reviewing these cases, the judge often has access to a recommendation based on a pretrial release investigation. But the commissioner on duty at night (when most of the arrests are made) must base his decision on his interview with the arrestee, the arresting officer, and possibly a defense attorney, and whatever information he can gather with a few quick phone calls.⁶

It is not surprising, then, that the decisions made under these circumstances have been subject to criticism. It has been the feeling of some quite vocal observers that release on personal recognizance has been too freely used, and that too many releasees are endangering the community by committing new crimes while they are out.⁷

The Maryland Court of Appeals and the Rules Committee has also been concerned about the application and effect of Rule 777. This study by the National

Council on Crime and Delinquency was commissioned by the Court of Appeals to seek an objective evaluation of the rule based on available data so that it may determine whether revisions of the rule are needed, in light of past performance. Three jurisdictions were selected for intensive study: the City of Baltimore, Baltimore County, and Prince George's County. According to the figures compiled in the District Court's 1972-73 annual report, these three jurisdictions are responsible for 66 percent of the criminal defendants tried in the state.

The study's first concern is to discover how successful the district court commissioners and judges have been at specifying release conditions that assure appearance at trial. Such assurance of appearance is the only specified purpose of imposing any release conditions at all.⁸ So we have gathered information that can be tabulated to produce a failure-to-appear rate, broken down into different release categories.

Although Rule 777 offers no justification for consideration by the commissioner of the dangerousness of the arrestee or the likelihood of pretrial recidivism, much of the criticism of the rule has come from this direction. So information was also tabulated to discover how many releasees were rearrested before trial.

The data on which this study is based were collected by the staff of the NCCD Survey and Planning Center in Austin, Texas, with the cooperation of personnel of the Maryland District Court in Annapolis, the Administrative Office of the Courts and the Governor's Commission on Law Enforcement and the Administration of Justice, the judges, commissioners, and clerks of the district courts for

Baltimore City, Baltimore County, and Prince George's County, and officers and clerks of the City of Baltimore Police Department, the Baltimore County Police Department, and the Prince George's County Police Department.

For practical reasons connected with the data collection process, and because the study was conducted for the Court of Appeals for analysis of the District Court, the arrestees traced in this study were followed either to disposition or until they left the jurisdiction of the district court by being indicated for a felony and bound over for trial in the circuit court.

But before we proceed to a detailed discussion of the research design and the conduct of the study, we shall examine the general issues surrounding pretrial release and the background of bail reform and release-on-recognizance experiments of which the Maryland experience is a part.

FOOTNOTES TO CHAPTER I

1. The full text of the rule is set out in Appendix A. A defendant charged with a capital offense may also be released, at the court's discretion.
2. The full text of this section is set out in Appendix B.
3. The criminal sanctions are described in the *First Annual Report of the Pre-Trial Release Division for Baltimore County*: "If a defendant fails to appear, he can be charged and tried for the offense of failure to appear over and above the original charge. The maximum penalties for failure to appear on each misdemeanor charge is one year imprisonment and/or \$1,000 fine. The maximum for failure to appear on each felony charge is five years imprisonment and/or \$5,000 fine. The defendant is made aware of this to provide motivation to appear in court since, in some cases, the penalties for failure to appear exceed the maximum penalty for his original charge even if he is found guilty. A defendant can be charged with failure to appear although he is later acquitted on his original charge" (pp. 24-25).
4. These duties are described in Maryland District Rule 709, the text of which is set out in Appendix C.
5. Rule 709 also governs this review; it says: "If pretrial release is denied by a commissioner or if, for any reason, the defendant remains unreleased twenty-four hours after a commissioner has set conditions for release pursuant to M.D.R. 777 ... the defendant shall be brought before a court immediately if the court is then in session, or if not, at the session of court that immediately follows, respectively, the denial of pretrial release or the expiration of twenty-four hours. The court shall review the commissioner's pretrial release determination and take appropriate action thereon."
6. The Pre-Trial Release Division in the City of Baltimore now has investigators on duty 24 hours a day, but this practice did not begin until after the period covered by this study.
7. There is, in fact, a law passed in 1969 which prohibits release by a commissioner of a person charged with committing certain new offenses while he is out on bail or recognizance. This is Section 616½ of Article 27, and its text is set out in Appendix D. But there is no authority to deny release on a first charge to a person who is perceived to be dangerous, for that reason alone.

8. As one legal review of bail has noted: "In theory, if the presumption of innocence is to be given full effect, all prisoners ought to be unconditionally released before trial. But a countervailing consideration has limited the scope accorded this presumption. The state must make sure that the accused will appear for trial. It is on this ground that the requirement of posting bond is justified -- a financial deterrent to flight." (Note, "Bail: An Ancient Practice Reexamined," *Yale Law Journal* 70:6 (May 1961), p. 970.)

CHAPTER II

ISSUES SURROUNDING PRETRIAL RELEASE

CHAPTER II

ISSUES SURROUNDING PRETRIAL RELEASE

The judicial decision whether to release or detain a person arrested and charged, but not yet tried, for a crime has always been a difficult one. The presumption of innocence our law affords the accused seems to indicate the priority that should be given to granting him his freedom pending trial. Yet the authorities are faced with the problem of assuring that he will appear for trial. They also have a concern for the safety of the community and, therefore, for the possibility that a released defendant will commit new crimes while out awaiting trial. Bail, devised by the English over the last thousand years, was intended to enable the release of accused offenders while also guaranteeing appearance.¹ But it has never worked in quite the way it was intended:

The bail system has, almost from its inception, been the subject of dissatisfaction. Every serious study published since the 1920's has exposed defects in its administration. Yet proof of the need for reform has produced little in the way of fundamental change. Committing magistrates misunderstand or misapply the criteria for pre-trial release; bail determinations are made on the basis of skimpy and unverified facts; the final decision as to whether a defendant is to be kept in jail usually rests in the hands of the professional bondsman; and a substantial number of defendants, accused but not convicted, are denied release because they are poor.²

One of the major defects of the traditional bail system is that it detains too many people. This is bad for the detained defendant, bad for the integrity of the criminal justice process, and bad for the community.

The detained defendant suffers in obvious ways. As the President's Commission on Law Enforcement and Administration of Justice found, a released defendant is one who can live with and support his family, maintain his ties to his community, and busy himself with his own defense by searching for witnesses and evidence and by keeping in touch with his lawyer.³ But an imprisoned defendant is subjected to the squalor, idleness, and possibly criminalizing effects of jail. The facilities used for pretrial detention are generally considered to be the poorest of penal facilities. He may be confined for something he did not do (some jailed defendants are ultimately acquitted). He may be confined while presumed innocent only to be freed when found guilty (many jailed defendants, after they have been convicted, are placed on probation rather than imprisoned).

The integrity of the criminal justice process suffers because money bail is so widely seen to be an unfair and ineffective device. First, the implied discrimination against poor defendants runs directly counter to the law's avowed purpose of treating all defendants equally. And, it is pointed out:

Here it is not merely the nature of our society that produces one kind of justice for the rich or well connected and another for the poor. The difference in treatment is *required* by law itself. Release has its price. One might even interpret the law as saying that you get what you pay for and what you can't pay for you don't get.⁴

Second, although the only legal purpose of bail is to assure appearance at trial, traditional bail decisions have rarely been based on facts about the accused relevant to his likelihood to appear. Instead, money bail has

usually been set according to the seriousness of the alleged offense -- a kind of standard crime pricing system.

Finally, the whole community suffers. The costs of detention range into the millions annually. Communities spend as much as \$10 per day to house, feed, and guard each jailed defendant, including the defendant who is in jail solely because he cannot afford the bail premium. The savings to the community that is wise enough to release all defendants who can reasonably be expected to appear for trial are potentially enormous. Potential savings include not only detention costs, but in many cases welfare payments to a detainee's family, the costs of court-appointed counsel (where a releasee is able to work and hire his own attorney), and those harder-to-measure costs like a man's wages, spending power, and taxes that are lost to the community while he is in jail.

The major purpose of bail reform is therefore to decrease the number of defendants who must be detained. A second purpose has often been present: to decrease -- or eliminate completely -- the influence of the middleman, the bail bondsman, and have the accused deal directly with the court. The reasons for this have been summarized in three points:

One, the bail-bond business has a history of corruption. The most flagrant violations have been collusion with various court officials. ... A second reason is the criminal infiltration of the bail-bond business. ... The third and most important reason is the bondsmen's dominant role in controlling whether a person may be granted pretrial release.⁵

On this last point, it was observed in an opinion of the U.S. District Court for the District of Columbia:

The professional bondsmen hold the keys to the jail in their pockets. They determine for whom they will act as surety--who in their judgment is a good risk. The bad risks in their judgment, and the ones who are unable to pay the bondsmen's fees remain in jail. The court and the commissioner are relegated to the relatively unimportant chore of fixing the amount of bail.⁶

PRETRIAL RELEASE FOR THE POOR

All of these issues have been noted in all parts of the country, and reform projects have been widely tried. But probably the most important issue affecting the reform of bail practices over the past several years has been that of fair treatment for the poor defendant. The traditional bail system imposes a frankly monetary condition on a person's release, and effectively takes the release decision out of the hands of the judge, the commissioner, and all other court and law-enforcement officials, and drops it in the lap of the bail bondsman. Where the accused is unable to make bail or raise the bondsman's premium the effect is to make poverty a crime.

The late Sanford Bates recently discussed this practice, in defining two of his "certain mystifying anomalies [that] still exist in our criminal justice system":

1. We give the unconvicted suspect less consideration than we give the convicted criminal.
2. We lock men in jail not because they are dangerous or have allegedly committed a crime but because they do not have enough money to procure bail. In other words, we do not penalize *all* the unconvicted indiscriminately; rather we punish only the unconvicted who are *poor*.⁷

More specifically, the material effects for the indigent accused have been described thus:

These defendants [those who are unable to make bail] are severely handicapped in preparing their defenses. They are unable to earn money to hire a lawyer and pay for investigation. They cannot help locate witnesses. They must consult court-appointed counsel not in the privacy and convenience of an office but in jail. The defendant enters court in the company of a guard, a fact not lost on jurors. If convicted, he is unable to point to employment and good conduct while on bail as grounds for probation; if found not guilty he has needlessly suffered the degradation of jail and his family has been punished as well.⁸

INFLUENCE OF RELEASE STATUS ON CONVICTION AND SENTENCE

In addition, there are grounds to believe that both the judgment and the sentence are prejudiced by his release/detention status. A study for the Manhattan Bail Project of all defendants arraigned there over an 11-month period revealed that 64 percent of the 358 defendants who were continuously held in jail from time of arraignment to adjudication of guilt were sentenced to prison. By contrast, only 17 percent of the 374 who made bail received prison sentences.⁹ The investigators questioned whether this startling difference was due to the fact that the more *serious* offenders were detained without bail and were thus more likely to receive prison sentences, or whether the mere fact of detention predisposed the person to the less desirable sentence. They found that the evidence supported the latter conclusion.

The nature and type of crime charged against offenders did not explain why detained offenders were more likely, first, to be detained and, then, to be

convicted and imprisoned. When the type of offense was held constant, the disadvantage of the jailed defendant continued to appear. The following tables based on information from the study illustrate this:

NUMBER OF CONVICTIONS BY BAIL OR JAIL STATUS¹⁰

| Offense | Convictions | |
|-------------------|-------------|------|
| | Bail | Jail |
| Assault | 23% | 59% |
| Grand Larceny | 43% | 72% |
| Robbery | 51% | 58% |
| Dangerous Weapons | 43% | 57% |
| Narcotics | 52% | 38% |
| Sex Crimes | 10% | 14% |
| Others | 30% | 78% |

NUMBER OF PRISON SENTENCES BY BAIL OR JAIL¹¹

| Offense | Prison Sentences | |
|--------------------|------------------|------|
| | Bail | Jail |
| Assault | 58% | 94% |
| Larceny | 48% | 93% |
| Robbery | 78% | 97% |
| Dangerous Weapons | 70% | 91% |
| Narcotics | 59% | 100% |
| All Other Offenses | 56% | 88% |

The possibility occurred to the investigators that a prior criminal record might be the key variable, explaining why some offenders are detained and others are not. There seemed to be some validity to this idea. The study found that defendants with prior records were much more likely than defendants with no record to be detained awaiting trial and eventually to be imprisoned after trial. But even with prior record held constant (which is a way to erase statistically the effect of prior record), the differential effects

of pretrial detention were not explained away, and it was thus determined that detained defendants were penalized by the fact of detention.

NUMBER OF PRISON SENTENCES BY PRIOR CRIMINAL RECORD & BAIL OR JAIL STATUS¹²

| | Prison Sentences | |
|-------------------------------|------------------|------|
| | Bail | Jail |
| Defendants with prior records | 36% | 81% |
| Defendants with no record | 10% | 59% |

Other factors, such as amount of bail and type of counsel, were also tested for their effect. Similar findings resulted, and each factor tested continued to reveal that detention had prejudicial effects.

REFORM PROJECTS

To combat these abuses that are associated with the bail system there have been, over the past 15 years, attempts in numerous jurisdictions to improve it and/or to reduce its emphasis on money. A wide variety of reforms have been tried. Most have included improved mechanisms for gathering the facts needed as criteria by which to set release conditions. They have variously employed law students, probation officers, prosecutors, defense counsel, public defenders, court staff investigators, or police, as the fact-finders.

Alternatives to bail that have been tried include release on recognizance, summons (or citation) in lieu of arrest, release on conditions other than money, and release on money bail (but in lower amounts, on the posting of 10 percent, or on a personal pledge).¹³

The best known of the ROR programs is probably the Manhattan Bail Project, already discussed here, but there are by now dozens of such projects operational or planned in at least 36 states.¹⁴ These provide for release on a promise to appear for trial of arrested persons whose ties to the community suggest that it is reasonable to expect them to appear when directed.

There are also several citation-in-lieu-of-arrest programs and "stationhouse release" programs operational. In such programs, the general practice is for the arresting officer to take the defendant to the police station, where the defendant can be booked and then released with a citation to appear for trial.

The first statewide 10-percent cash bond program was instituted in Illinois in 1963. The traditional procedure there had been that a defendant had two alternatives for raising bail once it had been set by the judge. He could either raise the full amount himself or he could go to a bondsman, to whom he had to pay a fee which was usually 10 percent of the full amount of bail. The reform procedure offers the defendant a third alternative. He can execute a bond in an amount equal to the full amount of the bail set and deposit with the court a downpayment of 10 percent of the total amount. A refund of 90 percent of the downpayment is given to the defendant if he appears in court; thus it actually costs the defendant only one percent rather than the standard 10 percent.

After examining many such projects, the National Advisory Commission on Criminal Justice Standards and Goals has concluded that: "Alternatives to

the bail and jail system have been proposed, implemented, evaluated, and found successful in enough jurisdictions that recommendations for wholesale adoption are practical without extended elaboration."¹⁵ The Commission has therefore adopted the following standard:

STANDARD 4.4

ALTERNATIVES TO PRETRIAL DETENTION

Each criminal justice jurisdiction, State or local as appropriate, should immediately seek enabling legislation and develop, authorize, and encourage the use of a variety of alternatives to the detention of persons awaiting trial. The use of these alternatives should be governed by the following:

1. Judicial officers on the basis of information available to them should select from the list of the following alternatives the first one that will reasonably assure the appearance of the accused for trial or, if no single condition gives that assurance, a combination of the following:
 - a. Release on recognizance without further conditions.
 - b. Release on the execution of an unsecured appearance bond in an amount specified.
 - c. Release into the care of a qualified person or organization reasonably capable of assisting the accused to appear for trial.
 - d. Release to the supervision of a probation officer or some other public official.
 - e. Release with imposition of restrictions on activities, associations, movements, and residence reasonably related to securing the appearance of the accused.
 - f. Release on the basis of financial security to be provided by the accused.
 - g. Imposition of any other restrictions other than detention reasonably related to securing the appearance of the accused.
 - h. Detention, with release during certain hours for specified purposes.
 - i. Detention of the accused.

2. Judicial officers in selecting the form of pretrial release should consider the nature and circumstances of the offense charged, the weight of the evidence against the accused, his ties to the community, his record of convictions, if any, and his record of appearance at court proceedings or of flight to avoid prosecution.

3. No person should be allowed to act as surety for compensation.

4. Willful failure to appear before any court or judicial officer as required should be made a criminal offense.¹⁶

As we noted in Chapter I, the State of Maryland has adopted a policy on pre-trial release governed by District Rule 777 that has the same general intent as the Commission's standard. Rule 777 makes most of the bail reform options open to the commissioner or judge who makes the release decision, and release on recognizance is very widely used. A portion of this study consisted of observation of the operation of the commissioner release system in Maryland, and we turn to that in the next chapter.

FOOTNOTES TO CHAPTER II

1. Bail was already an old and abused part of criminal procedure when the Statute of Westminster, in 1275, attempted to standardize its practice. See: Note, "Bail: An Ancient Practice Reexamined," *Yale Law Journal* 70:6 (May 1961), pp. 966-977. The historical background of bail and pretrial release has been carefully described in: Caleb Foote, "The Coming Constitutional Crisis in Bail," *University of Pennsylvania Law Review* 113:7 (May 1965), pp. 959-999, and 113:8 (June 1965), pp. 1125-1185.
2. Charles E. Ares, Anne Rankin, and Herbert Sturz, "The Manhattan Bail Project: An Interim Report on the Use of Pre-Trial Parole," *New York University Law Review* 38:1 (January 1963), p. 67.
3. See the Commission's discussion in *The Challenge of Crime in a Free Society* (Washington: U.S. Government Printing Office, 1967), pp. 131-133; and in *Task Force Report: The Courts* (Washington: U.S. Government Printing Office, 1967), pp. 37-41.
4. Charles Ares and Herbert Sturz, "Bail and the Indigent Accused," *Crime and Delinquency* 8:1 (January 1962), p. 12. Emphasis in original.
5. Paul Wice and Rita James Simon, "Pretrial Release: A Survey of Alternative Practices," *Federal Probation* 34:4 (December 1970), p. 61. See also, for supporting investigations on these points: Ronald Goldfarb, *Ransom* (New York: Wiley, 1965).
6. *Pannell v. U.S.*, 320 F.2d 698 (1963).
7. Sanford Bates, "How Many Years?" *Crime and Delinquency* 19:1 (January 1973), p. 15. Emphasis in original.
8. Ares and Sturz, *op. cit.*, pp. 14-15. For a vivid description of many other ways in which equal justice costs too much for most defendants to afford, see: Patricia M. Wald, "Poverty and Criminal Justice," in *Task Force Report: The Courts*, pp. 139-151.
9. For a detailed description, see Anne Rankin, "The Effect of Pre-Trial Detention," *New York University Law Review* 39:4 (June 1964), pp. 541-655; and Patricia Wald, "Pre-Trial Detention and Ultimate Freedom; A Statistical Study," *New York University Law Review* 39:4 (June 1964), pp. 631-640.
10. Based on Table 10, Case Dispositions by Jail Status and Charge, in Ares, Rankin, and Sturz, *op. cit.*, p. 84.
11. Based on Table 11, Sentence by Jail Status and Charge, *ibid.*, p. 85.

12. From Rankin, *op. cit.*, pp. 647-648.
13. See: Daniel J. Freed and Patricia M. Wald, *Bail in the United States: 1964* (Washington: National Conference on Bail and Criminal Justice, 1964). Chapter VI of this report reviews the success of various types of bail reform projects. See also the section headed "Some Examples of Reform," in: National Advisory Commission on Criminal Justice Standards and Goals, *Report on Corrections* (Washington: U.S. Government Printing Office, 1973), pp. 107-110.
14. See the table compiled by the National Advisory Commission, *op cit.*, p. 108.
15. *Ibid.*, p. 102.
16. *Ibid.*, p. 120.

CHAPTER III

THE COMMISSIONER RELEASE SYSTEM



CHAPTER III

THE COMMISSIONER RELEASE SYSTEM

A major concern of the Maryland Court of Appeals in requesting that this study be conducted was to discover not only whether District Rule 777 is a proper rule to follow in making pretrial release decisions, but also whether the district court commissioners are actually following Rule 777.

Available time and money set limits on the methods that could be used to explore this question, and it was decided that our priority must be to collect solid data on what was actually done with a selected group of arrestees brought into the district court system.¹ But, to a secondary extent, it was decided that onsite observation and interviewing of the commissioners in action would yield some insights into the question of whether the rule is being followed.

Accordingly, visits were made to commissioners on duty in each of the three jurisdictions studied, during day, evening, and night shifts. The time allowed for doing this was necessarily limited. The problem, therefore, of knowing whether these particular commissioners are representative, or whether they adjusted their behavior because of the presence of an observer, must be borne in mind. To account somewhat for this, we include with these observations certain relevant tabulations of results from the research findings.

THE DISTRICT COURT COMMISSIONERS AND THEIR JOB

The commissioners themselves are judicial officers who perform many of the duties once performed by magistrates. They work on shifts, and are on duty 24 hours a day, seven days a week. They are generally the first contact the offender has with the judicial system in Maryland. When a person is arrested he is required to be brought before a commissioner "without unnecessary delay." The commissioner's duties at this initial appearance are specified in District Rule 709:²

Statement and Certification of Judicial Officer.

The judicial officer before whom a defendant is initially brought shall (1) provide the defendant with a copy of the charging document, if he has not already been so provided, (2) inform the defendant of each offense with which he is charged, (3) inform the defendant of [his] rights..., and (5) certify in writing that he has complied with this section.

Pretrial Release Determination.

The judicial officer shall promptly determine the defendant's eligibility for pretrial release under M.D.R. 777....

Indigency Inquiry.

Whenever a defendant appears without counsel before a commissioner, the commissioner shall inquire into the defendant's desire and financial ability to obtain counsel. If the defendant indicates that he desires counsel but is indigent, the commissioner shall promptly notify the appropriate Public Defender's Office, or, if there is no such office, the court.

Trial or Preliminary Hearing Date.

The judicial officer shall assign the date and time for, or in appropriate instances shall proceed with, the trial or preliminary hearing.

Any arrestee who has been detained as a result of the commissioner's decision -- whether because release was denied or because bail was set too high for him to raise -- gets a bail review hearing before a district court judge the next day (or on Monday if the arrest takes place on a weekend). But the commissioner's decision stands in an overwhelming number of cases.

Of 3,686 arrestees seen by commissioners in the City of Baltimore, 2,652 (71.9 percent) had no bail review hearing and the commissioner's decision was final. An additional 742 (20.1 percent) had bail review hearings at which the judge affirmed the commissioner's decision. In Baltimore County 480 of the 614 arrestees who appeared before commissioners (78.2 percent) had no bail review hearing, and the commissioner's decision was final. In an additional 62 cases (10.1 percent) the commissioner's decision was affirmed at bail review. In Prince George's County 540 of the 659 arrestees who appeared before commissioners (81.9 percent) were released and had no bail review hearing. In an additional 38 cases (0.6 percent) the commissioner's decision was affirmed at bail review.³ Table 1 contains a breakdown of the outcomes of bail review hearings.

From a practical standpoint, then, it is the commissioners who are making the pretrial release decisions in Maryland. This does not mean, of course, that the judges have no influence in this area. The commissioners must get along with the judges on a day-to-day basis, and they seem to take pride in having a good "batting average" (meaning not being overruled by a judge). They therefore know and take into account the judges' philosophies on the proper setting of release conditions. In some cases, they also take into account individual judges' biases.⁴

The judges have influence over the release decisions that they do not make in another way. There is a perception, expressed by several commissioners, that part of the commissioner's job is to relieve the judges of these decisions. The commissioners who mentioned this seemed to feel that the judges did not

TABLE 1
OUTCOMES OF BAIL REVIEW HEARINGS

| | Baltimore City | Baltimore County | Prince George's County | All Jurisdictions |
|--|------------------------|-----------------------|------------------------|------------------------|
| No Bail Review | 2652 71.9% | 480 78.2% | 540 81.9% | 3653 73.7% |
| Total Bail Reviews | 1034 28.1% | 134 21.8% | 111 18.1% | 1306 26.3% |
| TOTAL RELEASE DECISIONS | 3686 100.0% | 614 100.0% | 659 100.0% | 4959 100.0% |
| Judge Affirmed Commissioner's Decision | 742 71.8% | 62 46.3% | 38 42.2% | 842 66.9% |
| Judge Reduced Bail | 180 17.4% | 37 27.6% | 37 41.1% | 254 20.2% |
| Judge Increased Bail | 48 4.6% | 22 16.4% | 4 4.4% | 74 5.9% |
| Judge Released on Recognizance | 64 6.2% | 13 9.7% | 11 12.2% | 88 7.0% |
| TOTAL BAIL REVIEWS | 1034 100.0% | 134 100.0% | 90* 100.0% | 1258 100.0% |

* This figure does not include 29 cases which had bail review hearings, but on which the data on the judges' decisions were missing.

want to see too many offenders at bail review. They felt that commissioners in their district were more lenient than they should be in releasing arrestees, just to get rid of them so the judge would not have to see them.

But even if the commissioner is not entirely free in his decision, his freedom is great. And it is strengthened by the wide variety of release options open to him under Maryland law. The most important of these are:

- o Release on personal recognizance, which is release on an unsecured promise to appear for trial that is often unconditional. When conditions are imposed, they are nonmonetary ones, and they may include restrictions on the travel, associations, or residence of the defendant during the release period.
- o Release into the custody of a designated person (family, friend, attorney) or organization that agrees to supervise him and assist in assuring his appearance in court.
- o Release under the supervision of a probation officer or other appropriate public official. This alternative is offered by Rule 777, but as far as we could determine, it remains virtually unused -- probably because of nonavailability of probation officers for such a purpose.
- o Release on an unsecured appearance bond in an amount specified by the commissioner or judge. This alternative can be used in cases where the defendant is a marginal candidate for release on recognizance, but the added incentive of a monetary pledge is felt to be needed. The pledge can be made by the defendant himself or by family or friends, as specified by the judicial officer. No money or collateral is posted, and if the defendant appears for trial no money is owed. But if he fails to appear, the sum pledged becomes due and owing to the court.
- o Release on 10-percent bond in an amount specified by the judicial officer. The defendant executes the bond by depositing with the court either \$25 or 10 percent of the amount of the bond, whichever is greater (a larger percentage may be required if the officer so specifies). If the defendant appears for trial, his deposit is returned. If he does not appear, he forfeits the deposit and becomes liable for the balance of the bond.

- o Release on traditional bail in an amount specified by the judicial officer. Release may be had by the execution of a bond secured by the full amount in cash or property, or by obligation of a corporate surety.
- o Finally, the judicial officer has the option of releasing the defendant on any other condition that he considers to be reasonably necessary to assure appearance.

How do the commissioners use these options? The answer to this varies from commissioner to commissioner. The commissioners, in fact, perceive widespread differences among themselves. One commissioner mentioned, for instance, that he was very conservative in his use of release on recognizance, using it in only 10 to 15 percent of his cases, but that he knew other commissioners who used it 75 to 80 percent of the time. While his perception of the percentages probably exaggerates the difference, a real difference is likely to exist. Several other commissioners also mentioned this problem and its implication for accused offenders -- unequal treatment before the court. On the other hand, each commissioner is an individual judicial officer with discretionary power; one could hardly expect complete uniformity.

Nevertheless, the commissioners expressed a need for more clearly articulated guidelines to be followed in making release decisions, and we agree.

FREQUENCY DISTRIBUTION OF RELEASE STATUSES

As Rule 777 is written, it means that the accused offender has a right to release on recognizance, which can be modified only by circumstances in his individual case that constitute grounds for believing that he will not appear for trial.⁵ If this is followed it should mean that release on recognizance will be used in a large percentage of cases.

Referring again to our target population of the month June 15 to July 14, 1973, we see that release on recognizance is indeed used quite frequently -- in fact, in 40.6 percent of these cases. We also note, however, the very infrequent use of 10-percent bail in all jurisdictions (in only 3.1 percent of the cases), but especially in Baltimore County and Prince George's County, where it is used only six times (or 0.5 percent and 0.3 percent of the time, respectively). The frequency of use of different release categories is set out in Table 2 on the next page.

We note that Table 2 contains a category of defendants "detained." This category includes not only those defendants who were refused bail by the commissioner (and judge at bail review), but also those for whom bail was set high enough that they were unable to raise it. But this "detained" category does not include any defendants who were committed to jails or lockups for short periods (whether a few hours or a few days) pending the raising of bail. Any defendants thus detained who eventually were released on bail or recognizance appear in those respective release categories. Thus, the "detained" category includes only those defendants who spent the time from arrest to disposition in detention. It is to be admitted that the vast majority of those in this group were not detained as a result of a conscious decision on the part of the commissioner and judge. Most of them had bail set, and they were detained because they were unable to raise it.

We do point out, however, that in the jurisdictions we studied the time from arrest to disposition is usually much shorter for detainees than for releasees. For example, in Baltimore County the average time involved for the entire sample was 46.8 days, but for the members of the "detained" group it was 19.1 days. In Prince George's County, where there were many cases still pending at the end of the 90-day tracing period, the average time from arrest to disposition was 62.4 days; for detainees, it was 40.1 days.⁶

TABLE 2
FREQUENCY DISTRIBUTION OF RELEASE STATUSES

| | Baltimore City | Baltimore County | Prince George's County | All Jurisdictions |
|------------------------------|----------------------|---------------------|---------------------------|-----------------------|
| Release on Recognizance | 1389 69.0% 37.7% | 324 16.1% 52.1% | 300 14.9% 45.5% | 2013 100.0% 40.6% |
| 10% Bail | 149 96.1% 4.0% | 4 2.6% 0.5% | 2 1.3% 0.3% | 155 100.0% 3.1% |
| Full Bail | 953 67.2% 25.9% | 203 14.3% 33.0% | 262 18.5% 39.8% | 1418 100.0% 28.6% |
| Detained | 914 84.1% 24.8% | 79 7.3% 13.7% | 94 8.6% 14.3% | 1087 100.0% 21.9% |
| No Data on Release Status | 281 98.3% 7.6% | 4 1.4% 0.7% | 1 0.3% 0.2% | 286 100.0% 5.8% |
| Total | 3686 74.3% 100.0% | 614 12.4% 100.0% | 659 13.3% 100.0% | 4959 100.0% 100.0% |

RELEASE STATUS BY RACE AND SEX

We turn now to the setting of release conditions, controlling for race and sex: Table 3 contains this breakdown for the three jurisdictions combined. We note first that females get more lenient treatment than males. This is a completely normal occurrence, but it is worth noting the variation in release conditions. Nonwhite females were released on recognizance in 44.2 percent of the cases, and were detained in 13.5 percent of the cases; 53.9 percent of the white females were released on recognizance and 10.3 percent were detained. By contrast, 32.8 percent of the nonwhite males were released on recognizance, and 28.1 percent were detained; 48.1 percent of the white males were released on recognizance, and 17.4 percent were detained.

Secondly, we note the difference in release conditions specified for nonwhites versus whites. Nonwhites represent 58.1 percent of the total cases but only 49.5 percent of the cases released on recognizance; 68.4 percent of the detainees are nonwhite.

Referring to Tables 4, 5, and 6, which break down this information by jurisdiction, we note that these differences are less pronounced in Baltimore City, but far greater in Baltimore County and Prince George's County. In Baltimore County (Table 5), 31.7 percent of the nonwhite males are detained, while only 24.4 percent are released on recognizance. But only 11.0 percent of the white males are detained, and 55.3 percent of the white males get released on recognizance. In Prince George's County (Table 6), 22.9 percent of the nonwhite males are detained, and 40.3 percent are released on recognizance. But only 11.9 percent of the white males are detained, and 51.9 percent are released on recognizance.

TABLE 3

RELEASE STATUS BY RACE AND SEX -- ALL JURISDICTIONS

| | Release on Recognizance | | 10% Bail | | Full Bail | | Detained | | No Data on Release Status | | Total | |
|---------------------------|----------------------------|--------------|------------|-------------|-------------|--------------|-------------|--------------|------------------------------|-------------|-------------|---------------|
| Nonwhite Females | 203 | 44.2% | 26 | 5.7% | 138 | 30.1% | 62 | 13.5% | 30 | 6.5% | 459 | 100.0% |
| Nonwhite Males | 794 | 32.8% | 77 | 3.2% | 700 | 28.9% | 681 | 28.1% | 169 | 7.0% | 2421 | 100.0% |
| White Females | 152 | 53.9% | 5 | 1.8% | 69 | 24.5% | 29 | 10.3% | 27 | 9.6% | 282 | 100.0% |
| White Males | 847 | 48.1% | 46 | 2.6% | 505 | 28.7% | 307 | 17.4% | 55 | 3.1% | 1760 | 100.0% |
| Race or Sex Unreported | 17 | 45.9% | 1 | 2.7% | 6 | 16.2% | 8 | 21.6% | 5 | 13.5% | 37 | 100.0% |
| Total | 2013 | 40.6% | 155 | 3.1% | 1418 | 28.6% | 1087 | 21.9% | 286 | 5.8% | 4959 | 100.0% |

3.10

TABLE 4

RELEASE STATUS BY RACE AND SEX -- BALTIMORE CITY

| | Release on Recognizance | | 10% Bail | | Full Bail | | Detained | | No Data on Release Status | | Total | |
|---------------------------|----------------------------|--------------|------------|-------------|------------|--------------|------------|--------------|------------------------------|-------------|-------------|---------------|
| Nonwhite Females | 176 | 48.1% | 26 | 7.1% | 79 | 21.6% | 55 | 15.0% | 30 | 8.2% | 366 | 100.0% |
| Nonwhite Males | 693 | 32.4% | 74 | 3.5% | 595 | 27.8% | 609 | 28.5% | 167 | 7.8% | 2138 | 100.0% |
| White Females | 81 | 47.7% | 5 | 2.9% | 34 | 20.0% | 23 | 13.5% | 27 | 15.9% | 170 | 100.0% |
| White Males | 430 | 43.6% | 43 | 4.4% | 241 | 24.4% | 219 | 22.2% | 52 | 5.3% | 985 | 100.0% |
| Race or Sex Unreported | 9 | 33.3% | 1 | 3.7% | 4 | 14.8% | 8 | 29.6% | 5 | 18.5% | 27 | 100.0% |
| Total | 1389 | 37.7% | 149 | 4.0% | 953 | 25.9% | 914 | 24.8% | 281 | 7.6% | 3686 | 100.0% |

3.11

TABLE 5
RELEASE STATUS BY RACE AND SEX -- BALTIMORE COUNTY

| | Release on Recognizance | | 10% Bail | | Full Bail | | Detained | | No Data on Release Status | | Total | |
|---------------------------|----------------------------|--------------|----------|-------------|------------|--------------|-----------|--------------|------------------------------|-------------|------------|---------------|
| Nonwhite Females | 9 | 36.0% | 0 | 0.0% | 14 | 56.0% | 2 | 8.0% | 0 | 0.0% | 25 | 100.0% |
| Nonwhite Males | 20 | 24.4% | 1 | 1.2% | 34 | 41.5% | 26 | 31.7% | 1 | 1.2% | 82 | 100.0% |
| White Females | 46 | 74.2% | 0 | 0.0% | 13 | 21.0% | 3 | 4.8% | 0 | 0.0% | 62 | 100.0% |
| White Males | 242 | 55.3% | 3 | 0.7% | 142 | 32.4% | 48 | 11.0% | 3 | 0.7% | 438 | 100.0% |
| Race or Sex Unreported | 7 | 100.0% | 0 | 0.0% | 0 | 0.0% | 0 | 0.0% | 0 | 0.0% | 7 | 100.0% |
| Total | 324 | 52.8% | 4 | 0.6% | 203 | 33.1% | 79 | 12.9% | 4 | 0.6% | 614 | 100.0% |

3.12

TABLE 6
RELEASE STATUS BY RACE AND SEX -- PRINCE GEORGE'S COUNTY

| | Release on Recognizance | | 10% Bail | | Full Bail | | Detained | | No Data on Release Status | | Total | |
|---------------------------|----------------------------|--------------|----------|-------------|------------|--------------|-----------|--------------|------------------------------|-------------|------------|---------------|
| Nonwhite Females | 18 | 26.5% | 0 | 0.0% | 45 | 66.2% | 5 | 7.4% | 0 | 0.0% | 68 | 100.0% |
| Nonwhite Males | 81 | 40.3% | 2 | 1.0% | 71 | 35.3% | 46 | 22.9% | 1 | 0.5% | 201 | 100.0% |
| White Females | 25 | 50.0% | 0 | 0.0% | 22 | 44.0% | 3 | 6.0% | 0 | 0.0% | 50 | 100.0% |
| White Males | 175 | 51.9% | 0 | 0.0% | 122 | 36.2% | 40 | 11.9% | 0 | 0.0% | 337 | 100.0% |
| Race or Sex Unreported | 1 | 33.3% | 0 | 0.0% | 2 | 66.7% | 0 | 0.0% | 0 | 0.0% | 3 | 100.0% |
| Total | 300 | 45.5% | 2 | 0.3% | 262 | 39.8% | 94 | 14.3% | 1 | 0.2% | 659 | 100.0% |

3.13

As we noted, the difference is less pronounced in the City of Baltimore (Table 4): 32.4 percent of the nonwhite males are released on recognizance, as opposed to 43.6 percent of the white males. The difference in detention rates is also small: 28.5 percent for nonwhite males, and 22.2 percent for white males.

It has been suggested that some of the difference in treatment may be accounted for in Baltimore County by the fact that many of the blacks arrested there live in the City and hence are not considered to have ties to the community. Rule 777 does allow "the length of [the defendant's] residence in the community" and "any other factors indicating the defendant's ties to the community" to be considered in the setting of release conditions. We were unable to run a comparison on home addresses of defendants in Baltimore County, so we cannot confirm the accuracy of the suggestion. We also suggest that the small number of nonwhite defendants encountered in Baltimore County may have some bearing: only 107 of the 614 defendants, or 17.4 percent.

In much the same vein, the numbers of defendants arrested in Prince George's County who reside in the District of Columbia, most of whom are blacks, has been suggested as an explanation of the differential treatment there. For the same reasons regarding community ties quoted above, there is some legal authorization for denying release on recognizance to nonresidents. In this case there is the additional consideration that bench warrants issued in Maryland to compel appearance of a defendant who has violated the conditions of his release are not enforced by the District of Columbia police. So residence in the District may be a compelling reason to consider the risk of willful failure to appear to be high.

In 419 of the 659 cases in Prince George's County we had data on home addresses of defendants. Of these, we identified 91 defendants (21.7 percent of the 419 total) as being nonresidents of Prince George's County: 66 in the District of Columbia, six listed as having "no fixed address," two in the City of Baltimore, and the remaining 17 in other states (mainly North Carolina, West Virginia, and Pennsylvania). Of these, 21 were nonwhite females, 49 were nonwhite males, 3 were white females, and 17 were white males. One had missing race and sex data. Thus 77 percent of the nonresidents were nonwhites, whereas only 41 percent of the total sample were nonwhites.

Of the nonresidents 11 were released on recognizance (12.1 percent), 56 were released on full bail (61.5 percent), and 24 were detained (26.4 percent). These release conditions are indeed significantly different from those set for the sample as a whole. The group released on bail is particularly large, and we thought it would be interesting to examine the amount of bail required of the nonresidents as opposed to the residents. The results of this comparison are rather surprising: the average amount of bail set for the 56 nonresidents was \$915; the average amount set for the 110 residents (in the group of 419 on which we had address information) was \$944.

RELEASE STATUS USE ACCORDING TO SERIOUSNESS OF CHARGE

The frequency of use of release categories according to the seriousness of the charge⁷ against the defendant is set out in in Table 7 on the next page. We find small differences in the assignment of release conditions for defendants charged with minor misdemeanors and serious misdemeanors, with the trend being toward more frequent use of release on recognizance for the minor charges. However,

TABLE 7

RELEASE STATUS BY SERIOUSNESS OF CHARGE -- ALL JURISDICTIONS

| | Minor Misdemeanors | Serious Misdemeanors | Felonies | Total |
|------------------------------|-----------------------|-------------------------|---------------|----------------|
| Release on Recognizance | 839 46.8% | 1012 42.8% | 162 20.3% | 2013 40.6% |
| 10% Bail | 54 3.0% | 86 3.6% | 15 1.9% | 155 3.1% |
| Full Bail | 435 24.3% | 706 29.8% | 277 34.6% | 1418 28.6% |
| Detained | 381 21.3% | 422 17.8% | 284 35.5% | 1087 21.9% |
| No Data on Release Status | 83 4.6% | 141 6.0% | 62 7.8% | 286 5.8% |
| Total | 1792 100.0% | 2367 100.0% | 800 100.0% | 4959 100.0% |

3.16

3.17

when we examine the release conditions imposed on defendants charged with felonies, we see a significant difference. Only 20.3 percent of these defendants were released on recognizance, as opposed to 40.6 percent of the total sample. And 35.5 percent of these were detained, whereas only 21.9 percent of the total sample were detained. Rule 777 directs the commissioner to take into account "the nature and circumstances of the offense charged, the weight of evidence against the defendant, and the likely sentence upon conviction, *insofar as these factors are relevant to the risk of nonappearance.*" These however, are too large to imply anything but that the commissioners and judges specifying these release conditions were more concerned with their perception of the dangerousness of the defendant, than with the likelihood of appearance.

Tables 8, 9, and 10 contain the breakdown of this information by jurisdiction, and the data from Baltimore City follow the same general trend as the overall data. And again, the data from Baltimore County and Prince George's County also follow this trend, but the trend is rather more pronounced. In Baltimore County (Table 9), only 18.5 percent of the suspected felons were released on recognizance, as opposed to 52.8 percent of the total sample; 24.4 percent of those charged with felonies were detained, as opposed to 12.9 percent of the total. In Prince George's County (Table 10), 12.6 percent of those charged with felonies were released on recognizance, while 45.5 percent of the total sample were so released; 38.6 percent of those charged with felonies were detained, while 14.3 percent of the total sample were detained.

RELEASE STATUS BY PRIOR CRIMINAL RECORD

Next we shall turn to a discussion of the assignment of release conditions according to the previous record of the defendant. The description of

TABLE 8

RELEASE STATUS BY SERIOUSNESS OF CHARGE -- BALTIMORE CITY

| | Minor Misdemeanors | | Serious Misdemeanors | | Felonies | | Total | |
|------------------------------|-----------------------|-------|-------------------------|-------|---------------|-------|----------------|--------|
| Release on Recognizance | 643 44.3% | 46.3% | 622 37.0% | 44.8% | 124 22.4% | 8.9% | 1389 37.7% | 100.0% |
| 10% Bail | 53 3.7% | 35.6% | 82 4.9% | 55.0% | 14 2.5% | 9.4% | 149 4.0% | 100.0% |
| Full Bail | 324 22.3% | 34.0% | 481 28.6% | 50.5% | 148 26.7% | 15.5% | 953 25.9% | 100.0% |
| Detained | 351 24.2% | 38.4% | 357 21.2% | 39.1% | 206 37.2% | 22.5% | 914 24.8% | 100.0% |
| No Data on Release Status | 80 5.5% | 28.5% | 139 8.3% | 49.5% | 62 11.2% | 22.1% | 281 7.6% | 100.0% |
| Total | 1451 100.0% | 39.3% | 1681 100.0% | 45.6% | 554 100.0% | 15.0% | 3686 100.0% | 100.0% |

3.18

TABLE 9

RELEASE STATUS BY SERIOUSNESS OF CHARGE -- BALTIMORE COUNTY

| | Minor Misdemeanors | | Serious Misdemeanors | | Felonies | | Total | |
|------------------------------|-----------------------|-------|-------------------------|--------|---------------|-------|---------------|--------|
| Release on Recognizance | 100 61.3% | 30.9% | 202 60.8% | 62.3% | 22 18.5% | 6.8% | 324 52.8% | 100.0% |
| 10% Bail | 0 0.0% | 0.0% | 4 1.2% | 100.0% | 0 0.0% | 0.0% | 4 0.6% | 100.0% |
| Full Bail | 46 28.2% | 22.7% | 89 26.8% | 43.8% | 68 57.1% | 33.5% | 203 33.1% | 100.0% |
| Detained | 15 9.2% | 19.0% | 35 10.5% | 44.3% | 29 24.4% | 36.7% | 79 12.9% | 100.0% |
| No Data on Release Status | 2 1.2% | 50.0% | 2 0.6% | 50.0% | 0 0.0% | 0.0% | 4 0.6% | 100.0% |
| Total | 163 100.0% | 26.5% | 332 100.0% | 54.1% | 119 100.0% | 19.4% | 614 100.0% | 100.0% |

3.19

TABLE 10

RELEASE STATUS BY SERIOUSNESS OF CHARGE -- PRINCE GEORGE'S COUNTY

| | Minor Misdemeanors | Serious Misdemeanors | Felonies | Total |
|------------------------------|-----------------------|-------------------------|---------------|---------------|
| Release on Recognition | 96 53.9% | 188 62.7% | 16 5.3% | 300 100.0% |
| 10% Bail | 1 0.6% | 0 0.0% | 1 0.8% | 2 0.3% |
| Full Bail | 65 36.5% | 136 38.4% | 61 48.0% | 262 39.8% |
| Detained | 15 8.4% | 30 8.5% | 49 38.6% | 94 14.3% |
| No Data on Release Status | 1 0.6% | 0 0.0% | 0 0.0% | 1 0.2% |
| Total | 178 100.0% | 354 100.0% | 127 100.0% | 659 100.0% |

3.20

3.21

data in the next chapter explains the sources for our information on criminal histories of defendants, which were different in each jurisdiction.

There is much complaint from everyone who has need of criminal records -- the police as well as the commissioners and judges -- concerning the quality of the records. Particularly in doubt are their accuracy and completeness. Therefore, we should not necessarily regard as totally accurate the figure showing that 65.7 percent of the defendants in our sample had no previous convictions. Many of them may well have had convictions in other jurisdictions, or even convictions in the same jurisdiction, that did not appear on the rap sheets. But even so, the information we have here is at least as good as the information available to the commissioners at the time they make release decisions. In fact, since many commissioners we interviewed complained that they have a great deal of trouble getting any criminal records at all by telephone to the police, especially late at night, we have reason to believe that our information may be better than that available to the commissioners.

Rule 777 specifically directs the commissioner to consider "the defendant's prior criminal record *insofar as it reveals information respecting appearance at future court proceedings or of flight to avoid prosecution or failure to appear at court proceedings*" in setting release conditions. But in many cases the commissioners find this difficult, if not impossible, to do. Specific procedures must be worked out with local police departments to provide this information to the commissioners. There are several ways the problem could be attacked, if the proper spirit of cooperation were present. In many cases

the arresting officer, who generally has easier access to police records than do court personnel, could get this information when the arrestee is booked, and have it available for the commissioner at initial appearance.

Table 11 on the next page compiles the frequency of use of release categories according to number of previous convictions.

But we note here that 50.9 percent of those defendants with no previous convictions were released on recognizance, and 21.4 percent of them were detained. Only 24.9 percent of those with three or more convictions were released on recognizance, while 40.8 percent of them were detained. There is nothing surprising about these findings. Tables 12, 13, and 14 contain the breakdown of this information by jurisdiction.

Tables 15, 16, and 17 report on this subject of release status by previous convictions, controlling for race.

TABLE 11

RELEASE STATUS BY PREVIOUS CONVICTIONS -- ALL JURISDICTIONS

| | Release on Recognizance | | 10% Bail | | Full Bail | | Detained | | No Data on Release Status | | Totals | |
|--------------------------|----------------------------|--------|----------|--------|-----------|--------|----------|--------|------------------------------|--------|--------|--------|
| No Record | 1188 | 50.9% | 57 | 2.4% | 549 | 23.5% | 499 | 21.4% | 42 | 1.8% | 2335 | 100.0% |
| | | 73.2% | | 52.3% | | 62.7% | | 57.6% | | 51.2% | | 65.7% |
| 1 or 2 Convictions | 366 | 38.8% | 39 | 4.1% | 253 | 26.8% | 254 | 26.9% | 32 | 3.4% | 944 | 100.0% |
| | | 22.5% | | 35.8% | | 28.9% | | 29.3% | | 39.0% | | 26.5% |
| 3 or more Convictions | 69 | 24.9% | 13 | 4.7% | 74 | 26.7% | 113 | 40.8% | 8 | 2.9% | 277 | 100.0% |
| | | 4.3% | | 11.9% | | 8.4% | | 13.0% | | 9.8% | | 7.8% |
| Total | 1623 | 45.6% | 109 | 3.1% | 876 | 24.6% | 866 | 24.4% | 82 | 2.3% | 3556 | 100.0% |
| | | 100.0% | | 100.0% | | 100.0% | | 100.0% | | 100.0% | | 100.0% |

TABLE 12

RELEASE STATUS BY PREVIOUS CONVICTIONS -- BALTIMORE CITY

| | Release on Recognizance | | 10 % Bail | | Full Bail | | Detained | | No Data on Release Status | | Totals | |
|--------------------------|----------------------------|--------|-----------|--------|-----------|--------|----------|--------|------------------------------|--------|--------|--------|
| No Record | 861 | 55.9% | 54 | 3.5% | 307 | 20.0% | 291 | 18.9% | 26 | 1.7% | 1539 | 100.0% |
| | | 69.9% | | 51.4% | | 53.0% | | 48.6% | | 44.8% | | 59.8% |
| 1 or 2 Convictions | 323 | 39.4% | 38 | 4.6% | 211 | 25.8% | 218 | 26.6% | 29 | 3.5% | 819 | 100.0% |
| | | 26.2% | | 36.2% | | 36.5% | | 36.4% | | 50.0% | | 31.8% |
| 3 or more Convictions | 48 | 22.3% | 13 | 6.0% | 61 | 28.4% | 90 | 41.9% | 3 | 1.4% | 215 | 100.0% |
| | | 3.9% | | 12.4% | | 10.5% | | 15.0% | | 5.2% | | 8.4% |
| Total | 1232 | 47.9% | 105 | 4.1% | 579 | 22.5% | 599 | 23.3% | 58 | 2.3% | 2573 | 100.0% |
| | | 100.0% | | 100.0% | | 100.0% | | 100.0% | | 100.0% | | 100.0% |

3.24

TABLE 13

RELEASE STATUS BY PREVIOUS CONVICTIONS -- BALTIMORE COUNTY

| | Release on Recognizance | | 10 % Bail | | Full Bail | | Detained | | No Data on Release Status | | Totals | |
|--------------------------|----------------------------|--------|-----------|--------|-----------|--------|----------|--------|------------------------------|--------|--------|--------|
| No Record | 115 | 61.2% | 1 | 0.5% | 35 | 18.6% | 28 | 14.9% | 9 | 4.8% | 188 | 100.0% |
| | | 74.2% | | 50.0% | | 49.3% | | 49.1% | | 60.0% | | 62.7% |
| 1 or 2 Convictions | 26 | 38.2% | 1 | 1.5% | 25 | 36.8% | 15 | 22.1% | 1 | 1.5% | 68 | 100.0% |
| | | 16.8% | | 50.0% | | 35.2% | | 26.3% | | 6.7% | | 22.7% |
| 3 or more Convictions | 14 | 31.8% | 0 | 0.0% | 11 | 25.0% | 14 | 31.8% | 5 | 11.4% | 44 | 100.0% |
| | | 9.0% | | 0.0% | | 15.5% | | 24.6% | | 33.3% | | 14.7% |
| Total | 155 | 51.7% | 2 | 0.7% | 71 | 23.7% | 57 | 19.0% | 15 | 5.0% | 300 | 100.0% |
| | | 100.0% | | 100.0% | | 100.0% | | 100.0% | | 100.0% | | 100.0% |

3.25

TABLE 14

RELEASE STATUS BY PREVIOUS CONVICTIONS -- PRINCE GEORGE'S COUNTY

| | Release on Recognizance | | 10% Bail | | Full Bail | | Detained | | No Data on Release Status | | Totals | |
|--------------------------|----------------------------|-------|----------|------|-----------|-------|----------|-------|------------------------------|------|--------|--------|
| No Record | 267 | 45.5% | 2 | 0.3% | 238 | 40.5% | 79 | 13.5% | 1 | 0.2% | 587 | 100.0% |
| | 89.0% | | 100.0% | | 90.8% | | 84.0% | | 100.0% | | 89.1% | |
| 1 or 2 Convictions | 24 | 43.6% | 0 | 0.0% | 20 | 36.4% | 11 | 20.0% | 0 | 0.0% | 55 | 100.0% |
| | 8.0% | | 0.0% | | 7.6% | | 11.7% | | 0.0% | | 8.3% | |
| 3 or more Convictions | 9 | 52.9% | 0 | 0.0% | 4 | 23.5% | 4 | 23.5% | 0 | 0.0% | 17 | 100.0% |
| | 3.0% | | 0.0% | | 1.5% | | 4.3% | | 0.0% | | 2.6% | |
| Total | 300 | 45.5% | 2 | 0.3% | 262 | 39.8% | 94 | 14.3% | 1 | 0.2% | 659 | 100.0% |
| | 100.0% | | 100.0% | | 100.0% | | 100.0% | | 100.0% | | 100.0% | |

3.26

TABLE 15

RELEASE STATUS BY NUMBER OF PREVIOUS CONVICTIONS, CONTROLLING FOR RACE -- BALTIMORE CITY

| | Release on Recognizance | | 10% Bail | | Full Bail | | Detained | | No Data on Release Status | | Totals | |
|--------------------------|----------------------------|-------|----------|------|-----------|-------|----------|-------|------------------------------|------|--------|--------|
| No Record | 557 | 52.3% | 42 | 3.9% | 224 | 21.0% | 221 | 20.7% | 22 | 2.1% | 1066 | 100.0% |
| | 67.5% | | 50.0% | | 52.7% | | 47.5% | | 50.0% | | 57.9% | |
| 1 or 2 Convictions | 230 | 37.5% | 32 | 5.2% | 163 | 26.5% | 170 | 27.7% | 19 | 3.1% | 614 | 100.0% |
| | 27.9% | | 38.1% | | 38.4% | | 36.6% | | 43.2% | | 33.3% | |
| 3 or More Convictions | 38 | 23.3% | 10 | 6.1% | 38 | 23.3% | 74 | 45.4% | 3 | 1.8% | 163 | 100.0% |
| | 4.6% | | 11.9% | | 8.9% | | 15.9% | | 6.8% | | 8.9% | |
| <i>Subtotal</i> | 825 | 44.8% | 84 | 4.6% | 425 | 23.1% | 465 | 25.2% | 44 | 2.4% | 1843 | 100.0% |
| | 100.0% | | 100.0% | | 100.0% | | 100.0% | | 100.0% | | 100.0% | |
| No Record | 304 | 64.3% | 13 | 2.8% | 83 | 17.5% | 70 | 14.8% | 3 | 0.6% | 473 | 100.0% |
| | 74.7% | | 59.1% | | 54.2% | | 52.2% | | 23.1% | | 64.9% | |
| 1 or 2 Convictions | 93 | 45.7% | 3 | 1.6% | 38 | 20.1% | 45 | 23.8% | 10 | 5.3% | 189 | 100.0% |
| | 22.9% | | 13.6% | | 24.8% | | 33.6% | | 76.9% | | 25.9% | |
| 3 or More Convictions | 10 | 14.9% | 6 | 9.0% | 32 | 47.8% | 19 | 28.4% | 0 | 0.0% | 67 | 100.0% |
| | 2.5% | | 27.3% | | 20.9% | | 14.2% | | 0.0% | | 9.2% | |
| <i>Subtotal</i> | 407 | 55.8% | 22 | 3.0% | 153 | 21.0% | 134 | 18.4% | 13 | 1.8% | 729 | 100.0% |
| | 100.0% | | 100.0% | | 100.0% | | 100.0% | | 100.0% | | 100.0% | |
| TOTAL | 1232 | 47.9% | 106 | 4.1% | 578 | 22.5% | 599 | 23.3% | 57 | 2.3% | 2572 | 100.0% |

3.27

NON
WHITES

WHITES

TABLE 16

RELEASE STATUS BY NUMBER OF PREVIOUS CONVICTIONS, CONTROLLING FOR RACE -- BALTIMORE COUNTY

| | Release on Recognizance | | 10 % Bail | | Full Bail | | Detained | | No Data on Release Status | | Totals | |
|-----------------------|-------------------------|-------|-----------|------|-----------|-------|----------|-------|---------------------------|------|--------|--------|
| No Record | 5 | 26.3% | 0 | 0.0% | 4 | 21.1% | 9 | 47.4% | 1 | 5.3% | 19 | 100.0% |
| | 62.5% | | 0.0% | | 50.0% | | 47.4% | | 100.0% | | 52.8% | |
| 1 or 2 Convictions | 2 | 16.7% | 0 | 0.0% | 3 | 25.0% | 7 | 58.3% | 0 | 0.0% | 12 | 100.0% |
| | 25.0% | | 0.0% | | 37.5% | | 36.8% | | 0.0% | | 33.3% | |
| 3 or more Convictions | 1 | 20.0% | 0 | 0.0% | 1 | 20.0% | 3 | 60.0% | 0 | 0.0% | 5 | 100.0% |
| | 12.5% | | 0.0% | | 12.5% | | 15.8% | | 0.0% | | 13.9% | |
| Subtotal | 8 | 22.2% | 0 | 0.0% | 8 | 22.2% | 19 | 52.8% | 1 | 2.8% | 36 | 100.0% |
| | 100.0% | | 100.0% | | 100.0% | | 100.0% | | 100.0% | | 100.0% | |
| No Record | 105 | 65.2% | 1 | 0.6% | 30 | 18.6% | 19 | 11.8% | 6 | 3.7% | 161 | 100.0% |
| | 76.1% | | 50.0% | | 50.0% | | 51.4% | | 75.0% | | 65.7% | |
| 1 or 2 Convictions | 22 | 41.5% | 1 | 1.9% | 21 | 39.6% | 8 | 15.1% | 1 | 1.9% | 53 | 100.0% |
| | 15.9% | | 50.0% | | 35.0% | | 21.6% | | 12.5% | | 21.6% | |
| 3 or more Convictions | 11 | 35.5% | 0 | 0.0% | 9 | 29.0% | 10 | 32.3% | 1 | 3.2% | 31 | 100.0% |
| | 8.0% | | 0.0% | | 15.0% | | 27.0% | | 12.5% | | 12.7% | |
| Subtotal | 138 | 56.3% | 2 | 0.8% | 60 | 24.5% | 37 | 15.1% | 8 | 3.3% | 245 | 100.0% |
| | 100.0% | | 100.0% | | 100.0% | | 100.0% | | 100.0% | | 100.0% | |
| TOTAL | 146 | 52.0% | 2 | 0.7% | 68 | 24.2% | 56 | 19.9% | 9 | 3.2% | 281 | 100.0% |

NON
WHITES

WHITES

3.28

TABLE 17

RELEASE STATUS BY NUMBER OF PREVIOUS CONVICTIONS, CONTROLLING FOR RACE -- PRINCE GEORGE'S COUNTY

| | Release on Recognizance | | 10% Bail | | Full Bail | | Detained | | No Data on Release Status | | Totals | |
|-----------------------|-------------------------|-------|----------|------|-----------|-------|----------|-------|---------------------------|------|--------|--------|
| No Record | 88 | 35.8% | 2 | 0.8% | 110 | 44.7% | 45 | 18.3% | 1 | 0.4% | 246 | 100.0% |
| | 88.9% | | 100.0% | | 94.8% | | 88.2% | | 100.0% | | 91.4% | |
| 1 or 2 Convictions | 8 | 44.4% | 0 | 0.0% | 5 | 27.8% | 5 | 27.8% | 0 | 0.0% | 18 | 100.0% |
| | 8.1% | | 0.0% | | 4.3% | | 9.8% | | 0.0% | | 6.7% | |
| 3 or more Convictions | 3 | 60.0% | 0 | 0.0% | 1 | 20.0% | 1 | 20.0% | 0 | 0.0% | 5 | 100.0% |
| | 3.0% | | 0.0% | | 0.9% | | 2.0% | | 0.0% | | 1.9% | |
| Subtotal | 99 | 36.8% | 2 | 0.7% | 116 | 43.1% | 51 | 19.0% | 1 | 0.4% | 269 | 100.0% |
| | 100.0% | | 100.0% | | 100.0% | | 100.0% | | 100.0% | | 100.0% | |
| No Record | 178 | 52.7% | 0 | 0.0% | 125 | 37.0% | 35 | 10.4% | 0 | 0.0% | 338 | 100.0% |
| | 89.0% | | 0.0% | | 86.8% | | 81.4% | | 0.0% | | 87.3% | |
| 1 or 2 Convictions | 16 | 43.2% | 0 | 0.0% | 16 | 43.2% | 5 | 13.5% | 0 | 0.0% | 37 | 100.0% |
| | 8.0% | | 0.0% | | 11.1% | | 11.6% | | 0.0% | | 9.6% | |
| 3 or more Convictions | 6 | 50.0% | 0 | 0.0% | 3 | 25.0% | 3 | 25.0% | 0 | 0.0% | 12 | 100.0% |
| | 3.0% | | 0.0% | | 2.1% | | 7.0% | | 0.0% | | 3.1% | |
| Subtotal | 200 | 51.7% | 0 | 0.0% | 144 | 37.2% | 43 | 11.1% | 0 | 0.0% | 387 | 100.0% |
| | 100.0% | | 100.0% | | 100.0% | | 100.0% | | 100.0% | | 100.0% | |
| TOTAL | 300 | 45.5% | 2 | 0.3% | 262 | 39.8% | 94 | 14.3% | 1 | 0.2% | 659 | 100.0% |

NON
WHITES

WHITES

3.29

THE INFORMATION PROBLEM

Generally, the information problem is probably the most crucial faced by the commissioners. Most bail reform efforts have focused on this area, whose importance is emphasized in Freed and Wald's study of bail:

The basic defect in the [bail] system is its lack of facts. Unless the committing magistrate has information shedding light on the question of the accused's likelihood of return for trial, the amount of bail he sets bears only a chance relation to the sole lawful purpose for setting it at all. *So it is that virtually every experiment and every proposal for improving the bail system in the United States has sought to tailor the bail decision to information bearing on that central question.* For many, release on their personal promise to return will suffice. For others, the word of a personal surety, the supervision of a probation officer or the threat of loss of money or property may be necessary. For some, determined to flee, no control at all may prove adequate.⁸

Although the Maryland system offers all the reform alternatives, it does not place as much emphasis on filling the information gap. Literally, Rule 777 directs the commissioner to consider such things as the defendant's family ties and relationships, employment status and history, financial resources, reputation, character, length of residence in the community, and other ties to the community -- all things which other release-on-recognizance projects have found to be highly related to the likelihood of success on this type of release.

The pretrial release investigators assigned to the court in some jurisdictions attempt to investigate these things. But even where investigators are available in the middle of the night, these facts are difficult to ascertain at that hour. They can interview the defendant, but they cannot verify the information they obtain from him. And in the jurisdictions that have investigators on duty

only during the day, their skills are not available to the commissioners at all; they are used only to make recommendations to the judge for the purpose of bail review. So the commissioners must do the investigating themselves, a task that most either cannot or do not bother with.

There is an additional information problem faced by the commissioners. Article 27, Section 616½, which was mentioned in Chapter I, prohibits under certain circumstances the release of an offender rearrested for a new offense while he is free on pretrial release.⁹ Although there are very small numbers of such rearrests, it is noted that some of those we found in our sample were rereleased. We think that this does not indicate a disregard for Section 616½ so much as the inability of the commissioners to find out whether an arrestee brought before him is already out on release. We know of no way the commissioners can get this information unless the defendant himself volunteers it. This is especially so if the initial arrest took place in a different district.

THE COMMISSIONERS AND THE TRAINING PROBLEM

The commissioners themselves are a diverse group, with great variation in educational background and work experience. Many are law students, many are retired law enforcement officers, and most of the others have second jobs. Although exact statistics on turnover were unavailable, it is the impression of most commissioners and other court personnel that turnover rates are high. The reasons for this are fairly obvious in the case of the law-student commissioners -- they leave as soon as they pass the bar. In the case of the others, it was mentioned by many commissioners that the job is more demanding

than they thought it would be, particularly in terms of paperwork. They think that this is the reason many quit fairly soon.

On this point, however, it is our conclusion that the paperwork demanded is necessary; the court must have complete records of all its dealings with each offender if it is to function properly. If anything, the court needs better records than it has now. In our work with court records in the course of this study, we found many areas where forms were incompletely filled out. So we see no hope for a lessening of paperwork for the commissioners. But we do point out that prospective commissioners could be informed more accurately of the nature of the job.

In general, a greater sense of professionalism on the part of the commissioners would help with many of the problems. For instance, one subject that comes up for discussion frequently is the qualifications for the job of commissioner. It should be obvious that there are some. But they are articulated nowhere, and this fact detracts from the prestige of the position.

What should the qualifications be? Some type of legal training is frequently mentioned. This would be desirable not only from the standpoint of the importance of the pretrial release decision and its legal consequences, but also because of another function of the commissioners, that of issuing warrants. In cities and other areas where the police are well-trained, the arrest warrants issued on the basis of a policeman's complaint are usually well-founded and based on a case with ample evidence. A citizen's complaint is somewhat different. The commissioner must decide whether a crime has been committed;

whether the evidence is sufficient to justify a warrant; and what specific charges should be made against the offender. Obviously, legal training would be helpful.

At first glance, the law students seem to fill the bill, but there are drawbacks. First, many communities are not near enough to a law school to tap that source of talent. Second, using law students means that much of the court administration's time must be devoted to filling the vacant positions caused by constant turnover. And finally, in some jurisdictions the judges and other concerned officials object to law students on the grounds that they are young and lack the objective judgment that comes with maturity; they consider this to be a special handicap in making pretrial release decisions. So, while we see nothing wrong with continuing to employ law students as commissioners, their use will not solve the legal-training problem everywhere.

It seems, however, that the training problem could be approached directly by the courts. If a policeman can be given enough legal training to do his job, so can a commissioner. Training in the specific duties of the commissioner's job, and in the general background of the court's place and the commissioner's place in the criminal justice system should be given all new commissioners, and inservice training should continue periodically throughout a commissioner's tenure.

FOOTNOTES TO CHAPTER III

- 1 The next two chapters will be concerned with the design, methodology, and findings of this, the major part of the study.
- 2 Appendix C contains the full text of the rule.
- 3 We are referring here to the target population of our study: the population of arrestees brought to district court from June 15 to July 14, 1973. See the next chapter for a full description. The data collected in Prince George's County were not complete on the subject of bail review. In that county, there were 29 cases which had bail reviews, but on which we did not have bail review data. Presumably, the commissioner's decision was also affirmed in some of these.
- 4 As an example of what we mean by individual biases, one commissioner commented that a judge in his district believes that shoplifters should never be released except on high money bail. Commissioners in that district therefore set high money bail for shoplifters. By contrast, a commissioner in another district mentioned shoplifting as one of the charges which usually gets an arrestee a release on personal recognizance. Similar comments were made by other commissioners about their perceptions of what a particular judge wanted done with a particular type of offender. To follow this practice would be to ignore Rule 777. Note the rule's definite statement: "Conditions of pretrial release shall not be set by the judicial officer by reference to a predetermined schedule of amounts fixed according to the nature of the charge, but shall in each case, be the result of an individualized decision, taking into account the special circumstances of each defendant."
- 5 Rule 777 states: "Any defendant charged with an offense not punishable by death shall, at his appearance before a judicial officer, be ordered released pending trial on his personal recognizance unless the officer determines that such a release will not reasonably assure the appearance of the defendant as required."
- 6 We were unable to rerun the Baltimore City sample to obtain these figures for that jurisdiction.
- 7 See Appendix E for an explanation of the classification of charges into these categories.
- 8 Daniel J. Freed and Patricia M. Wald, *Bail in the United States: 1964* (Washington, D.C.: National Conference on Bail and Criminal Justice, 1964), p. 56. Emphasis added.
- 9 The full text is set out in Appendix D.

CHAPTER IV

RESEARCH DESIGN AND DESCRIPTION OF DATA

CHAPTER IV

RESEARCH DESIGN AND DESCRIPTION OF DATA

The research on which this report is based was a prospective study tracing a selected group of defendants under the jurisdiction of the Maryland District Court. The group of defendants studied consisted of all those persons brought to district court for an initial appearance immediately following arrest from June 15 to July 14, 1973, in the three jurisdictions of Baltimore City, Baltimore County, and Prince George's County. Tracing continued for 90 days, or until disposition of the case, or until an arrestee's case was sent to the grand jury for possible indictment (in which case he passed into the jurisdiction of the circuit court) -- whichever came first. Thus tracing was completed October 15, 1973.

The base data for this analysis were collected in different ways in the different jurisdictions, but the same or similar information was collected on each person whose case was studied. The automatic data processing system recently put into operation in the City of Baltimore was used in that jurisdiction, and information was collected manually in the other two.

BALTIMORE CITY

Duplicate computer cards were made available to us on each case in our Baltimore City group. In addition, special cards were punched for the purposes of this study, from information in the individual case files. These case cards contained the following information on each person in the group:

- o name
- o age
- o race
- o sex
- o arrest date
- o charge
- o type of charging document
- o trial date
- o initial release status
- o bail review results
- o postponements
- o preliminary actions, if any
- o results of preliminary hearing
- o trial data
- o disposition and disposition date

We had difficulty matching the two sets of duplicate cards with the special cards punched for NCCD, and more than a normal number of mispunches occurred. The newness of the automatic data processing system at the time of our target dates may account for the problem; there was probably not enough time elapsed to get the bugs out of a new system. There were 3,686 cases in our

target population, but we could match for complete data only 2,606 cases. In making each tabulation, we used the largest number of cases for which the necessary information was reliable, so the totals will vary.

Criminal histories on persons in this group -- not available from court records -- were obtained with the cooperation of the City of Baltimore Police Department. For each arrest made by the department during the sample period (June 15 to July 14, 1973), the officer recording the arrest made a copy for our use of the Central Records Division's form for Notification as to Record. This form records:

- o name
- o race
- o sex
- o year of birth
- o arrest date
- o charge
- o number of previous arrests
- o number of previous convictions
- o seriousness of charge (minor/serious) in previous arrests/convictions
- o arrestee currently on probation or parole (yes/no)
- o arrestee wanted (yes/no)
- o result of NCIC record check

The information was transferred to data processing cards to be matched with the cases obtained from district court records for Baltimore City. It was

necessary to start with the cases from the district court for which all cards matched, because we needed names (from the special card) plus the case data from the duplicate district court cards to match with police records. So we had the 2,606 cases with which to work. We had police arrest records for the same period on about 5,000 persons arrested. We compared name, age, race, and sex, and were able to match police information on previous record with district court defendants for 2,573 cases. Presumably, many of the unmatched police records would match district court cases on which we could not produce names.

Finally, our research design called for determining the facts about releasees arrested for new offenses while out on district court release. This was accomplished in this jurisdiction by using the computer cards on each arrest and charge made during the June 15 to October 15 tracing period. We searched for any rearrests of persons in our June 15 - July 14 sample (from any of the three jurisdictions) that occurred in Baltimore City after the original release date and before the date of disposition.

BALTIMORE COUNTY

A special log book recording case information on each person arrested and brought before a commissioner in Baltimore County was kept by the district court commissioners there. The log entry on an arrestee was begun at first commissioner appearance and kept up-to-date through disposition until October 15. The log recorded:

- o name
- o arrest date
- o charge
- o race
- o sex
- o age
- o warrant or summons date and number
- o type of release, if any
- o amount of bail, if any
- o person posting bail, if any
- o trial date

In addition the case folder jackets, containing summary information on each case in the sample, were photocopied for our use. Additional information on release conditions, commissioner or judge releasing, charges, and dispositions, was gathered from these.

Information on rearrests of releasees was determined by using the records of arrests in the log book through October 15. Any arrests in Baltimore County of sample releasees from any of the three jurisdictions for new offenses between release date and disposition date were noted. All this information from the log book and case folder jackets was punched on cards for automatic data processing, and we had complete court data on 614 defendants.

Criminal histories on persons in this group were obtained with the cooperation of the Baltimore County Police Department. Records clerks there pulled the

files on each arrest made during the sample period and photocopied their criminal record rap sheets or informed us that the arrestee had no previous record. This information was also transferred to data processing cards. We noted a discrepancy, however, between the arrests recorded by the county police and the arrestees brought before commissioners in the county. District court records showed 197 arrestees seen by commissioners that did not match any of the police arrests. And the police recorded 600 arrests that did not appear before the district court. We were able to match 300 cases for criminal history data.

PRINCE GEORGE'S COUNTY

A special log book like the one kept in Baltimore County was also kept in Prince George's County, and it recorded the same information noted above, plus disposition data. Likewise, the case folder jackets on cases with completed dispositions were photocopied for our use. Information on rearrests of releasees between release date and disposition date was gathered by use of the case index kept in the district clerk's office.

Criminal histories on persons in this group were obtained with the cooperation of the Prince George's County Police Department. The fact that more than 20 police departments operate in the county made the use of police department arrest logs impractical, so records clerks there worked from our log sheet of arrestees. They pulled criminal records and summarized this information for our use. It is noted that an unusually large number of these defendants were listed as having no previous record. Fully 89 percent of the target population in Prince George's County were found to have no previous convictions. Many

of these may indeed have records elsewhere (in the District of Columbia, for instance). But whether they do or not, the quality of the criminal history information we collected was at least as good as, if not better than, the quality of information available to the commissioners at the time that release decisions are made.

Again, all the information gathered in this jurisdiction was punched on cards for automatic data processing, and we had complete data on 659 defendants.

CHAPTER V

FINDINGS

CHAPTER V

FINDINGS

As we noted in discussing the issues surrounding pretrial release, the purpose of imposing any conditions at all on release prior to trial is to assure that the defendant will appear for trial. The decision of the commissioner or judge on what conditions are to be imposed on a defendant's release ought to be based, and Maryland District Rule 777 directs it to be based, on a judgment of what conditions are necessary to ensure appearance. So, to a large extent, the success or failure of a pretrial release policy is dependent on the extent to which defendants actually appear for trial.

For that reason, the main focus of this study was to follow an actual group of district court defendants from arrest to trial, and to determine the rate at which they appeared for trial. The preceding chapter discussed the makeup of the group of defendants followed, and the sources of our information. This chapter reports on the findings of the study.

FAILURE TO APPEAR

Table 18 on the next page presents the raw rates for appearance and failure to appear at trial for each of the three jurisdictions studied, and for the three jurisdictions combined. The overall failure-to-appear rate for the total population of 4,959 defendants was 3.9 percent. It was slightly lower for defendants in Baltimore City, and slightly higher for defendants in Baltimore County and Prince George's County: 3.6 percent, 4.7 percent, and 4.7 percent, respectively.

TABLE 18
FAILURE TO APPEAR

| | Failed to Appear | | Appeared | | TOTAL | |
|---------------------------|------------------|------|----------------|-------|----------------|--------|
| Baltimore City | 133 68.9% | 3.6% | 3553 74.5% | 96.4% | 3686 74.3% | 100.0% |
| Baltimore County | 29 15.0% | 4.7% | 585 12.3% | 95.3% | 614 12.4% | 100.0% |
| Prince George's County | 31 16.1% | 4.7% | 628 13.2% | 95.3% | 659 13.3% | 100.0% |
| ALL JURISDICTIONS | 193 100.0% | 3.9% | 4766 100.0% | 96.1% | 4959 100.0% | 100.0% |

Since we know from the impressions of knowledgeable professionals working in the district court system that the time from arrest to trial is generally shorter in Baltimore City than in the other two jurisdictions, we ran a random sample of the cases in Baltimore City to see if the length of time from arrest to trial had any effect on the failure-to-appear rate.

Table 19 reports the result of that investigation. Although the overall failure-to-appear rate for the sample turned out to be higher than for the entire Baltimore City group (5.1 percent as opposed to the overall 3.6 percent), the breakdown by time from arrest to trial does follow the pattern of lower failure-to-appear rates for speedier trials. The group tried in one week or less clearly had the lowest rate: 2.4 percent. By contrast the group tried in two weeks showed a rate of 7.0 percent; and the group tried in three weeks, 6.8 percent. The group tried in four or more weeks showed a low failure-to-appear rate of 3.7 percent, but the very small number of defendants in the group (only 27) make the reliability of the finding questionable.

We also computed the average time from arrest to trial on this Baltimore City sample. It was 11.5 days. By contrast, the average time from arrest to trial is 46.8 days in Baltimore County, and 62.4 days in Prince George's County (computed on total populations in those two counties). If the pattern shown in Table 19 is a true one, these differences in length of time from arrest to trial may partially explain the fact that the failure-to-appear rates are higher in Baltimore County and Prince George's County than in Baltimore City.

TABLE 19

FAILURE TO APPEAR, CONTROLLING FOR TIME FROM ARREST TO TRIAL -- BALTIMORE CITY

| | Failed to Appear | | Appeared | | TOTAL | |
|-----------------|------------------|------|----------------|-------|----------------|--------|
| 1 Week | 11 18.0% | 2.4% | 457 40.1% | 97.6% | 468 39.0% | 100.0% |
| 2 Weeks | 32 52.5% | 7.0% | 423 37.1% | 93.0% | 455 37.9% | 100.0% |
| 3 Weeks | 17 27.9% | 6.8% | 233 20.5% | 93.2% | 250 20.8% | 100.0% |
| 4 or More Weeks | 1 1.6% | 3.7% | 26 2.3% | 96.3% | 27 2.2% | 100.0% |
| TOTAL | 61 100.0% | 5.1% | 1139 100.0% | 94.9% | 1200 100.0% | 100.0% |

Computed from a random sample of cases with complete data

But the failure-to-appear rates in each of the three jurisdictions remain quite low by national standards. Although we know of no other study completed in another jurisdiction that is directly comparable to this one, that is, one which reports on appearance rates for an entire population of defendants released under circumstances similar to those in Maryland, many of the specialized bail reform projects have computed appearance rates.

The first five months of a bail reform project in Philadelphia were studied.

That project operated as follows:

Both release on own recognizance and release when 10 percent of the bail bond is paid result from recommendations of the ROR staff. The ROR program, financed by LEAA and the City, has a staff of thirty. The bulk of the employees are law students who are employed as interviewers. The program has been in operation since June [1971]. From available statistics, ROR has provided release for about 44 percent of those accused of crimes, other than summary offenses, for the first five months of the program. Of those released, 6 percent willfully failed to appear.¹

Thus, even a project that employed special interviewers to investigate and make release recommendations showed a 6-percent failure-to-appear rate for those released on recognizance.

A pretrial release project in Des Moines had somewhat better results. It operated in the following manner:

The Des Moines Pretrial Release Project implemented the release on own recognizance (ROR) type of approach in 1964. ... Five criteria are used and in order to be recommended for release by the Pretrial Project, a defendant must have a Polk County address at which he can be reached and a total of five points. [The selection criteria are length of present residence, number and type of family ties, length of residence in Polk County, length of present employment, and number and type of

prior convictions.] Point ratings are based upon information information obtained from defendants. Law students conduct individual interviews of arrestees, verify the information (usually by telephone), and provide their reports to the court. The decision on release remains with the judiciary.²

The first five-year summary of results indicated that during the period from 1964 to 1969 it was responsible for the release of 3,800 people, of which 2.4 percent failed to appear for trial.³

Thus, a project with elaborate investigative procedures, a project that does not deal with all defendants but only with a selected group of defendants who meet its criteria for release, has shown a failure-to-appear rate of 2.4 percent over a five-year period. The overall rate found in Maryland of 3.9 percent compares very favorably.

Finally, we refer for comparison to a study that "compare[d] the proportion of defendants released on bail and the proportion who fail to show up for trial in cities that have instituted bail reform projects as opposed to cities in which traditional bail systems prevail."⁴ Also included in the study were cities in Illinois utilizing a statewide 10-percent bail deposit plan. The following results were turned up:

FIGURE A⁵

| | Percent released on own recognizance | Percent of those released on own recognizance who failed to show (jumped and arrested) |
|---------------------------|--------------------------------------|--|
| Traditional bail practice | 7% | 12% |
| Bail reform | 27% | 10% |

FIGURE B⁶

| | Percent of those released on bail who jumped or were arrested |
|---------------------------|---|
| Traditional bail practice | 17% |
| Bail reform | 16% |
| Illinois plan | 18% |

FAILURE TO APPEAR BY RELEASE STATUS

Table 20 reports the failure-to-appear rates controlled for type of release in the three jurisdictions combined. Since the overall failure-to-appear rate of 3.9 percent included those detained prior to trial, the individual rates for types of release are naturally somewhat higher than the overall rate: thus, 4.8 percent for release on recognizance, 5.2 percent for 10-percent bail, and 4.9 percent for full bail.

The data also showed nine defendants reported as detained failing to appear for trial. Although we would normally expect all those defendants detained to appear for trial, there are possible explanations for the showing of failure to appear. One possibility is that a defendant in this group was initially detained because of failure to raise the bail set, and later released on bail. Normally such an occurrence would be reported in the court records to which we had access, and such a defendant would be included in the "full bail" group. But if the records on such a defendant were incomplete, he might show up only as being detained. A second possibility is that officials at the jail or lockup where a defendant was held failed to bring him to court on his trial date, whether because they were incorrectly notified of his trial date, or for some other reason.

TABLE 20

FAILURE TO APPEAR BY RELEASE STATUS -- ALL JURISDICTIONS

| | Failed to Appear | | Appeared | | TOTAL | |
|------------------------------|------------------|------|----------------|-------|----------------|--------|
| Release on Recognizance | 96 49.7% | 4.8% | 1917 40.2% | 95.2% | 2013 40.6% | 100.0% |
| 10% Bail | 7 3.6% | 5.2% | 148 3.1% | 94.8% | 155 3.1% | 100.0% |
| Full Bail | 70 36.3% | 4.9% | 1348 28.3% | 95.1% | 1418 28.6% | 100.0% |
| SUBTOTAL-- Releasees | 173 89.6% | 4.8% | 3413 71.6% | 95.2% | 3586 72.3% | 100.0% |
| Detained | 9 4.7% | 0.8% | 1078 22.6% | 99.2% | 1087 21.9% | 100.0% |
| No Data on Release Status | 11 5.7% | 3.8% | 275 5.8% | 96.2% | 286 5.8% | 100.0% |
| TOTAL | 193 100.0% | 4.4% | 4766 100.0% | 95.6% | 4959 100.0% | 100.0% |

TABLE 21

FAILURE TO APPEAR BY RELEASE STATUS -- BALTIMORE CITY

| | Failed to Appear | | Appeared | | TOTAL | |
|------------------------------|------------------|------|----------------|-------|----------------|--------|
| Release on Recognizance | 65 48.9% | 4.7% | 1324 37.3% | 95.3% | 1389 37.7% | 100.0% |
| 10% Bail | 6 4.5% | 4.0% | 143 4.0% | 96.0% | 149 4.0% | 100.0% |
| Full Bail | 43 32.3% | 4.5% | 910 25.6% | 95.5% | 953 25.9% | 100.0% |
| SUBTOTAL-- Releasees | 114 85.7% | 4.6% | 2377 66.9% | 95.4% | 2491 67.6% | 100.0% |
| Detained | 8 6.0% | 0.9% | 906 25.5% | 99.1% | 914 24.8% | 100.0% |
| No Data on Release Status | 11 8.3% | 3.9% | 270 7.6% | 96.1% | 281 7.6% | 100.0% |
| TOTAL | 133 100.0% | 3.6% | 3553 100.0% | 96.4% | 3686 100.0% | 100.0% |

TABLE 22

FAILURE TO APPEAR BY RELEASE STATUS -- BALTIMORE COUNTY

| | Failed to Appear | | Appeared | | TOTAL | |
|------------------------------|------------------|-------|---------------|--------|---------------|--------|
| Release on Recognizance | 17 58.6% | 5.2% | 307 52.0% | 94.8% | 324 52.1% | 100.0% |
| 10% Bail | 1 3.4% | 25.0% | 3 0.6% | 75.0% | 4 0.5% | 100.0% |
| Full Bail | 11 37.9% | 5.4% | 192 32.4% | 94.6% | 203 33.0% | 100.0% |
| SUBTOTAL-- Releasees | 29 100.0% | 5.5% | 502 85.0% | 94.5% | 531 85.6% | 100.0% |
| Detained | 0 0.0% | 0.0% | 79 14.3% | 100.0% | 79 13.7% | 100.0% |
| No Data on Release Status | 0 0.0% | 0.0% | 4 0.8% | 100.0% | 4 0.7% | 100.0% |
| TOTAL | 29 100.0% | 4.7% | 585 100.0% | 95.3% | 614 100.0% | 100.0% |

CONTINUED

1 OF 2

TABLE 23

FAILURE TO APPEAR BY RELEASE STATUS -- PRINCE GEORGE'S COUNTY

| | Failed to Appear | | Appeared | | TOTAL | |
|------------------------------|------------------|------|---------------|--------|---------------|--------|
| Release on Recognizance | 14 45.2% | 4.7% | 286 45.5% | 95.3% | 300 45.5% | 100.0% |
| 10% Bail | 0 0.0% | 0.0% | 2 0.3% | 100.0% | 2 0.3% | 100.0% |
| Full Bail | 16 51.6% | 6.1% | 246 39.2% | 93.9% | 262 39.8% | 100.0% |
| SUBTOTAL-- Releasees | 30 96.8% | 5.3% | 534 85.0% | 94.7% | 564 85.6% | 100.0% |
| Detained | 1 3.2% | 1.1% | 93 14.8% | 98.9% | 94 14.3% | 100.0% |
| No Data on Release Status | 0 0.0% | 0.0% | 1 0.2% | 100.0% | 1 0.2% | 100.0% |
| TOTAL | 31 100.0% | 4.7% | 628 100.0% | 95.3% | 659 100.0% | 100.0% |

Tables 21, 22, and 23 report the failure-to-appear rates by release status for Baltimore City, Baltimore County, and Prince George's County, respectively. They generally follow the same pattern established in Table 20 for all jurisdictions, and we note particularly that failure-to-appear rates for release on recognizance are approximately as low or lower than those for other types of release.

FAILURE TO APPEAR, CONTROLLING FOR OUTCOMES OF BAIL REVIEW HEARINGS

Table 24 reports the findings on failure to appear controlling for the outcomes of bail review hearings. The category at the top of the table, "No Bail Review" represents that group of cases in which the commissioner's decision was final. The subtotal near the bottom of the table labeled "Judge's Decisions" represents a combined figure for all the outcome categories in which a bail review was held. Thus, we can contrast the failure-to-appear rate of 4.2 percent for commissioners' decisions with the subtotal rate of 3.0 percent for judges' decisions. So the judges did somewhat better than the commissioners overall, but, in defense of the commissioners, certain circumstances should be borne in mind. First, in Baltimore City and Baltimore County, the judges had access to reports of pre-trial release investigators to aid them in making decisions. Second, the group of defendants who were detained prior to trial (and nearly all of whom necessarily appeared for trial), appear in the group of cases under judges' decisions, because they were all required to have bail reviews.

Tables 25, 26, and 27 report individual findings for Baltimore City, Baltimore County, and Prince George's County, respectively. The main fact to be noted in studying them is that the difference in failure-to-appear rates for

TABLE 24
FAILURE TO APPEAR BY BAIL REVIEW OUTCOMES -- ALL JURISDICTIONS

| | Failed to Appear | | Appeared | | TOTAL | |
|--|------------------|------|----------|-------|--------|--------|
| No Bail Review | 154 | 4.2% | 3518 | 95.8% | 3672 | 100.0% |
| | 79.8% | | 73.8% | | 74.0% | |
| Judge Affirmed Commissioner's Decision | 19 | 2.3% | 823 | 97.7% | 842 | 100.0% |
| | 9.8% | | 17.3% | | 17.0% | |
| Judge Reduced Bail | 15 | 5.9% | 239 | 94.1% | 254 | 100.0% |
| | 7.8% | | 5.0% | | 5.1% | |
| Judge Increased Bail | 2 | 2.7% | 72 | 97.3% | 74 | 100.0% |
| | 1.0% | | 1.5% | | 1.5% | |
| Judge Released on Recognizance | 2 | 2.3% | 86 | 97.7% | 88 | 100.0% |
| | 1.0% | | 1.8% | | 1.8% | |
| Bail Reviews with Data on Outcomes Missing | 1 | 3.4% | 28 | 96.6% | 29 | 100.0% |
| | 0.5% | | 0.6% | | 0.6% | |
| SUBTOTAL-- | 39 | 3.0% | 1248 | 97.0% | 1287 | 100.0% |
| Judge's Decisions | 20.2% | | 26.2% | | 26.0% | |
| TOTAL | 193 | 3.9% | 4766 | 96.1% | 4959 | 100.0% |
| | 100.0% | | 100.0% | | 100.0% | |

TABLE 25

FAILURE TO APPEAR BY BAIL REVIEW OUTCOMES -- BALTIMORE CITY

| | Failed to Appear | | Appeared | | TOTAL | |
|--|------------------|------|----------------|-------|----------------|--------|
| No Bail Review | 99 74.4% | 3.7% | 2553 71.9% | 96.3% | 2652 71.9% | 100.0% |
| Judge Affirmed Commissioner's Decision | 18 13.5% | 2.4% | 724 20.4% | 97.6% | 742 20.1% | 100.0% |
| Judge Reduced Bail | 13 9.8% | 7.2% | 167 4.7% | 92.8% | 180 4.9% | 100.0% |
| Judge Increased Bail | 2 1.5% | 4.2% | 46 1.3% | 95.8% | 48 1.3% | 100.0% |
| Judge Released on Recognizance | 1 0.8% | 1.6% | 63 1.7% | 98.4% | 64 1.7% | 100.0% |
| SUBTOTAL-- Judge's Decisions | 34 25.6% | 3.3% | 1000 28.1% | 96.7% | 1034 28.1% | 100.0% |
| TOTAL | 133 100.0% | 3.6% | 3553 100.0% | 96.4% | 3686 100.0% | 100.0% |

TABLE 26

FAILURE TO APPEAR BY BAIL REVIEW OUTCOMES -- BALTIMORE COUNTY

| | Failed to Appear | | Appeared | | TOTAL | |
|--|------------------|------|---------------|--------|---------------|--------|
| No Bail Review | 26 89.7% | 5.4% | 454 77.6% | 94.6% | 480 78.2% | 100.0% |
| Judge Affirmed Commissioner's Decision | 1 3.4% | 1.6% | 61 10.4% | 98.4% | 62 10.1% | 100.0% |
| Judge Reduced Bail | 1 3.4% | 2.7% | 36 6.2% | 97.1% | 37 6.0% | 100.0% |
| Judge Increased Bail | 0 0.0% | 0.0% | 22 3.8% | 100.0% | 22 3.6% | 100.0% |
| Judge Released on Recognizance | 1 3.4% | 7.7% | 12 2.1% | 92.3% | 13 2.2% | 100.0% |
| SUBTOTAL-- Judge's Decisions | 3 10.3% | 1.6% | 131 22.4% | 98.4% | 134 21.8% | 100.0% |
| TOTAL | 29 100.0% | 4.7% | 585 100.0% | 95.3% | 614 100.0% | 100.0% |

TABLE 27

FAILURE TO APPEAR BY BAIL REVIEW OUTCOMES -- PRINCE GEORGE'S COUNTY

| | Failed to Appear | | Appeared | | TOTAL | |
|--|------------------|------------|----------|------------|--------|------------|
| | Count | Percentage | Count | Percentage | Count | Percentage |
| No Bail Review | 29 | 5.4% | 511 | 94.6% | 540 | 100.0% |
| | 93.5% | | 81.4% | | 81.9% | |
| Judge Affirmed Commissioner's Decision | 0 | 0.0% | 38 | 100.0% | 38 | 100.0% |
| | 0.0% | | 6.1% | | 5.8% | |
| Judge Reduced Bail | 1 | 2.7% | 36 | 97.3% | 37 | 100.0% |
| | 3.2% | | 5.7% | | 5.6% | |
| Judge Increased Bail | 0 | 0.0% | 4 | 100.0% | 4 | 100.0% |
| | 0.0% | | 0.6% | | 0.6% | |
| Judge Released on Recognizance | 0 | 0.0% | 11 | 100.0% | 11 | 100.0% |
| | 0.0% | | 1.8% | | 1.7% | |
| Bail Reviews with Data on Outcomes Missing | 1 | 3.4% | 28 | 96.6% | 29 | 100.0% |
| | 3.2% | | 4.5% | | 4.4% | |
| SUBTOTAL-- Judge's Decisions | 2 | 1.7% | 117 | 98.3% | 119 | 100.0% |
| | 6.5% | | 18.6% | | 18.1% | |
| TOTAL | 31 | 4.7% | 628 | 95.3% | 659 | 100.0% |
| | 100.0% | | 100.0% | | 100.0% | |

commissioners and judges is much greater in Baltimore County and Prince George's County than it is in Baltimore City. (Baltimore County: 5.4 percent versus 1.6 percent; Prince George's County: 5.4 percent versus 1.7 percent; and Baltimore City: 3.7 percent versus 3.3 percent.)

FAILURE TO APPEAR BY RELEASE STATUS, CONTROLLING FOR RACE AND SEX

Table 28 reports on the findings on failure-to-appear rates, controlled for release conditions and for race and sex. The most important finding here is that there is very little variation according to race and sex in failure-to-appear rates, except that the rates for white females are significantly lower than the others. Thus, the total failure-to-appear rate for nonwhite females is 4.1 percent; for nonwhite males; 4.0 percent, for white females 1.8 percent, and for white males, 3.9 percent. We recall that the total rate is 3.9 percent. The same pattern holds true within release categories. The conclusion to be drawn is that race has little or no effect on likelihood of appearance. Tables 29, 30, and 31 break down this information by jurisdiction, and the pattern holds within jurisdictions.

EFFECTS OF AGE

In an effort to see if the age of the defendant had any effect on likelihood of appearance, we ran the Baltimore City data controlling for age. We categorized the defendants into three age groups: those of 20 years or less, those 21 to 29 years old, and those 30 years old or older, and Table 32 reports the findings.

The defendants who were 20 years of age or younger had a slightly higher failure-to-appear rate than the older defendants: 4.5 percent as opposed to

TABLE 28

FAILURE TO APPEAR BY RELEASE STATUS, CONTROLLING FOR RACE AND SEX -- ALL JURISDICTIONS

| | | Nonwhite Females | | Nonwhite Males | | White Females | | White Males | | Race or Sex Unreported | | TOTAL | | Total Number Cases |
|------------------------------|-------------------------|---------------------|--------|-------------------|-------|------------------|--------|----------------|--------|---------------------------|--------|-------|-------|--------------------------|
| Release on Recognizance | <i>Failed to Appear</i> | 10 | 4.9% | 42 | 5.3% | 2 | 1.3% | 40 | 4.7% | 2 | 11.8% | 96 | 4.8% | 2013 |
| | <i>Appeared</i> | 193 | 95.1% | 752 | 94.7% | 150 | 98.7% | 807 | 95.3% | 15 | 88.2% | 1917 | 95.2% | |
| 10% Bail | <i>Failed to Appear</i> | 2 | 7.7% | 4 | 5.2% | 1 | 20.0% | 0 | 0.0% | 0 | 0.0% | 7 | 5.2% | 155 |
| | <i>Appeared</i> | 24 | 92.3% | 73 | 94.8% | 4 | 80.0% | 46 | 100.0% | 1 | 100.0% | 148 | 94.8% | |
| Full Bail | <i>Failed to Appear</i> | 7 | 5.1% | 35 | 5.0% | 1 | 1.4% | 27 | 5.3% | 0 | 0.0% | 70 | 4.9% | 1418 |
| | <i>Appeared</i> | 131 | 94.9% | 665 | 95.0% | 68 | 98.6% | 478 | 94.7% | 6 | 100.0% | 1348 | 95.1% | |
| Detained | <i>Failed to Appear</i> | 0 | 0.0% | 5 | 1.2% | 0 | 0.0% | 1 | 0.3% | 0 | 0.0% | 9 | 0.8% | 1087 |
| | <i>Appeared</i> | 62 | 100.0% | 673 | 98.8% | 29 | 100.0% | 306 | 99.7% | 8 | 100.0% | 1078 | 99.2% | |
| No Data on Release Status | <i>Failed to Appear</i> | 0 | 0.0% | 7 | 4.1% | 1 | 3.7% | 0 | 0.0% | 3 | 60.0% | 11 | 3.8% | 286 |
| | <i>Appeared</i> | 30 | 100.0% | 162 | 95.9% | 26 | 96.3% | 55 | 100.0% | 2 | 40.0% | 275 | 96.2% | |
| TOTAL | <i>Failed to Appear</i> | 19 | 4.1% | 96 | 4.0% | 5 | 1.8% | 68 | 3.9% | 5 | 13.5% | 193 | 3.9% | 4959 |
| | <i>Appeared</i> | 440 | 95.9% | 2325 | 96.0% | 277 | 98.2% | 1692 | 96.1% | 32 | 86.5% | 4766 | 96.1% | |
| <i>Total Number Cases</i> | | 459 | | 2421 | | 282 | | 1760 | | 37 | | 4959 | | |

5.18

TABLE 29

FAILURE TO APPEAR BY RELEASE STATUS, CONTROLLING FOR RACE AND SEX -- BALTIMORE CITY

| | | Nonwhite Females | | Nonwhite Males | | White Females | | White Males | | Race or Sex Unreported | | TOTAL | | Total Number Cases |
|------------------------------|-------------------------|---------------------|--------|-------------------|-------|------------------|--------|----------------|--------|---------------------------|--------|-------|-------|--------------------------|
| Release on Recognizance | <i>Failed to Appear</i> | 10 | 5.7% | 37 | 5.3% | 2 | 2.5% | 16 | 3.7% | 1 | 11.1% | 66 | 4.8% | 1389 |
| | <i>Appeared</i> | 166 | 94.3% | 656 | 94.7% | 79 | 97.5% | 414 | 96.3% | 8 | 88.9% | 1323 | 95.2% | |
| 10% Bail | <i>Failed to Appear</i> | 2 | 7.7% | 3 | 4.1% | 1 | 20.0% | 0 | 0.0% | 0 | 0.0% | 6 | 4.0% | 149 |
| | <i>Appeared</i> | 24 | 92.3% | 71 | 95.9% | 4 | 80.0% | 43 | 100.0% | 1 | 100.0% | 143 | 96.0% | |
| Full Bail | <i>Failed to Appear</i> | 2 | 2.5% | 27 | 4.5% | 0 | 0.0% | 14 | 5.8% | 0 | 0.0% | 43 | 4.5% | 953 |
| | <i>Appeared</i> | 77 | 97.5% | 568 | 95.5% | 34 | 100.0% | 227 | 94.2% | 4 | 100.0% | 910 | 95.5% | |
| Detained | <i>Failed to Appear</i> | 0 | 0.0% | 7 | 1.1% | 0 | 0.0% | 1 | 0.5% | 0 | 0.0% | 8 | 0.9% | 914 |
| | <i>Appeared</i> | 55 | 100.0% | 602 | 98.9% | 23 | 100.0% | 218 | 99.5% | 8 | 100.0% | 906 | 99.1% | |
| No Data on Release Status | <i>Failed to Appear</i> | 0 | 0.0% | 7 | 4.2% | 1 | 3.7% | 0 | 0.0% | 3 | 60.0% | 11 | 3.9% | 281 |
| | <i>Appeared</i> | 30 | 100.0% | 160 | 95.8% | 26 | 96.3% | 52 | 100.0% | 2 | 40.0% | 270 | 96.1% | |
| TOTAL | <i>Failed to Appear</i> | 14 | 3.8% | 81 | 3.8% | 4 | 2.4% | 31 | 3.1% | 3 | 11.1% | 133 | 3.6% | 3686 |
| | <i>Appeared</i> | 352 | 96.2% | 2057 | 96.2% | 166 | 97.6% | 954 | 96.9% | 24 | 88.9% | 3553 | 96.4% | |
| <i>Total Number Cases</i> | | 366 | | 2138 | | 170 | | 985 | | 27 | | 3686 | | |

5.19

TABLE 30

FAILURE TO APPEAR BY RELEASE STATUS, CONTROLLING FOR RACE AND SEX -- BALTIMORE COUNTY

| | | Nonwhite Females | Nonwhite Males | White Females | White Males | Race or Sex Unreported | TOTAL | Total Number Cases |
|------------------------------|-------------------------|---------------------|-------------------|------------------|----------------|---------------------------|-----------|--------------------------|
| Release on Recognizance | <i>Failed to Appear</i> | 0 0.0% | 1 5.0% | 0 0.0% | 15 6.2% | 1 14.3% | 17 5.2% | 324 |
| | <i>Appeared</i> | 9 100.0% | 19 95.0% | 46 100.0% | 227 93.8% | 6 85.7% | 307 94.8% | |
| 10% Bail | <i>Failed to Appear</i> | 0 | 1 100.0% | 0 | 0 0.0% | 0 | 1 25.0% | 4 |
| | <i>Appeared</i> | 0 | 0 0.0% | 0 | 3 100.0% | 0 | 3 75.0% | |
| Full Bail | <i>Failed to Appear</i> | 1 7.1% | 2 5.9% | 0 0.0% | 8 5.6% | 0 | 11 5.4% | 203 |
| | <i>Appeared</i> | 13 92.9% | 32 94.1% | 13 100.0% | 134 94.4% | 0 | 192 94.6% | |
| Detained | <i>Failed to Appear</i> | 0 0.0% | 0 0.0% | 0 0.0% | 0 0.0% | 0 | 0 0.0% | 79 |
| | <i>Appeared</i> | 2 100.0% | 26 100.0% | 3 100.0% | 48 100.0% | 0 | 79 100.0% | |
| No Data on Release Status | <i>Failed to Appear</i> | 0 | 0 0.0% | 0 | 0 0.0% | 0 | 0 0.0% | 4 |
| | <i>Appeared</i> | 0 | 1 100.0% | 0 | 3 100.0% | 0 | 4 100.0% | |
| TOTAL | <i>Failed to Appear</i> | 1 4.0% | 4 4.9% | 0 0.0% | 23 5.3% | 1 14.3% | 29 4.7% | 614 |
| | <i>Appeared</i> | 24 96.0% | 78 95.1% | 62 100.0% | 415 94.7% | 6 85.7% | 585 95.3% | |
| <i>Total Number of Cases</i> | | 25 | 82 | 62 | 438 | 7 | 614 | |

5.20

TABLE 31

FAILURE TO APPEAR BY RELEASE STATUS, CONTROLLING FOR RACE AND SEX -- PRINCE GEORGE'S COUNTY

| | | Nonwhite Females | Nonwhite Males | White Females | White Males | Race or Sex Unreported | TOTAL | Total Number Cases |
|------------------------------|-------------------------|---------------------|-------------------|------------------|----------------|---------------------------|-----------|--------------------------|
| Release on Recognizance | <i>Failed to Appear</i> | 0 0.0% | 5 6.2% | 0 0.0% | 9 5.1% | 0 0.0% | 14 4.7% | 300 |
| | <i>Appeared</i> | 18 100.0% | 76 93.8% | 25 100.0% | 166 94.9% | 1 100.0% | 286 95.3% | |
| 10% Bail | <i>Failed to Appear</i> | 0 | 0 0.0% | 0 | 0 | 0 | 0 0.0% | 2 |
| | <i>Appeared</i> | 0 | 2 100.0% | 0 | 0 | 0 | 2 100.0% | |
| Full Bail | <i>Failed to Appear</i> | 4 8.9% | 6 8.5% | 1 4.5% | 5 4.1% | 0 0.0% | 16 6.1% | 262 |
| | <i>Appeared</i> | 41 91.1% | 65 91.5% | 21 95.5% | 117 95.9% | 2 100.0% | 246 93.9% | |
| Detained | <i>Failed to Appear</i> | 0 0.0% | 1 2.2% | 0 0.0% | 0 0.0% | 0 | 1 1.1% | 94 |
| | <i>Appeared</i> | 5 100.0% | 45 97.8% | 3 100.0% | 40 100.0% | 0 | 93 98.9% | |
| No Data on Release Status | <i>Failed to Appear</i> | 0 | 0 0.0% | 0 | 0 | 0 | 0 0.0% | 1 |
| | <i>Appeared</i> | 0 | 1 100.0% | 0 | 0 | 0 | 1 100.0% | |
| TOTAL | <i>Failed to Appear</i> | 4 5.9% | 12 6.0% | 1 2.0% | 14 5.3% | 0 0.0% | 31 4.7% | 659 |
| | <i>Appeared</i> | 64 94.1% | 189 94.0% | 49 98.0% | 323 94.7% | 3 100.0% | 628 95.3% | |
| <i>Total Number of Cases</i> | | 68 | 201 | 50 | 337 | 3 | 659 | |

5.21

TABLE 32
FAILURE TO APPEAR BY AGE -- BALTIMORE CITY

| | Failed to Appear | | Appeared | | TOTAL | |
|---------------------|------------------|------|----------------|-------|----------------|--------|
| 20 Years or Less | 43 32.3% | 4.5% | 906 25.5% | 95.5% | 949 25.7% | 100.0% |
| 21 - 29 Years | 39 29.3% | 2.9% | 1288 36.3% | 97.1% | 1327 36.0% | 100.0% |
| 30 Years or More | 51 38.3% | 3.6% | 1359 38.2% | 96.4% | 1410 38.3% | 100.0% |
| TOTAL | 133 100.0% | 3.6% | 3553 100.0% | 96.4% | 3686 100.0% | 100.0% |

the overall rate of 3.6 percent. The defendants in the middle age group had the lowest rate (2.9 percent), and the oldest group had a rate equal to the overall rate (3.6 percent). So the younger defendants appear to be slightly higher risks for release than the older ones.

For interest's sake, we also ran a breakdown of assignment of release conditions according to age in Baltimore City, and Table 33 reports the findings. It shows that the youngest group of defendants (those 20 and under) were released on recognizance more frequently than the older defendants: 41.3 percent of the time, as opposed to 36.2 percent and 36.7 percent for the two older groups. The youngest group was also detained more frequently: 26.9 percent, as opposed to 24.3 percent and 23.8 percent for the older groups.

Finally, we ran the Baltimore City data for disposition according to age, and the findings are reported in Table 34.⁷ Any variation in disposition to be noted according to age is very small, and seems to have little meaning for our purposes.

FAILURE TO APPEAR BY SERIOUSNESS OF CHARGE

We also ran the Baltimore City data to see if the seriousness of the charge against the defendant bore any relation to the likelihood of his appearance at trial, and Table 35 reports the findings. The categories for seriousness of charge utilized here are defined in Appendix E.

There is some difference in failure-to-appear rates among the misdemeanor charges: 3.2 percent for minor misdemeanors and 4.2 percent for serious misdemeanors. The low failure-to-appear rate (3.1 percent) for felony charges

TABLE 33

RELEASE STATUS BY AGE -- BALTIMORE CITY

| | 20 yrs. or less | | 21-29 yrs. | | 30 yrs. or more | | Total | |
|------------------------------|-----------------|-------|----------------|-------|-----------------|-------|----------------|--------|
| Release on Recognizance | 392 41.3% | 28.2% | 480 36.2% | 34.6% | 517 36.7% | 37.2% | 1389 37.7% | 100.0% |
| 10 % Bail | 43 4.5% | 28.8% | 60 4.5% | 40.3% | 46 3.3% | 30.9% | 149 4.0% | 100.0% |
| Full Bail | 204 21.5% | 21.4% | 375 28.3% | 39.4% | 374 26.5% | 39.2% | 953 25.9% | 100.0% |
| Detained | 255 26.9% | 27.9% | 323 24.3% | 35.3% | 336 23.8% | 36.8% | 914 24.8% | 100.0% |
| No Data on Release Status | 55 5.8% | 19.6% | 89 6.7% | 31.7% | 137 9.7% | 48.7% | 281 7.6% | 100.0% |
| Total | 949 100.0% | 25.7% | 1327 100.0% | 36.0% | 1410 100.0% | 38.3% | 3686 100.0% | 100.0% |

TABLE 34
DISPOSITION BY AGE -- BALTIMORE CITY

| | 20 years or less | | 21 - 29 years | | 30 years or more | | no data on age | | TOTAL | |
|-----------------------|---------------------|-------|------------------|-------|---------------------|-------|-------------------|------|----------------|--------|
| Not Convicted | 219 41.8% | 18.7% | 396 42.6% | 33.8% | 498 48.5% | 42.5% | 59 46.8% | 5.0% | 1172 45.0% | 100.0% |
| Guilty | 239 45.6% | 20.4% | 418 44.9% | 35.7% | 452 44.1% | 38.6% | 62 49.2% | 5.3% | 1171 44.9% | 100.0% |
| Sent to Grand Jury | 51 9.7% | 30.2% | 80 8.6% | 47.3% | 37 3.6% | 21.9% | 1 0.8% | 0.6% | 169 6.5% | 100.0% |
| Jury Trial Prayed | 15 2.9% | 16.0% | 36 3.9% | 38.3% | 39 3.8% | 41.5% | 4 3.2% | 4.3% | 94 3.6% | 100.0% |
| TOTAL | 524 100.0% | 20.1% | 930 100.0% | 35.7% | 1026 100.0% | 39.4% | 126 100.0% | 4.8% | 2606 100.0% | 100.0% |

TABLE 35

FAILURE TO APPEAR BY SERIOUSNESS OF CHARGE -- BALTIMORE CITY

| | Failed to Appear | | Appeared | | TOTAL | |
|-------------------------|------------------|------|----------------|-------|----------------|--------|
| Minor Misdemeanors | 46 34.6% | 3.2% | 1405 39.5% | 96.8% | 1451 39.4% | 100.0% |
| Serious Misdemeanors | 70 52.6% | 4.2% | 1611 45.3% | 95.8% | 1681 45.6% | 100.0% |
| Felonies | 17 12.8% | 3.1% | 537 15.1% | 96.9% | 554 15.0% | 100.0% |
| TOTAL | 133 100.0% | 3.6% | 3553 100.0% | 96.4% | 3686 100.0% | 100.0% |

is partially explained by the higher rate of detention for suspected felons: more of those defendants charged with felonies were detained and hence not subject to the same risk of nonappearance. (See the findings on this subject reported in Table 8.)

RELEASE STATUS BY SERIOUSNESS OF CHARGE, CONTROLLING FOR DISPOSITION

Tables 36, 37, and 38 report on the distribution of release status by seriousness of charge, controlling for disposition, in the three jurisdictions of Baltimore City, Baltimore County, and Prince George's County, respectively. There is little variation among them, and the influence of a defendant's release status on ultimate disposition appears to be negligible.

TABLE 36A

RELEASE STATUS BY SERIOUSNESS OF CHARGE, CONTROLLING FOR DISPOSITION -- BALTIMORE CITY

| CASES WITH DISPOSITIONS "NOT CONVICTED" | Minor Misdemeanors | | Serious Misdemeanors | | Felonies | | Totals | |
|---|----------------------------|--------------|-------------------------|--------------|---------------|-------------|----------------|--------------|
| | Release on Recognizance | 221 45.5% | 42.7% | 266 49.9% | 51.4% | 30 19.9% | 5.8% | 517 44.1% |
| 10% Bail | 13 2.7% | 28.3% | 30 5.7% | 65.2% | 3 2.0% | 6.5% | 46 3.9% | 100.0% |
| Full Bail | 76 15.6% | 30.3% | 124 23.1% | 49.4% | 51 33.8% | 20.3% | 251 21.4% | 100.0% |
| Detained | 148 30.5% | 48.7% | 91 16.8% | 29.9% | 65 43.0% | 21.4% | 304 25.9% | 100.0% |
| No Data on Release Status | 28 5.8% | 51.9% | 24 4.5% | 44.4% | 2 1.3% | 3.7% | 54 4.6% | 100.0% |
| SUBTOTAL | 486 100.0% | 41.5% | 535 100.0% | 45.6% | 151 100.0% | 12.9% | 1172 100.0% | 100.0% |
| TOTAL ALL DISPOSITIONS | 1451 | 39.3% | 1681 | 45.6% | 554 | 15.0% | 3686 | 100.0% |

5.28

TABLE 36B

RELEASE STATUS BY SERIOUSNESS OF CHARGE, CONTROLLING FOR DISPOSITION -- BALTIMORE CITY

| CASES WITH DISPOSITIONS "GUILTY" | Minor Misdemeanors | | Serious Misdemeanors | | Felonies | | Totals | |
|--|----------------------------|--------------|-------------------------|--------------|--------------|-------------|----------------|--------------|
| | Release on Recognizance | 345 48.4% | 62.6% | 191 45.6% | 34.7% | 15 39.5% | 2.7% | 551 47.1% |
| 10% Bail | 32 4.5% | 55.2% | 24 5.8% | 41.4% | 2 5.3% | 3.4% | 58 5.0% | 100.0% |
| Full Bail | 158 22.2% | 56.0% | 114 26.9% | 40.4% | 10 26.3% | 3.5% | 282 24.1% | 100.0% |
| Detained | 167 23.4% | 66.0% | 76 18.2% | 30.0% | 10 26.3% | 4.0% | 253 21.6% | 100.0% |
| No Data on Release Status | 11 1.5% | 40.7% | 15 3.6% | 55.6% | 1 2.6% | 3.7% | 27 2.3% | 100.0% |
| SUBTOTAL | 713 100.0% | 60.9% | 420 100.0% | 35.9% | 38 100.0% | 3.2% | 1171 100.0% | 100.0% |
| TOTAL ALL DISPOSITIONS | 1451 | 39.3% | 1681 | 45.6% | 554 | 15.0% | 3686 | 100.0% |

5.29

TABLE 36C

RELEASE STATUS BY SERIOUSNESS OF CHARGE, CONTROLLING FOR DISPOSITION -- BALTIMORE CITY

| <i>CASE HELD FOR GRAND JURY</i> | <i>(All Felonies)</i> | |
|-------------------------------------|-----------------------|--------|
| Release on Recognizance | 25 | 7.4% |
| 10% Bail | 7 | 2.1% |
| Full Bail | 89 | 26.3% |
| Detained | 150 | 44.4% |
| No Data on Release Status | 67 | 19.8% |
| TOTAL | 338 | 100.0% |

5.30

TABLE 36D

RELEASE STATUS BY SERIOUSNESS OF CHARGE, CONTROLLING FOR DISPOSITION -- BALTIMORE CITY

| <i>CASE PRAYING JURY TRIAL</i> | Minor Misdemeanors | Serious Misdemeanors | Felonies | Total |
|------------------------------------|-----------------------|-------------------------|----------|-------|
| Release on Recognizance | 11 | 27 | 9 | 47 |
| 10% Bail | 2 | 8 | 0 | 10 |
| Full Bail | 19 | 49 | 6 | 74 |
| Detained | 2 | 21 | 9 | 32 |
| No Data on Release Status | 0 | 1 | 1 | 2 |
| TOTAL | 34 | 106 | 25 | 165 |

5.31

TABLE 37A

RELEASE STATUS BY SERIOUSNESS OF CHARGE, CONTROLLING FOR DISPOSITION -- BALTIMORE COUNTY

| CASES WITH DISPOSITIONS "NOT CONVICTED" | Minor Misdemeanors | | Serious Misdemeanors | | Felonies | | Totals | |
|---|----------------------------|-------|-------------------------|--------|----------|-------|--------|--------|
| | Release on Recognizance | 44 | 29.9% | 101 | 68.7% | 2 | 1.4% | 147 |
| | 59.5% | | 63.9% | | 40.0% | | 62.0% | |
| 10% Bail | 0 | | 2 | 100.0% | 0 | | 2 | 100.0% |
| | | | 1.3% | | | | 0.8% | |
| Full Bail | 23 | 38.3% | 37 | 61.7% | 0 | | 60 | 100.0% |
| | 31.1% | | 23.4% | | | | 25.3% | |
| Detained | 6 | 24.0% | 16 | 64.0% | 3 | 12.0% | 25 | 100.0% |
| | 8.1% | | 10.1% | | 60.0% | | 10.5% | |
| No Data Release Status | 1 | 33.3% | 2 | 66.7% | 0 | | 3 | 100.0% |
| | 1.4% | | 1.3% | | | | 1.3% | |
| SUBTOTAL | 74 | 31.2% | 158 | 66.7% | 5 | 2.1% | 237 | 100.0% |
| | 100.0% | | 100.0% | | 100.0% | | 100.0% | |
| TOTAL ALL DISPOSITIONS | 163 | 26.5% | 332 | 54.1% | 119 | 19.4% | 614 | 100.0% |

5.32

TABLE 37B

RELEASE STATUS BY SERIOUSNESS OF CHARGE, CONTROLLING FOR DISPOSITION -- BALTIMORE COUNTY

| CASES WITH DISPOSITIONS "GUILTY" | Minor Misdemeanors | | Serious Misdemeanors | | Felonies | | Totals | |
|--|----------------------------|--------|-------------------------|--------|----------|-------|--------|--------|
| | Release on Recognizance | 55 | 36.9% | 94 | 63.1% | 0 | | 149 |
| | 63.2% | | 57.3% | | | | 59.4% | |
| 10% Bail | 0 | | 1 | 100.0% | 0 | | 1 | 100.0% |
| | | | 0.6% | | | | 0.4% | |
| Full Bail | 22 | 30.1% | 51 | 69.9% | 0 | | 73 | 100.0% |
| | 25.3% | | 31.1% | | | | 29.1% | |
| Detained | 9 | 33.3% | 18 | 66.7% | 0 | | 27 | 100.0% |
| | 10.3% | | 11.0% | | | | 10.8% | |
| No Data on Release Status | 1 | 100.0% | 0 | | 0 | | 1 | 100.0% |
| | 1.1% | | | | | | 0.4% | |
| SUBTOTAL | 87 | 34.7% | 164 | 65.3% | 0 | | 251 | 100.0% |
| | 100.0% | | 100.0% | | | | 100.0% | |
| TOTAL ALL DISPOSITIONS | 163 | 26.5% | 332 | 54.1% | 119 | 19.4% | 614 | 100.0% |

5.33

TABLE 37C

RELEASE STATUS BY SERIOUSNESS OF CHARGE, CONTROLLING FOR DISPOSITION -- BALTIMORE COUNTY

| <i>CASES HELD FOR GRAND JURY</i> | <i>(All Felonies)</i> | |
|--------------------------------------|-----------------------|--------|
| Release on Recognizance | 20 | 17.5% |
| 10% Bail | 0 | 0.0% |
| Full Bail | 68 | 59.6% |
| Detained | 26 | 22.8% |
| No Data on Release Status | 0 | 0.0% |
| TOTAL | 114 | 100.0% |

5.34

TABLE 37D

RELEASE STATUS BY SERIOUSNESS OF CHARGE, CONTROLLING FOR DISPOSITION -- BALTIMORE COUNTY

| <i>CASES PRAYING JURY TRIAL</i> | Minor Misdemeanors | Serious Misdemeanors | Felonies | TOTAL |
|-------------------------------------|-----------------------|-------------------------|----------|-------|
| Release on Recognizance | 1 | 7 | 0 | 8 |
| 10% Bail | 0 | 1 | 0 | 1 |
| Full Bail | 1 | 1 | 0 | 2 |
| Detained | 0 | 1 | 0 | 1 |
| No Data on Release Status | 0 | 0 | 0 | 0 |
| TOTAL | 2 | 10 | 0 | 12 |

5.35

TABLE 38A

RELEASE STATUS BY SERIOUSNESS OF CHARGE, CONTROLLING FOR DISPOSITION -- PRINCE GEORGE'S COUNTY

| CASES WITH DISPOSITIONS "NOT CONVICTED" | Minor Misdemeanors | | Serious Misdemeanors | | Felonies | | Totals | |
|---|----------------------------|-------|-------------------------|-------|----------|-------|--------|--------|
| | Release on Recognizance | 45 | 36.6% | 74 | 60.2% | 4 | 3.3% | 123 |
| | 67.2% | | 62.2% | | 44.4% | | 63.1% | |
| 10% Bail | 0 | | 0 | | 0 | | 0 | 100.0% |
| | | | | | | | 0.0% | |
| Full Bail | 19 | 33.9% | 37 | 66.1% | 0 | | 56 | 100.0% |
| | 28.4% | | 31.1% | | | | 28.7% | |
| Detained | 3 | 18.8% | 8 | 50.0% | 5 | 31.2% | 16 | 100.0% |
| | 4.5% | | 6.7% | | 55.6% | | 8.2% | |
| No Data Release Status | 0 | | 0 | | 0 | | 0 | 100.0% |
| | | | | | | | 0.0% | |
| SUBTOTAL | 67 | 34.4% | 119 | 61.0% | 9 | 4.6% | 195 | 100.0% |
| | 100.0% | | 100.0% | | 100.0% | | 100.0% | |
| TOTAL ALL DISPOSITIONS | 178 | 27.0% | 354 | 53.7% | 127 | 19.3% | 659 | 100.0% |

5.36

TABLE 38B

RELEASE STATUS BY SERIOUSNESS OF CHARGE, CONTROLLING FOR DISPOSITION -- PRINCE GEORGE'S COUNTY

| CASES WITH DISPOSITIONS "GUILTY" | Minor Misdemeanors | | Serious Misdemeanors | | Felonies | | Totals | |
|--|----------------------------|--------|-------------------------|-------|----------|-------|--------|--------|
| | Release on Recognizance | 32 | 36.4% | 56 | 63.6% | 0 | | 88 |
| | 42.7% | | 43.4% | | | | 43.1% | |
| 10% Bail | 1 | 100.0% | 0 | | 0 | | 1 | 100.0% |
| | 1.3% | | | | | | 0.5% | |
| Full Bail | 30 | 32.6% | 62 | 67.4% | 0 | | 92 | 100.0% |
| | 40.0% | | 48.0% | | | | 45.1% | |
| Detained | 12 | 52.2% | 11 | 47.8% | 0 | | 23 | 100.0% |
| | 16.0% | | 8.5% | | | | 11.3% | |
| No Data on Release Status | 0 | | 0 | | 0 | | 0 | 100.0% |
| | | | | | | | 0.0% | |
| SUBTOTAL | 75 | 36.8% | 129 | 63.2% | 0 | | 204 | 100.0% |
| | 100.0% | | 100.0% | | | | 100.0% | |
| TOTAL ALL DISPOSITIONS | 178 | 27.0% | 354 | 53.7% | 127 | 19.3% | 659 | 100.0% |

5.37

TABLE 38C

RELEASE STATUS BY SERIOUSNESS OF CHARGE, CONTROLLING FOR DISPOSITION -- PRINCE GEORGE'S COUNTY

| CASES HELD FOR GRAND JURY | (All Felonies) | |
|------------------------------|----------------------------|--------|
| | Release on Recognizance | 12 |
| 10% Bail | 1 | 0.8% |
| Full Bail | 61 | 51.7% |
| Detained | 44 | 37.3% |
| No Data on Release Status | 0 | 0.0% |
| TOTAL | 118 | 100.0% |

5.38

TABLE 38D

RELEASE STATUS BY SERIOUSNESS OF CHARGE, CONTROLLING FOR DISPOSITION -- PRINCE GEORGE'S COUNTY

| CASE PRAYING JURY TRIAL | Minor Misdemeanors | Serious Misdemeanors | Felonies | Total |
|------------------------------|-----------------------|-------------------------|----------|-------|
| Release on Recognizance | 0 | 0 | 0 | 0 |
| 10% Bail | 0 | 0 | 0 | 0 |
| Full Bail | 0 | 3 | 0 | 3 |
| Detained | 0 | 0 | 0 | 0 |
| No Data on Release Status | 0 | 0 | 0 | 0 |
| TOTAL | 0 | 3 | 0 | 3 |

5.39

INTERIM CRIMINAL BEHAVIOR: CRIMINAL ACTIVITY BETWEEN RELEASE AND TRIAL

Although it bears no relation to the likelihood of appearance at trial, the direct focus of this study, there has been much interest in the criminal activity of defendants out on release between the time of their arrests and their trials. In order to have some valid information with which to address this subject, we collected information on rearrests of the defendants in our sample during their release periods. The information collected here represents rearrests of any of the defendants in any of the three jurisdictions studied.

Of the target population, 16 persons of the 3,686 under the jurisdiction of Baltimore City committed new offenses between the time they were first released and their trial for that arrest. This is a very small number of repeat offenders -- only 0.4 percent -- reflecting upon the release responsibility of District Rule 777. In Baltimore County there were seven new arrests, and in Prince George's County there were 12. These represent slightly larger percentages (1.4 percent and 1.8 percent, respectively), but they are nevertheless very small. (The longer length of time between arrest and trial in the counties than in the city may explain why there are proportionally more cases of interim criminal behavior there.) Nevertheless, there is such a small number of cases of rearrested releasees that no statistical analysis would be worthwhile. But the following full-blown descriptions of these individuals rearrested in the City of Baltimore is given for the perusal and evaluation of the reader.

Case # 1 is a 20-year-old white male who was arrested and charged with misdemeanor larceny (meaning the amount involved was less than \$100). He was released on recognizance by a commissioner. He was rearrested 16 days later on a second misdemeanor larceny charge, and released on full bail by a commissioner. The first larceny case was dismissed, and we have a disposition code of "other, not convicted," on the second larceny charge. Time from initial arrest to final disposition was 27 days.

Case # 2 is a 25-year-old black male who was arrested and charged with possession of marijuana. He was released by a commissioner on personal recognizance. Eight days later he was rearrested on a misdemeanor shop-lifting charge (meaning the amount involved was less than \$100), and again released on recognizance by a commissioner. There is a nolle prosequi disposition on the marijuana charge, and finally a mental commitment 21 days after the initial arrest.

Case # 3 is a 39-year-old black male who was arrested and charged with malicious destruction. We have no data on his release status. Five days after the initial arrest, he was rearrested on a charge of disorderly conduct. This time he was released on recognizance by a judge at bail review. There was a nolle prosequi disposition of the malicious destruction charge, but he was found guilty of disorderly conduct and paid a fine. Total time from initial arrest to disposition was nine days.

Case # 4 is a 19-year-old white male who was arrested and charged with possession of marijuana. He was released on recognizance by a commissioner. He was rearrested twice before the first charge came to trial. Four days after the initial arrest he was arrested on a liquor laws violation charge, and released by a commissioner on 100-percent bail. Six days after the second arrest he was arrested again (we have a charge code of "other offenses"), and this time he was confined. He was found guilty and fined on the marijuana possession charge, given probation without verdict on the liquor laws violation, and the case resulting from the third arrest was dismissed. Total time from arrest to disposition was 14 days.

Case # 5 is a 18-year-old black male who was arrested and charged with simple assault. He was released on personal recognizance by a commissioner. Three days later he was rearrested for disorderly conduct, and released on full bail. He was found guilty of the assault charge and given a suspended sentence, and acquitted of the disorderly conduct charge. Time from initial arrest to disposition was 12 days.

Case # 6 is a 16-year-old black male who was arrested and charged with assault and robbery. He was released on recognizance by the judge at his bail review hearing. Three days later he was rearrested on a second assault and robbery charge. He was released on 100-percent bail. Both cases were held for the grand jury, so we have no dispositions on them.

Case # 7 is a 20-year-old black who was arrested and charged with nonpayment (of a hotel or taxi bill, etc.). He was released on recognizance by a commissioner. Three days later he was rearrested for disorderly conduct; this time he was confined. There is no disposition yet on the initial charge, but he was found guilty of the disorderly conduct charge and paid a fine.

Case # 8 is an 18-year-old white female who was arrested on a sex offense charge (other than prostitution or indecent exposure). She was released on recognizance by a commissioner. The next day she was rearrested for burglary; this time she was detained. Disposition of both charges was nolle prosequi; total time from initial arrest to final disposition was 14 days.

Case # 9 is a 33-year-old black female who was arrested and charged with aggravated assault. She was released on her own recognizance by a commissioner. Seven days later she was rearrested on a murder charge, and released on 10-percent bond by a commissioner. The assault charge was dismissed, and we have no disposition on the murder charge, as it was sent to the grand jury for possible indictment. Time from arrest to disposition on the initial charge was 13 days.

Case # 10 is a 32-year-old black male who was arrested and charged with possession or concealment of a deadly weapon (gun). He was released on 10-percent bail at his bail review hearing. He was rearrested 13 days later on a drug-possession charge, and again released on 10-percent bail. We have no disposition on either charge, as he requested a jury trial in each case.

Case # 11 is a 20-year-old white male who was arrested and charged with aggravated assault. He was released by the judge at his bail review hearing on full bail. Ten days later he was rearrested for burglary and confined. He was found guilty on the assault charge and sentenced to a term in the local jail, and the burglary charge was held for the grand jury. Time from arrest to disposition of the initial charge was 13 days.

Case # 12 is an 18-year-old black male who was arrested and charged with possession of a controlled dangerous substance. He was released on 100-percent bail by a judge at bail review. Four days later he was rearrested on a liquor laws violation charge, and again released on 100-percent bail. The initial charge was statted, but he was found guilty of the liquor laws violation and placed on probation. Time from arrest to disposition was 15 days.

Case # 13 is an 18-year-old white male who was arrested and charged with burglary. He was released on full bail set by a commissioner. He was rearrested 12 days later on a charge of larceny of more than \$100, and released on full bail set by a commissioner and affirmed by a judge at bail review. We have a nolle prosequi disposition on the burglary charge, and no disposition on the larceny charge because a jury trial was requested. Time from arrest to disposition on the initial charge was 20 days.

Case # 14 is a 24-year-old white male who was arrested and charged with aggravated assault. Full bail was set by a commissioner; a judge affirmed this bail decision at bail review, and the defendant was released. He was rearrested on a simple assault charge 23 days later, and again released on full bail set by a commissioner and affirmed by a judge at bail review. We have no disposition on either charge because each was sent to the grand jury.

Case # 15 is a 29-year-old black male who was arrested and charged with possession of a controlled dangerous substance. He was originally detained, but released on full bail by the judge at his bail review hearing. He was rearrested 13 days later on a marijuana-possession charge. He was found guilty of both charges, and placed on probation for the initial conviction. Time from initial arrest to final disposition was 26 days.

Case # 16 is a 21-year-old white male who was arrested and charged with possession of a controlled dangerous substance. He was released by a commissioner on full bail. Six days later he was rearrested on a marijuana-possession charge, and again released by a commissioner on full bail. The initial charge was held for the grand jury, so we have no disposition on it, but he was found guilty of the marijuana-possession charge and placed on probation.

FOOTNOTES TO CHAPTER V

1. National Council on Crime and Delinquency, Survey and Planning Center, *Pre and Post-Trial Correctional Processes in Philadelphia* (Austin, Tex.: 1972), p. 8.
2. National Council on Crime and Delinquency, Research Center, *Pretrial Release with Supportive Services for "High Risk" Defendants; The Three-Year Evaluation of the Polk County Department of Court Services Community Corrections Project* (Davis, Calif.: 1973), pp. 5-6.
3. James E. Jones, *The Des Moines Pre-Trial Release Project, 1964-1969* (Des Moines, Iowa: Hawley Welfare Foundation and Polk County - City of Des Moines, 1969).
4. Paul Wice and Rita James Simon, "Pretrial Release: A Survey of Alternative Practices," *Federal Probation* 34:4 (December 1970), p. 61.
5. *Ibid.*, p. 63.
6. *Ibid.*, p. 63.
7. It will be noted that the population reported on in this table is smaller than in the other tables, and that there is a group identified as "no data on age." This is because different data cards were used for this table: cards that contained complete disposition information. Unfortunately, some of these cards did not have complete age data.

CHAPTER VI
SUMMARY OF FINDINGS

Failure-to-Appear (FTA) Rate for:

| | |
|----------------------------------|------|
| All three jurisdictions combined | 3.9% |
| Baltimore City | 3.6% |
| Baltimore County | 4.7% |
| Prince George's County | 4.7% |

FTA Rate for:

| | |
|---|------|
| Overall rate for all jurisdictions | 3.9% |
| ROR for all jurisdictions | 4.8% |
| 10% Bail for all jurisdictions | 5.2% |
| Full Bail for all jurisdictions | 4.9% |
| All types of releases for all jurisdictions | 4.8% |

FTA Rate for ROR:

| | |
|------------------------|------|
| Baltimore City | 4.7% |
| Baltimore County | 6.5% |
| Prince George's County | 4.7% |

FTA Rate for 10% Bail:

| | |
|------------------------|----------------|
| Baltimore City | 4.0% |
| Baltimore County | 25.0% (1 of 4) |
| Prince George's County | 0.0% (0 of 2) |

FTA Rate for Full Bail:

| | |
|------------------------|------|
| Baltimore City | 4.5% |
| Baltimore County | 5.4% |
| Prince George's County | 6.1% |

FTA Rate (Baltimore City):

| | |
|-------------------------|------|
| 1 week arrest to trial | 2.4% |
| 2 weeks arrest to trial | 7.0% |
| 3 weeks arrest to trial | 6.8% |

FTA Rate (Baltimore City):

| | |
|---|------|
| For Commissioner Releasees | 3.7% |
| For Judge Releasees | 3.3% |
| When Judge affirmed commissioner's decision | 2.4% |
| When Judge reduced bail | 7.2% |
| When Judge increased bail | 4.2% |
| When Judge released on recognizance | 1.6% |

FTA Rate (Baltimore County):

| | |
|---|----------------|
| For Commissioner Releasees | 5.4% |
| For Judge Releasees | 1.6% |
| When Judge affirmed commissioner's decision | 1.6% |
| When Judge reduced bail | 2.7% |
| When Judge increased bail | 0.0% (0 of 22) |
| When Judge released on recognizance | 7.7% (1 of 13) |

FTA Rate (Prince George's County):

| | |
|---|----------------|
| For Commissioner Releasees | 5.4% |
| For Judge Releasees | 1.7% |
| When Judge affirmed commissioner's decision | 0.0% (0 of 38) |
| When Judge reduced bail | 2.7% |
| When Judge increased bail | 0.0% (0 of 4) |
| When Judge released on recognizance | 0.0% (0 of 11) |

FTA Rate (Baltimore City):

| | |
|------------------|------|
| Nonwhite Females | 3.8% |
| Nonwhite Males | 3.8% |
| White Females | 2.4% |
| White Males | 3.1% |

FTA Rate for ROR (Baltimore City):

| | |
|------------------|------|
| Total Sample | 4.7% |
| Nonwhite Females | 5.7% |
| Nonwhite Males | 5.3% |
| White Females | 2.5% |
| White Males | 3.7% |

Use of ROR (Baltimore City):

| | |
|------------------|-------|
| Total Sample | 37.7% |
| Nonwhite Females | 48.1% |
| Nonwhite Males | 32.4% |
| White Females | 47.7% |
| White Males | 43.6% |

FTA Rate for Full Bail (Baltimore City):

| | |
|------------------|----------------|
| Total Sample | 4.5% |
| Nonwhite Females | 2.5% |
| Nonwhite Males | 4.5% |
| White Females | 0.0% (0 of 34) |
| White Males | 5.8% |

Use of Full Bail (Baltimore City):

| | |
|------------------|-------|
| Total Sample | 25.9% |
| Nonwhite Females | 21.6% |
| Nonwhite Males | 27.8% |
| White Females | 20.0% |
| White Males | 24.4% |

FTA Rate for ROR (Baltimore County):

| | |
|------------------|----------------|
| Total Sample | 5.2% |
| Nonwhite Females | 0.0% (0 of 9) |
| Nonwhite Males | 5.0% |
| White Females | 0.0% (0 of 46) |
| White Males | 6.2% |

Use of ROR (Baltimore County):

| | |
|------------------|-------|
| Total Sample | 52.8% |
| Nonwhite Females | 36.0% |
| Nonwhite Males | 24.4% |
| White Females | 74.2% |
| White Males | 55.3% |

FTA Rate for Full Bail (Baltimore County):

| | |
|------------------|----------------|
| Total Sample | 5.4% |
| Nonwhite Females | 7.1% |
| Nonwhite Males | 5.9% |
| White Females | 0.0% (0 of 13) |
| White Males | 5.6% |

Use of Full Bail (Baltimore County):

| | |
|------------------|-------|
| Total Sample | 33.1% |
| Nonwhite Females | 56.0% |
| Nonwhite Males | 41.5% |
| White Females | 21.0% |
| White Males | 32.4% |

FTA Rate for ROR (Prince George's County):

| | |
|------------------|----------------|
| Total Sample | 4.7% |
| Nonwhite Females | 0.0% (0 of 18) |
| Nonwhite Males | 6.2% |
| White Females | 0.0% (0 of 25) |
| White Males | 5.1% |

Use of ROR (Prince George's County):

| | |
|------------------|-------|
| Total Sample | 45.5% |
| Nonwhite Females | 26.5% |
| Nonwhite Males | 40.3% |
| White Females | 50.0% |
| White Males | 51.9% |

FTA Rate for Full Bail (Prince George's County):

| | |
|------------------|------|
| Total Sample | 6.1% |
| Nonwhite Females | 8.9% |
| Nonwhite Males | 8.5% |
| White Females | 4.5% |
| White Males | 4.1% |

Use of Full Bail (Prince George's County):

| | |
|------------------|-------|
| Total Sample | 39.8% |
| Nonwhite Females | 66.2% |
| Nonwhite Males | 35.3% |
| White Females | 44.0% |
| White Males | 36.2% |

ROR Given Nonwhite Females:

| | |
|------------------------|-------|
| Baltimore City | 48.1% |
| Baltimore County | 36.0% |
| Prince George's County | 26.5% |

ROR Given Nonwhite Males:

| | |
|------------------------|-------|
| Baltimore City | 32.4% |
| Baltimore County | 24.4% |
| Prince George's County | 40.3% |

ROR Given White Females:

| | |
|------------------------|-------|
| Baltimore City | 47.7% |
| Baltimore County | 74.2% |
| Prince George's County | 50.0% |

ROR Given White Males:

| | |
|------------------------|-------|
| Baltimore City | 43.6% |
| Baltimore County | 55.3% |
| Prince George's County | 51.9% |

Full Bail Given Nonwhite Females:

| | |
|------------------------|-------|
| Baltimore City | 21.6% |
| Baltimore County | 56.0% |
| Prince George's County | 66.2% |

Full Bail Given Nonwhite Males:

| | |
|------------------------|-------|
| Baltimore City | 27.8% |
| Baltimore County | 41.5% |
| Prince George's County | 35.3% |

Full Bail Given White Females:

| | |
|------------------------|-------|
| Baltimore City | 20.0% |
| Baltimore County | 21.0% |
| Prince George's County | 44.0% |

Full Bail Given White Males:

| | |
|------------------------|-------|
| Baltimore City | 24.4% |
| Baltimore County | 32.4% |
| Prince George's County | 36.2% |

Detained Nonwhite Females:

| | |
|------------------------|-------|
| Baltimore City | 15.0% |
| Baltimore County | 8.0% |
| Prince George's County | 7.4% |

Detained Nonwhite Males:

| | |
|------------------------|-------|
| Baltimore City | 28.5% |
| Baltimore County | 31.7% |
| Prince George's County | 22.9% |

Detained White Females:

| | |
|------------------------|-------|
| Baltimore City | 13.5% |
| Baltimore County | 4.8% |
| Prince George's County | 6.0% |

Detained White Males:

| | |
|------------------------|-------|
| Baltimore City | 22.2% |
| Baltimore County | 11.0% |
| Prince George's County | 11.9% |

FTA Rate (Baltimore City):

| | |
|----------------------|------|
| Minor Misdemeanors | 3.2% |
| Serious Misdemeanors | 4.2% |
| Felonies | 3.1% |

Baltimore City Nonwhite Females:

| | |
|---------------------------------|-------|
| Not Convicted Disposition ROR'd | 47.0% |
| Guilty Disposition ROR'd | 53.6% |
| Sent to Grand Jury ROR'd | 0.0% |

Baltimore City Nonwhite Females:

| | |
|-------------------------------------|-------|
| Not Convicted Disposition Full Bail | 17.1% |
| Guilty Disposition Full Bail | 22.5% |
| Sent to Grand Jury Full Bail | 10.1% |

Baltimore City Nonwhite Females:

| | |
|--|-------|
| Not Convicted Disposition Initially Detained | 18.8% |
| Guilty Disposition Initially Detained | 9.3% |
| Sent to Grand Jury Initially Detained | 9.1% |

Baltimore City Nonwhite Males:

| | |
|---------------------------------|-------|
| Not Convicted Disposition ROR'd | 33.5% |
| Guilty Disposition ROR'd | 39.3% |
| Sent to Grand Jury ROR'd | 6.1% |

Baltimore City Nonwhite Males:

| | |
|-------------------------------------|-------|
| Not Convicted Disposition Full Bail | 27.5% |
| Guilty Disposition Full Bail | 26.2% |
| Sent to Grand Jury Full Bail | 26.1% |

Baltimore City Nonwhite Males:

| | |
|--|-------|
| Not Convicted Disposition Initially Detained | 26.9% |
| Guilty Disposition Initially Detained | 27.1% |
| Sent to Grand Jury Initially Detained | 43.9% |

Baltimore City White Females:

| | |
|---------------------------------|-------|
| Not Convicted Disposition ROR'd | 42.7% |
| Guilty Disposition ROR'd | 55.6% |
| Sent to Grand Jury ROR'd | 0.0% |

Baltimore City White Females:

| | |
|-------------------------------------|--------|
| Not Convicted Disposition Full Bail | 13.5% |
| Guilty Disposition Full Bail | 25.0% |
| Sent to Grand Jury Full Bail | 100.0% |

Baltimore City White Females:

| | |
|--|-------|
| Not Convicted Disposition Initially Detained | 18.0% |
| Guilty Disposition Initially Detained | 9.7% |
| Sent to Grand Jury Initially Detained | 0.0% |

Baltimore City White Males:

| | |
|---------------------------------|-------|
| Not Convicted Disposition ROR'd | 44.1% |
| Guilty Disposition ROR'd | 50.5% |
| Sent to Grand Jury ROR'd | 17.6% |

Baltimore City White Males:

| | |
|-------------------------------------|-------|
| Not Convicted Disposition Full Bail | 22.5% |
| Guilty Disposition Full Bail | 25.7% |
| Sent to Grand Jury Full Bail | 15.7% |

Baltimore City White Males:

| | |
|--|-------|
| Not Convicted Disposition Initially Detained | 22.5% |
| Guilty Disposition Initially Detained | 16.5% |
| Sent to Grand Jury Initially Detained | 51.0% |

FTA Rate by Age (Baltimore City):

| | |
|------------------|------|
| 20 years or less | 4.5% |
| 21 to 29 years | 2.9% |
| 30 years or more | 3.6% |

ROR by Age (Baltimore City):

| | |
|------------------|-------|
| 20 years or less | 28.2% |
| 21 to 29 years | 34.6% |
| 30 years or more | 37.2% |

10% Bail by Age (Baltimore City):

| | |
|------------------|-------|
| 20 years or less | 28.8% |
| 21 to 29 years | 40.3% |
| 30 years or more | 30.9% |

Full Bail by Age (Baltimore City):

| | |
|------------------|-------|
| 20 years or less | 21.4% |
| 21 to 29 years | 39.4% |
| 30 years or more | 39.2% |

Detained by Age (Baltimore City):

| | |
|------------------|-------|
| 20 years or less | 27.9% |
| 21 to 29 years | 35.3% |
| 30 years or more | 36.8% |

ROR by Seriousness of Charge for All Jurisdictions:

| | |
|----------------------|-------|
| Minor Misdemeanors | 46.8% |
| Serious Misdemeanors | 42.8% |
| Felonies | 20.3% |

10% Bail by Seriousness of Charge for All Jurisdictions:

| | |
|----------------------|------|
| Minor Misdemeanors | 3.0% |
| Serious Misdemeanors | 3.6% |
| Felonies | 1.9% |

Full Bail by Seriousness of Charge for All Jurisdictions:

| | |
|----------------------|-------|
| Minor Misdemeanors | 24.3% |
| Serious Misdemeanors | 29.8% |
| Felonies | 34.6% |

Detained by Seriousness of Charge for All Jurisdictions:

| | |
|----------------------|-------|
| Minor Misdemeanors | 21.3% |
| Serious Misdemeanors | 17.8% |
| Felonies | 35.5% |

ROR by Seriousness of Charge (Baltimore City):

| | |
|----------------------|-------|
| Minor Misdemeanors | 44.3% |
| Serious Misdemeanors | 37.0% |
| Felonies | 22.4% |

10% Bail by Seriousness of Charge (Baltimore City):

| | |
|----------------------|------|
| Minor Misdemeanors | 3.7% |
| Serious Misdemeanors | 4.9% |
| Felonies | 2.5% |

Full Bail by Seriousness of Charge (Baltimore City):

| | |
|----------------------|-------|
| Minor Misdemeanors | 22.3% |
| Serious Misdemeanors | 28.6% |
| Felonies | 26.7% |

Detained by Seriousness of Charge (Baltimore City):

| | |
|----------------------|-------|
| Minor Misdemeanors | 24.2% |
| Serious Misdemeanors | 21.2% |
| Felonies | 37.2% |

ROR by Seriousness of Charge (Baltimore County):

| | |
|----------------------|-------|
| Minor Misdemeanors | 61.3% |
| Serious Misdemeanors | 60.8% |
| Felonies | 18.5% |

10% Bail by Seriousness of Charge (Baltimore County):

| | |
|----------------------|------|
| Minor Misdemeanors | 0.0% |
| Serious Misdemeanors | 1.2% |
| Felonies | 0.0% |

Full Bail by Seriousness of Charge (Baltimore County):

| | |
|----------------------|-------|
| Minor Misdemeanors | 28.2% |
| Serious Misdemeanors | 26.8% |
| Felonies | 57.1% |

Detained by Seriousness of Charge (Baltimore County):

| | |
|----------------------|-------|
| Minor Misdemeanors | 9.2% |
| Serious Misdemeanors | 10.5% |
| Felonies | 24.4% |

ROR by Seriousness of Charge (Prince George's County):

| | |
|----------------------|-------|
| Minor Misdemeanors | 53.9% |
| Serious Misdemeanors | 53.1% |
| Felonies | 12.6% |

10% Bail by Seriousness of Charge (Prince George's County):

| | |
|----------------------|------|
| Minor Misdemeanors | 0.6% |
| Serious Misdemeanors | 0.0% |
| Felonies | 0.8% |

Full Bail by Seriousness of Charge (Prince George's County):

| | |
|----------------------|-------|
| Minor Misdemeanors | 36.5% |
| Serious Misdemeanors | 38.4% |
| Felonies | 48.0% |

Detained by Seriousness of Charge (Prince George's County):

| | |
|----------------------|-------|
| Minor Misdemeanors | 8.4% |
| Serious Misdemeanors | 8.5% |
| Felonies | 38.6% |

Release Status by No Record (Baltimore City):

| | |
|---------------------|-------|
| ROR | 55.9% |
| ROR/Nonwhites | 52.3% |
| ROR/Whites | 64.3% |
| 10% Bail | 3.5% |
| 10% Bail/Nonwhites | 3.9% |
| 10% Bail/Whites | 2.8% |
| Full Bail | 20.0% |
| Full Bail/Nonwhites | 21.0% |
| Full Bail/Whites | 17.5% |
| Detained | 18.9% |
| Detained/Nonwhites | 20.7% |
| Detained/Whites | 14.8% |

Release Status by 1 or 2 Convictions (Baltimore City):

| | |
|---------------------|-------|
| ROR | 39.4% |
| ROR/Nonwhites | 37.5% |
| ROR/Whites | 49.2% |
| 10% Bail | 4.6% |
| 10% Bail/Nonwhites | 5.2% |
| 10% Bail/Whites | 1.6% |
| Full Bail | 25.8% |
| Full Bail/Nonwhites | 26.5% |
| Full Bail/Whites | 20.1% |
| Detained | 26.6% |
| Detained/Nonwhites | 27.7% |
| Detained/Whites | 23.8% |

Release Status by 3 or More Convictions (Baltimore City):

| | |
|---------------------|-------|
| ROR | 22.3% |
| ROR/Nonwhites | 23.3% |
| ROR/Whites | 14.9% |
| 10% Bail | 6.0% |
| 10% Bail/Nonwhites | 6.1% |
| 10% Bail/Whites | 9.0% |
| Full Bail | 28.4% |
| Full Bail/Nonwhites | 23.3% |
| Full Bail/Whites | 47.8% |
| Detained | 41.9% |
| Detained/Nonwhites | 45.4% |
| Detained/Whites | 28.4% |

Release Status by No Record (Baltimore County):

| | |
|---------------------|-------|
| ROR | 61.2% |
| ROR/Nonwhites | 26.3% |
| ROR/Whites | 65.2% |
| 10% Bail | 0.5% |
| 10% Bail/Nonwhites | 0.0% |
| 10% Bail/Whites | 0.6% |
| Full Bail | 18.6% |
| Full Bail/Nonwhites | 21.1% |
| Full Bail/Whites | 18.6% |
| Detained | 14.9% |
| Detained/Nonwhites | 47.4% |
| Detained/Whites | 11.8% |

Release Status by 1 or 2 Convictions (Baltimore County)

| | |
|---------------------|-------|
| ROR | 38.2% |
| ROR/Nonwhites | 16.7% |
| ROR/Whites | 41.5% |
| 10% Bail | 1.5% |
| 10% Bail/Nonwhites | 0.0% |
| 10% Bail/Whites | 1.9% |
| Full Bail | 36.8% |
| Full Bail/Nonwhites | 25.0% |
| Full Bail/Whites | 39.6% |
| Detained | 22.1% |
| Detained/Nonwhites | 58.3% |
| Detained/Whites | 15.1% |

Release Status by 3 or More Convictions (Baltimore County):

| | |
|---------------------|-------|
| ROR | 31.8% |
| ROR/Nonwhites | 20.0% |
| ROR/Whites | 35.1% |
| 10% Bail | 0.0% |
| 10% Bail/Nonwhites | 0.0% |
| 10% Bail/Whites | 0.0% |
| Full Bail | 25.0% |
| Full Bail/Nonwhites | 20.0% |
| Full Bail/Whites | 29.0% |
| Detained | 31.8% |
| Detained/Nonwhites | 60.0% |
| Detained/Whites | 32.3% |

Release Status by No Record (Prince George's County):

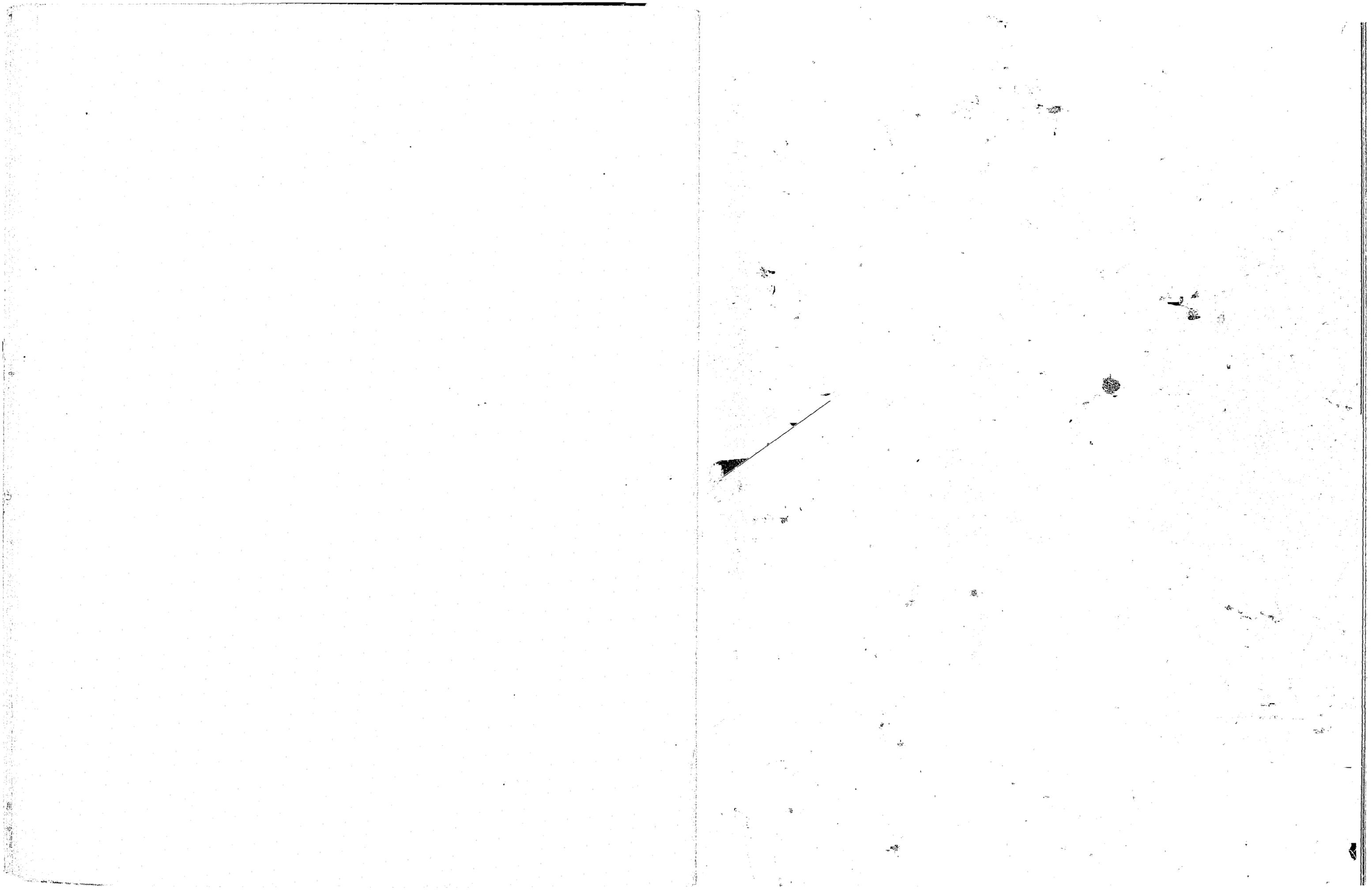
| | |
|---------------------|-------|
| ROR | 45.5% |
| ROR/Nonwhites | 35.8% |
| ROR/Whites | 52.7% |
| 10% Bail | 0.3% |
| 10% Bail/Nonwhites | 0.8% |
| 10% Bail/Whites | 0.0% |
| Full Bail | 40.5% |
| Full Bail/Nonwhites | 44.7% |
| Full Bail/Whites | 37.0% |
| Detained | 13.5% |
| Detained/Nonwhites | 18.3% |
| Detained/Whites | 10.4% |

Release Status by 1 or 2 Convictions (Prince George's County):

| | |
|---------------------|-------|
| ROR | 43.6% |
| ROR/Nonwhites | 44.4% |
| ROR/Whites | 43.2% |
| 10% Bail | 0.0% |
| 10% Bail/Nonwhites | 0.0% |
| 10% Bail/Whites | 0.0% |
| Full Bail | 36.4% |
| Full Bail/Nonwhites | 27.8% |
| Full Bail/Whites | 43.2% |
| Detained | 20.0% |
| Detained/Nonwhites | 27.8% |
| Detained/Whites | 13.5% |

Release Status by 3 or More Convictions (Prince George's County):

| | |
|---------------------|-------|
| ROR | 52.9% |
| ROR/Nonwhites | 60.0% |
| ROR/Whites | 50.0% |
| 10% Bail | 0.0% |
| 10% Bail/Nonwhites | 0.0% |
| 10% Bail/Whites | 0.0% |
| Full Bail | 23.5% |
| Full Bail/Nonwhites | 20.0% |
| Full Bail/Whites | 25.0% |
| Detained | 23.5% |
| Detained/Nonwhites | 20.0% |
| Detained/Whites | 25.0% |



APPENDIX A

TEXT OF MARYLAND DISTRICT RULE 777

RULE 777. BAIL AND PRETRIAL RELEASE.

a. *Right to Release Before Conviction.*

Before conviction, a defendant charged with an offense not punishable by death shall be entitled to be released pending trial, subject to the provisions of this Rule. A defendant charged with an offense punishable by death may be released pending trial in the discretion of the court.

b. *Time of Initial Determination.*

Except where a defendant is released pursuant to subsection d 3 of this Rule, a defendant's initial pretrial release determination shall be made by the judicial officer before whom he is brought pursuant to M.D.R. 709 (Initial Appearance).

c. *Conditions of Release.*1. *Determination by Judicial Officer.*

Any defendant charged with an offense not punishable by death shall, at his appearance before a judicial officer, be ordered released pending trial on his personal recognizance unless the officer determines that such a release will not reasonably assure the appearance of the defendant as required. When such a determination is made, the judicial officer shall impose the first of the following conditions of release which will reasonably assure the appearance of the defendant for trial or, if no single condition gives that assurance, any combination of the following conditions:

(a) place the defendant in the custody of a designated person or organization agreeing to supervise him and assist in assuring his appearance in court;

(b) place the defendant under the supervision of a probation officer or other appropriate public official;

(c) place reasonable restrictions on the travel, association or residence of the defendant during the period of release;

(d) require the execution of an unsecured appearance bond in an amount specified by the judicial officer;

(e) require, pursuant to the Code, Article 26, section 145 (b) (6) (ii), the execution of bond in an amount specified by the judicial officer and the deposit with a commissioner or clerk, in cash or other security as directed, of a sum equal to the greater of \$25 or 10% of the amount of the bond or a larger percentage when a judge so requires in a particular case, such deposit to be returned, as provided in the Code, Article 26, section 145 (b) (6) (iii), upon the performance of the conditions of release;

(f) require the execution of a bond secured by the full amount in cash or other property or by the obligation of qualified, uncompensated sureties;

(g) impose any other condition deemed reasonably necessary to assure appearance of the defendant as required.

2. Statement of Conditions.

A judicial officer authorizing the release of a defendant under this section shall include in the record a statement of any conditions imposed, shall inform such defendant of the penalties applicable to violations of the conditions of his release, and shall advise him that a warrant for his arrest will be issued immediately upon any such violation. If a judicial officer determines that pretrial release on recognizance is unwarranted, he shall include in the record a statement of his reasons.

d. Pretrial Release Inquiry.

1. Guidelines for Judicial Officer.

In determining which conditions of release will reasonably assure appearance, the judicial officer shall, on the basis of information available to or developed by him in a pretrial release inquiry, take into account:

(a) the recommendation of any agency or arm of court whose functions include conducting pretrial release investigations;

(b) any stipulation entered into by the State's Attorney with respect to conditions of pretrial release;

(c) the defendant's family ties and relationships, his employment status and history, his financial resources, his reputation, character and mental condition, and the length of his residence in the community;

(d) the defendant's prior criminal record insofar as it reveals information respecting appearance at future court proceedings or of flight to avoid prosecution or failure to appear at court proceedings;

(e) the nature and circumstances of the offense charged, the weight of evidence against the defendant, and the likely sentence upon conviction, insofar as these factors are relevant to the risk of non-appearance;

(f) any other factors indicating the defendant's ties to the community or bearing on the risk of willful failure to appear.

2. No Predetermined Schedule.

Conditions of pretrial release shall not be set by the judicial officer by reference to a predetermined schedule of amounts fixed according to the nature of the charge, but shall in each case, be the result of an individualized decision, taking into account the special circumstances of each defendant.

3. Interim Bail.

The Chief Judge may designate such court personnel or law enforcement officers as he deems necessary to be empowered to release defendants, by reference to a predetermined schedule of amounts fixed according to the nature of the charge, prior to the initial appearance of any such defendant before a judicial officer pursuant to M.D.R. 709 (Initial Appearance). Such predetermined schedule shall be prepared and published by the Chief Judge.

e. Review and Amendment of Pretrial Release Order.

1. Review; Statement of Reasons.

If a defendant continues to be detained after the review of a commissioner's pretrial release determination pursuant to section f of M.D.R. 709 (Initial Appearance), the court conducting the review shall set forth, either in writing or by oral statement dictated into the record required by M.D.R. 4 (Recording of Proceedings), reasons for requiring the defendant's continued detention.

2. Amendment.

A court ordering or approving the release of a defendant on any condition specified in this Rule may at any time revoke its order or amend it to impose additional or different conditions of release; *provided*, that if the revocation or the imposition of such additional or different conditions results in the detention of the defendant as a result of his inability to meet such conditions, the court shall set forth the reasons for requiring the defendant's detention, either in writing or by oral statement dictated into the record pursuant to M.D.R. 4 (Recording of Proceedings).

f. Penalties for Failure to Appear.

Whoever, having been released pursuant to this Rule, willfully fails to appear before any court or judicial officer as required shall incur a forfeiture of any security which was given or pledged for his release, and, in addition, shall be subject to the provisions of the Code, Article 27, section 12B (Failure to Surrender After Forfeiture of Bail).

g. Forfeiture.

1. Upon Breach of Condition.

If there is a breach of condition of release, the court shall declare a forfeiture. In the event of a forfeiture, the liability of a bond executed pursuant to subsection c 1 of this Rule shall extend to the full amount of the bond set, and any amount previously posted as a deposit shall be applied to reduce the liability incurred by the forfeiture.

2. Remission of Forfeiture.

The court may set aside or remit the whole or any part of any forfeiture as justice may require.

h. Supervision of Detention Pending Trial.

The court shall exercise supervision over the detention of defendants pending trial for the purpose of eliminating all unnecessary detention. The court shall obtain from the sheriff, warden or other custodial officer, a weekly report listing each defendant under its jurisdiction who has been held in custody pending preliminary hearing, trial, sentencing or appeal in excess of seven days. The report shall contain a statement of the reasons why each defendant is still held in custody.

i. Post-Conviction Release.

A person convicted of any offense in the District Court shall, pending sentence or appeal, be treated in accordance with the provisions of section c of this Rule unless the court has reason to believe that no one or more conditions of release will reasonably assure that the person will not flee or pose a danger to any other person or to the community. If such a risk of flight or danger is believed to exist, or if it appears that an appeal is frivolous or taken for delay, the person may be ordered detained.

APPENDIX B

MARYLAND LEGISLATIVE POLICY ON PRETRIAL RELEASE

ARTICLE 27, SECTION 638A, ANNOTATED CODE OF MARYLAND
RELEASE OF PERSON ON OWN RECOGNIZANCE.

a. *May be released before or after conviction; failure to appear.*

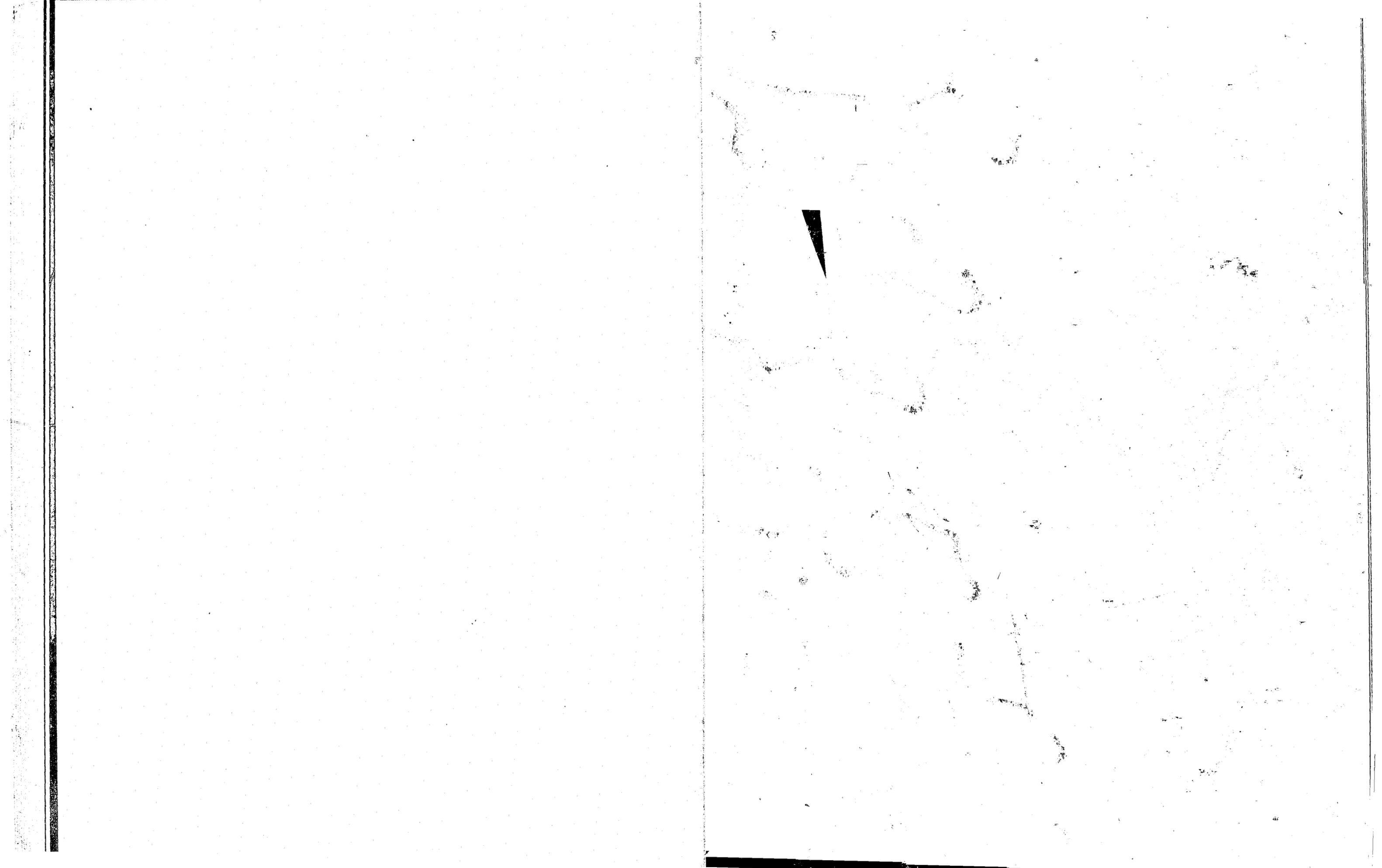
When from all the circumstances the court is of the opinion that any accused person in a criminal case will appear as required for trial either before or after his conviction, the person may be released on his own recognizance. A failure to appear as required by such recognizance shall be subject to the penalty provided in Section 12B of this article.

b. *Liberal construction of section; purpose.*

This section shall be liberally construed to effectuate the purpose of relying upon criminal sanctions instead of financial loss to assure the appearance of an accused person in a criminal case either before or after trial of the case.

c. *Application of section.*

The provisions of this section shall be applicable to any criminal case or offense except a case where death or life imprisonment without parole is a possible punishment before any judge of any circuit court in the counties or any judge of the Criminal Court of Baltimore, or any judge or commissioner of the District Court of Maryland. The provisions of this section shall apply to all persons regardless of age.



APPENDIX C

TEXT OF MARYLAND DISTRICT RULE 709

RULE 709. INITIAL APPEARANCE.

a. *Without Unnecessary Delay.*

A defendant shall be taken before a conveniently available judicial officer without unnecessary delay and in no event later than the earlier of (1) twenty-four hours after arrest or (2) the first session of court after the defendant's arrest upon a warrant, or, where an arrest has been made without a warrant, the first session of court after the charging of the defendant. Such charging shall take place promptly after arrest.

b. *Statement and Certification of Judicial Officer.*

The judicial officer before whom a defendant is initially brought shall (1) provide the defendant with a copy of the charging document, if he has not already been so provided, (2) inform the defendant of each offense with which he is charged, (3) inform the defendant of the rights set forth in paragraph (6) of section e of M.D.R. 706 (Charging Document), and (5) certify in writing that he has complied with this section.

c. *Pretrial Release Determination.*

The judicial officer shall promptly determine the defendant's eligibility for pretrial release under M.D.R. 777 (Bail and Pretrial Release).

d. *Indigency Inquiry.*

Whenever a defendant appears without counsel before a commissioner, the commissioner shall inquire into the defendant's desire and financial ability to obtain counsel. If the defendant indicates that he desires counsel but is indigent, the commissioner shall promptly notify the appropriate Public Defender's Office, or, if there is no such office, the court.

e. *Trial or Preliminary Hearing Date.*

The judicial officer shall assign the date and time for, or in appropriate instances shall proceed with, the trial or preliminary hearing.

f. *Review of Commissioner's Pretrial Release Determination.*

If pretrial release is denied by a commissioner or if, for any reason, the defendant remains unreleased twenty-four hours after a commissioner has set conditions for release pursuant to M.D.R. 777 (Bail and Pretrial Release), the defendant shall be brought before a court immediately if the court is then in session, or if not, at the session of court that immediately follows, respectively, the denial of pretrial release or the expiration of twenty-four hours. The court shall review the commissioner's pretrial release determination and take appropriate action thereon.

APPENDIX D

MARYLAND LEGISLATIVE POLICY ON REFUSAL OF RELEASETO PERSONS REARRESTED WHILE ON RELEASEARTICLE 27, SECTION 616½, ANNOTATED CODE OF MARYLAND
REFUSAL OF BAIL TO PERSON CHARGED WITH CRIME WHILE FREE ON BAIL.

Any person charged with an offense hereinafter enumerated committed during the time that person had been released on bail or his own recognizance for committing an offense hereinafter enumerated, is ineligible to give bail or be released on recognizance on the subsequent charge, until all prior charges hereunder have finally been determined by the courts. But a person charged with a subsequent crime hereinafter set forth, may rebut his ineligibility for release on bail or recognizance before determination of the prior charge. If, after consideration of the matters presented in rebuttal, the court hearing the application for bail is persuaded that the applicant would not pose a danger to any other person or to the community, and would appear at the time set for trial, the court may allow release pending trial on suitable bail or recognizance and on such other conditions as will reasonably assure that the person charged will not flee. For the purposes of this section, court does not mean district court commissioners and the offenses are those specified in the following sections of Article 27 of the Annotated Code of Maryland (1967 Replacement Volume) as they may be amended from time to time:

- (1) Section 6 (relating to burning of property, etc.);
- (2) Section 7 (relating to burning of barn, garage, church, etc.);
- (3) Section 10 (relating to attempt to burn building or property);
- (4) Section 11 (relating to setting fire while perpetrating crime);
- (5) Section 12 (relating to assault with intent to murder, ravish or rob);
- (6) Section 29 (relating to burglary generally);
- (7) Section 30 (relating to breaking into a dwelling with intent to steal or commit a felony);
- (7a) Section 32 (relating to breaking into a storehouse, etc., or other outhouse with intent to commit a felony);
- (8) Section 33 (relating to breaking into shops, etc. and stealing);
- (8a) Section 286 (relating to the manufacture, distribution, etc., or to the counterfeiting, etc., of a controlled dangerous substance or of certain equipment relating thereto and relating to the keeping of a common nuisance as related to drug abuse);
- (9) Section 337 (relating to kidnapping generally);
- (10) Section 338 (relating to kidnapping children under sixteen);

(11) Section 386 (relating to unlawful shooting, stabbing, assaulting, etc., with intent to maim, disfigure or disable or to prevent lawful apprehension);

(12) Section 388 (relating to manslaughter by automobile, motorboat, etc.);

(13) Section 407 (relating to first degree murder);

(14) Section 408 (relating to murder committed in perpetration of arson);

(15) Section 409 (relating to murder committed in burning barns, etc.);

(16) Section 410 (relating to murder committed in perpetration of rape, sodomy, etc.);

(17) Section 411 (relating to second degree murder);

(18) Section 461 (relating to rape generally);

(19) Section 486 (relating to robbery generally);

(20) Section 488 (relating to robbery with a deadly weapon).

APPENDIX E

BREAKDOWN OF CATEGORIES FOR SERIOUSNESS OF CHARGE

The categories representing seriousness of charge in this analysis were felonies, serious misdemeanors, and minor misdemeanors. "Felonies" consisted of those offenses over which the circuit court has jurisdiction. An arrestee charged with one of these offenses, upon indictment, leaves the responsibility of the district court. The misdemeanor charges were divided into two seriousness groups according to the maximum penalty assigned by the legislature. The "serious misdemeanor" charge group includes those felony offenses over which the district court has jurisdiction. We used the charge codes developed for the district court data processing system. These charge code groups consisted of the following:

FELONIES

arson
assault & robbery
assault with intent to rob
bigamy
breaking & entering
burglary
marijuana distribution
other controlled dangerous substance distribution
embezzlement
escape (fugitive)
false pretenses, over \$500
forgery, uttering
murder
manslaughter
kidnapping
larceny, over \$500
larceny after trust, over \$500
perjury
assault with intent to rape
rape

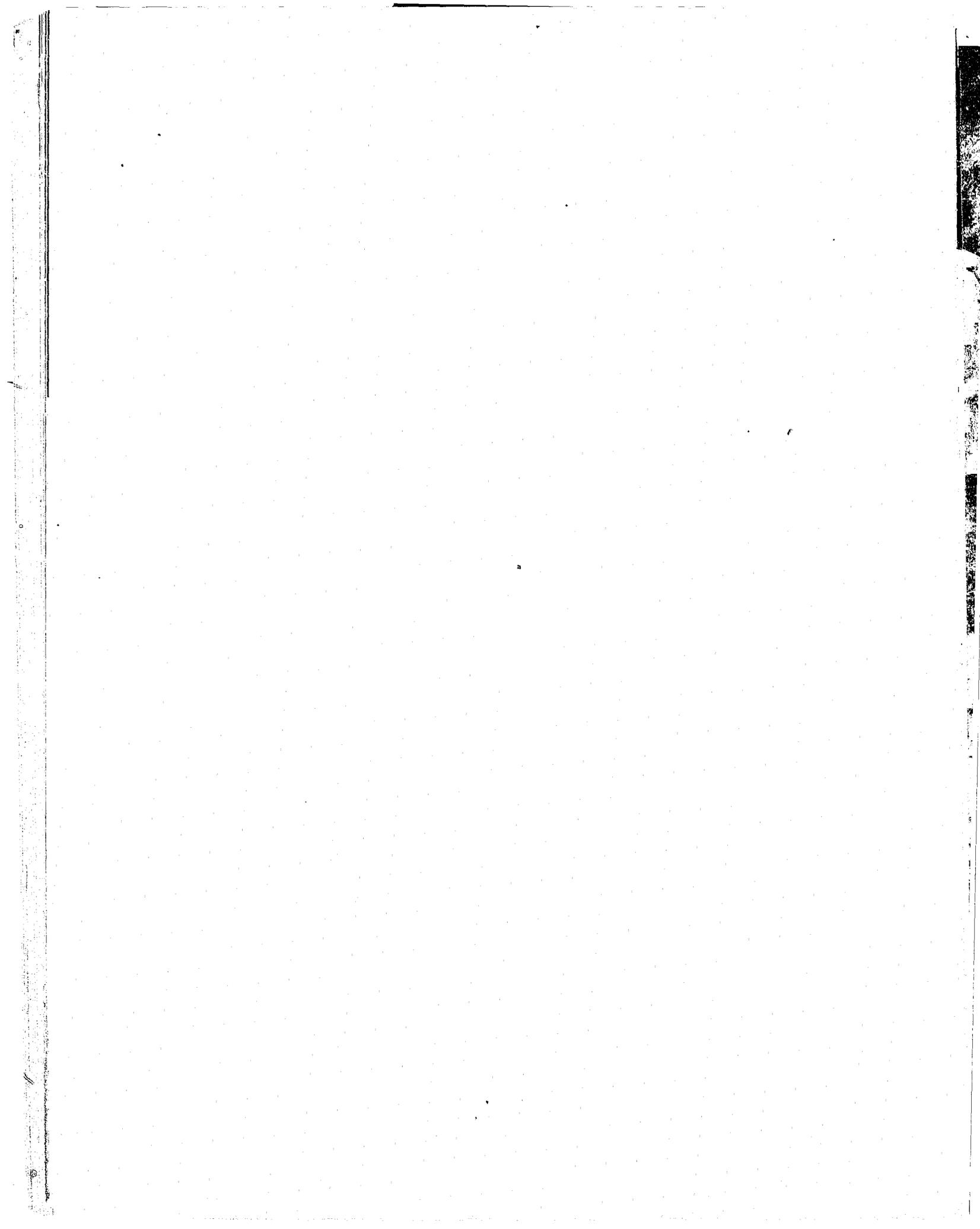
receiving stolen goods, over \$500
 resisting arrest
 robbery without weapon
 robbery with deadly weapon
 robbery attempt with deadly weapon
 shoplifting, over \$500
 etc.

SERIOUS MISDEMEANORS

assault
 assault & battery
 assault, other
 bribery
 burglary, other
 contempt
 conspiracy
 marijuana possession
 other controlled dangerous substance possession
 extortion
 extradition
 false pretense, under \$100
 false pretense, over \$100 but less than \$500 (felony)
 fraud, unemployment
 fraud, welfare
 manslaughter, auto
 homicide, other
 larceny, under \$100
 larceny after trust, under \$100
 larceny, over \$100 but less than \$500 (felony)
 vandalism
 other malicious destruction
 mayhem
 driving while intoxicated
 driving while impaired
 carnal knowledge
 rape, other
 receiving stolen goods, under \$100
 receiving stolen goods, over \$100 but less than \$500 (felony)
 sex offenses, other
 shoplifting, under \$100
 shoplifting, over \$100 but less than \$500 (felony)
 unauthorized use, motor vehicle
 unauthorized use, other
 violation of probation or parole
 gun, possession, concealment, etc.
 other deadly weapon, possession, concealment, etc.

MINOR MISDEMEANORS

conservation, animal
 boating laws
 fish & game
 conservation, other
 contributing to delinquency of minor
 disorderly conduct
 disturbing the peace
 fraud, other
 gambling, bookmaking
 gambling, lottery
 gambling, other
 health violations
 housing violations
 littering
 liquor laws
 minor offenses, in poss.
 minor offenses, other
 nonsupport
 nonpayment, hotel, taxi, food, etc.
 obscenity
 rogue & vagabond, vagrancy
 indecent exposure
 prostitution
 telephone violations
 trespassing
 other offenses



APPENDIX F

DISPOSITION CATEGORIES

In this analysis we utilized two disposition categories to group the array of dispositions we found: *guilty* and *not convicted*. A disposition of "guilty" was thus assigned to the *guilty* category and "not guilty" to the *not convicted* category.

"Nolle prosequi" was the case disposition when the prosecutor dropped the charges -- frequently because of insufficient evidence. A closely allied disposition was "stet" which also involved the prosecutor dropping the charges. With a "stet" disposition the prosecutor retained the option to bring up the case again within a year, but placed the case on an inactive docket. In most cases it is a permanent disposition. Both these dispositions were placed in the *not convicted* category.

Finally, we had dispositions of "probation without verdict" (or "probation before verdict," which seemed to be an interchangeable term). In these cases the defendant was placed on probation without a recorded verdict of guilty, which results in a clean record if he successfully completes his probation. Although this is not a legal conviction, we placed this disposition in the *guilty* category because there is a clear implication of guilt, and in fact the defendant is somewhat restricted by the fact that he is on probation.

That is, it is accepted that the defendant is responsible for the

offense charged, but because of some special circumstances he is being given a break.

To summarize, the *not convicted* category included the following dispositions:

- o not guilty
- o nolle prosequi
- o stet

The *guilty* category included the following dispositions:

- o guilty
- o probation without verdict

END