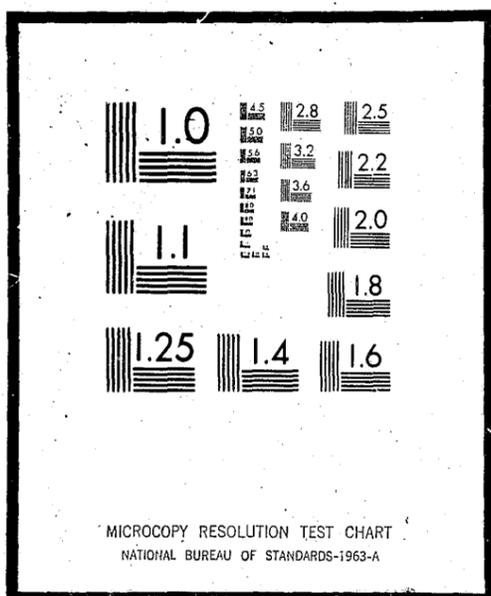


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Philadelphia - Court of Common Pleas -

FINAL EVALUATION REPORT

Philadelphia Release on Recognizance Program (PH-237-74A) -
Philadelphia Investigation and Warrant Service Unit (PH-238-74A) -

Submitted To: Evaluation and Monitoring Unit
Governor's Justice Commission
Philadelphia, Pennsylvania

Project Period Evaluated: July 1, 1974 - June 30, 1975

Prepared By: Robert A. Wilson

Submitted: July 31, 1975

30681

SECTION I. SUMMARY - RELEASE ON RECOGNIZANCE PROGRAM

The basic functions of the Release on Recognizance Program are to make recommendations to the courts regarding eligibility for release on recognizance (ROR) and to assure that defendants who are released on recognizance appear at hearings and follow other criminal justice procedures during the period prior to adjudication.

Gauged by the following criteria, ROR's performance has improved during the last year:

Release On Recognizance Rate. During the first ten months of the current fiscal year (July, 1974-April, 1975) 15,444 defendants were released on their own recognizance; during the corresponding period in the preceding fiscal year 13,983 defendants were released (Table 1). Releases increased by 10.4% during the more recent reporting period. Changes in the overall percentage of defendants receiving ROR (compared to total defendants interviewed) are negligible. In the 1973-1974 period 46.4% of all defendants interviewed obtained ROR; in the 1974-75 period 46.8% obtained ROR.

Failure To Appear Rate. In the most recent period the average percentage of defendants failing to appear at scheduled court hearings was 7.2% (Table 2). For the preceding period (July, 1973-April, 1974) the corresponding failure to appear rate was 7.5%.

Efficiency Index. This concept combines inputs to the program, in terms of the percentage of persons receiving ROR, and outputs, in terms of the percentage of persons scheduled for hearings who actually appear. (Table 3). The most recent reporting period reveals a slight increase in project efficiency, an average of 439 as compared to 428 during the prior period. Within the most recent four months (January-April, 1975) the efficiency index reveals substantial gains. (Table 3). Comparing the Philadelphia ROR project with similar programs in other major cities throughout the country reveals that this project is considerably more efficient, as judged by both failure to appear rates and efficiency indices. (Table 5). Whereas Philadelphia efficiency averages 439, other cities average 105.

In general, ROR is effective in meeting the objectives for which it was designed: to allow defendants to enjoy pretrial freedom and to relieve other segments of the criminal justice system from the burden of detaining and processing defendants.

SECTION I. SUMMARY - INVESTIGATION AND WARRANT SERVICE UNIT

The objectives of the Investigation and Warrant Service Unit are twofold:

- a. To communicate with defendants regarding court hearings and other criminal justice procedures, thereby preventing failure to appear in court and other adverse actions during the pretrial period which forestall the administration of justice.
- b. To serve failure to appear warrants to defendants who failed to appear at court hearings.

Employing the following criteria the Investigation and Warrant Service Unit has improved in efficiency during the last year:

Failure To Appear Rate. The failure to appear rate continues to decrease. For the first ten months of the last fiscal year (1974-1975) the rate was 7.2%. During the corresponding period of the prior fiscal year the rate was 7.5%.

Fugitive Rate. Defendants who fail to appear at hearings for invalid reasons are subsequently classified as fugitives. The fugitive rate for a given month is the ratio of defendants with outstanding bench warrants to defendants scheduled for hearings. The fugitive rate declined from 2.9% to 2.3% during the most recent period (Table 2). This indicates a higher degree of success in communicating with defendants regarding court appearances.

Voluntary Surrenders. If the unit is communicating effectively with defendants, an increasing number of fugitives should surrender themselves voluntarily, rather than having to be apprehended by warrant unit investigators. In 1973, the average number of "walk-ins" was 237; by 1974 this figure had increased to 286. This improvement suggests that project activity has resulted in a marked increase in efficiency in this area.

Warrants Served. In 1973 the typical number of warrants served per month was 710. In 1974 the average figure was 977, an increase of 38%.

Warrants Served per Man-Hour. In 1973 one warrant was served for every 5 man-hours of investigative time. In 1974 the investigative time required to serve a warrant had declined to 3.76 hours.

Cost Effectiveness. During the last year the project has also demonstrated a substantial gain in cost effectiveness. Whereas in fiscal year 1973 the average investigative cost per warrant was \$29.92, during fiscal year 1974 the cost declined to \$18.31, a decrease of 40%.

Efficiency Index. During the most recent reporting period the overall ROR efficiency index stood at 439, as compared to 428 during the corresponding ten months (July-April) of the previous period. During the most recent 4 months the index has increased to an average of 467 (Table 3).

Summary of Performance Measures. Overall, this increased efficiency, monitored through the trend discussed above, reflects a general improvement in the level of communications with defendants -- through the mails, by telephone, and in the community -- by investigative and warrant service personnel. If further gains in efficiency are to be achieved, however, "high risk" defendants should be identified through a "profile" technique which identifies and focuses on different groups of defendants having varying communications risks.

TABLE 1
RELEASE ON RECOGNIZANCE OPERATING TRENDS
July 1972 - December 1974

	Jul.	Aug.	Sept.	Oct.	Nov.	Dec.	Jan.	Feb.	Mar.	Apr.	May	June	TOTAL
Total Persons Interviewed by R.O.R. Unit	2885	2953	1972 2689	2938	2776	3000	1973 2868	2691	3167	2725	2803	2646	34,141
	2671	2840	1973 3051	3289	3277	3012	1974 3025	2789	3310	2887	2880	2935	35,972
	3015	3178	1974 3243	3483	3445	3147	3067	3158	3678	3615			
Total Persons Granted R.O.R.	871	963	1972 995	1077	972	1106	1973 992	1188	1362	1211	1197	1086	13,020
	1214	1326	1973 1416	1570	1559	1418	1974 1333	1284	1585	1278	1241	1290	16,514
	1360	1346	1974 1429	1615	1614	1511	1483	1523	1901	1662			
Persons Scheduled For Hearings	2928	3095	1972 3062	3334	3106	2871	1973 2834	2435	2841	2894	3211	2885	35,496
	2905	3361	1973 3298	3672	3270	2976	1974 3477	3378	3546	3918	4428	3419	41,648
	2949	2643	1974 2757	2610	2724	2923	3383	2690	2836	3160			

TABLE 2
RELEASE ON RECOGNIZANCE OPERATING TRENDS

	Jul.	Aug.	Sept.	Oct.	Nov.	Dec.	Jan.	Feb.	Mar.	Apr.	May	June	TOTAL
FTA Warrants Issued	250	247	<u>1972</u> 250	256	192	167	<u>1973</u> 162	163	206	248	233	230	2,604
	279	294	<u>1973</u> 272	302	253	237	<u>1974</u> 279	155	200	247	308	235	3,061
	217	239	<u>1974</u> 225	203	195	211	198	175	185	207			
Total FTA Rate ¹	8.5%	8.0%	<u>1972</u> 8.2%	7.7%	6.2%	5.8%	<u>1973</u> 5.7%	6.6%	7.2%	8.6%	7.3%	8.0%	7.9%
	9.6%	8.7%	<u>1973</u> 8.2%	8.2%	7.7%	8.0%	<u>1974</u> 8.0%	4.6%	5.6%	6.3%	7.0%	6.9%	7.3%
	7.4%	9.0%	<u>1974</u> 8.2%	7.8%	7.2%	7.2%	5.8%	6.5%	6.5%	6.5%			
Willful FTA Rate ²	6.6%	6.6%	<u>1972</u> 6.6%	6.3%	6.1%	4.2%	<u>1973</u> 3.2%	4.3%	5.2%	5.8%	5.0%	5.2%	5.4%
	6.7%	6.9%	<u>1973</u> 6.8%	7.1%	6.5%	6.7%	<u>1974</u> 6.4%	3.8%	4.5%	5.1%	6.0%	6.2%	6.1%
	6.0%	7.6%	<u>1974</u> 6.1%										
Fugitive Rate ³	2.7%	2.9%	<u>1972</u> 8.0%	3.3%	2.5%	3.3%	<u>1973</u> 2.0%	1.8%	1.8%	2.7%	1.8%	2.2%	2.9%
	3.4%	2.1%	<u>1973</u> 1.9%	2.8%	2.5%	2.1%	<u>1974</u> 2.2%	1.2%	1.4%	2.4%	2.5%	2.9%	2.3%
	3.1%	2.9%	<u>1974</u> 3.4%										

¹Ratio of FTA Warrants issued to Total Persons Scheduled for Hearings.

²Ratio of those missing hearings for invalid reasons to Total Persons Scheduled for Hearings.

³Ratio of those with outstanding Bench Warrants to Persons Scheduled for Hearings.

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TABLE 3
RELEASE ON RECOGNIZANCE OPERATING TRENDS

Item	Jul.	Aug.	Sept.	Oct.	Nov.	Dec.	Jan.	Feb.	Mar.	Apr.	May	June	TOTAL
Recommended ROR Fugitive Rate ¹	2.0%	1.5%	<u>1972</u> 1.4%	2.3%	2.0%	1.8%	<u>1973</u> 1.3%	1.3%	1.5%	2.4%	1.2%	1.2%	1.7%
	3.0%	1.7%	<u>1973</u> 1.6%	2.5%	1.8%	1.6%	<u>1974</u> 1.5%	1.1%	0.9%	1.9%	1.8%	2.1%	1.8%
	2.4%	2.3%	<u>1974</u> 2.3%										
Not Recommended for ROR Fugitive Rate ²	5.4%	8.6%	<u>1972</u> 8.8%	6.9%	6.9%	4.6%	<u>1973</u> 4.8%	3.5%	2.8%	3.7%	3.5%	1.0%	5.0%
	4.6%	3.4%	<u>1973</u> 2.7%	3.7%	4.3%	3.5%	<u>1974</u> 4.5%	1.8%	3.1%	4.0%	4.6%	4.6%	3.7%
	4.4%	4.3%	<u>1974</u> 5.3%										
Efficiency Index ³	276	300	<u>1972</u> 340	338	328	347	<u>1973</u> 326	412	399	406	396	378	353.8
	411	426	<u>1973</u> 426	438	439	433	<u>1974</u> 405	439	452	415	401	409	424.5
	417	410	<u>1974</u> 405	406	435	446	477	466	469	457			

¹Fugitive Rate (See Footnote #3) for those recommended for ROR.

²Fugitive Rate (See Footnote #3) for those not recommended for ROR.

³ Σ Persons Granted ROR \div Σ Persons Interviewed at Police Administration Building \times Σ Persons Appearing at Scheduled Hearings \div Persons Scheduled to Appear at Hearings \times 1000.

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TABLE 4
NUMBER OF FUGITIVES
SURRENDERING VOLUNTARILY BY MONTH
May 1972-December 1974

	1972		1973		1974	
	Number	Moving Average	Number	Moving Average	Number	Moving Average
Jan.	*	-	*	-		
Feb.	*	-	*	-		
March	*	-	*	-		
April	*	-	*	-	324	
May	243	234.2	217	259.3	272	302.0
June	200	225.7	264	232.7	310	307.0
July	260	230.7	217	252.3	339	301.3
August	217	205.7	276	242.7	255	302.3
Sept.	215	216.7	235	257.7	313	273.0
Oct.	185	224.7	262	240.3	251	259.0
Nov.	250	242.7	224	228.0	213	254.0
Dec.	239	242.3	198		298	
AVERAGE	201		237		286	

*Data unavailable

TABLE 5
ROR EFFICIENCY INDICES FOR 9 CITIES¹

Philadelphia	439
Los Angeles	46
Washington	307
San Francisco	210
Baltimore	70
Indianapolis	140
St. Louis	43
Chicago	29
Atlanta	38

¹Philadelphia data computed from monthly ROR statistics. Data for other cities from Paul B. Wice, *Freedom For Sale: A National Study of Pretrial Release*. Lexington, Massachusetts: D.C. Heath and Company, 1974, p. 118.

THE RELATIONSHIP OF ROR TO THE DETENTION POPULATION

On an average day in March and April of 1975, the detention population of the City of Philadelphia prisons was 1,900 persons (Table 6). On the average day 60 persons are granted release on recognizance (Table 6). If ROR were unavailable, assuming that the average defendant would wait 14 days until final disposition of his case (probably an optimistic assumption) the average daily detention population would increase by 400 persons. Assuming a cost of \$30 per day per detainee, the increased costs of detention would be \$4,368,000 annually. Since most detention costs are fixed, however, this figure overestimates the actual cost of adding 400 detentioners. Assuming a more realistic cost of \$15 daily per detainee, however, still results in an annual increase in detention costs of over two million dollars. This figure, of course, does not take into consideration the increased social costs in terms of welfare, unemployment, mental illness, family disruption, and other adverse human consequences.

Short-Term Fluctuations. Data on release on recognizance and detention population were compared for eight one-week periods, beginning March 3, 1975 and ending April 26, 1975 (Table 6). It was expected that the detention population would vary, according to those granted ROR or those held on money bail. However, short-term changes in the detention population are unrelated to both the number of defendants held on money bail and the number of defendants released on ROR (Table 6). The hypothesis that the prison

population is correlated with short-term fluctuations in ROR activity is unsupported by these data. In fact, during the period examined, during only two of eight weeks did the number of persons held on money bail (not making ROR) correlate with the mean detention population.

The fact that short-term ROR activity appears to be unrelated to the detention population suggests several tentative interpretations of fluctuation in the detention population.

- (1) Fluctuations during a two month period are random, because no major policy changes have occurred during that time. Only a major change in those ROR'd will result in a substantial impact on the detention population.
- (2) The Detention Center is populated with a high percentage of persons having detainers because of parole and probation violations. Most defendants in this category are ineligible for ROR until the detainer is removed.
- (3) A decision (conscious or unconscious) may have been made to keep the detention center filled. Because its costs are fixed (within wide limits) the detention center is like a hotel. Judges may tend to keep the detention center filled, irrespective of the type of cases which are heard.

While there is no evidence to support hypothesis #3, there is some evidence that numbers 1 and 2 may hold. The average detention population has declined within recent years (from over 2,000 to around 1,900) while the arrest rate has increased. This suggests that pre-trial interventions are having an effect. Secondly, our own evaluation of low-bail detainees indicates that the great majority are being held on detainers.

Study of 500 Defendants Held on Money Bail.

Profile data on the Philadelphia detention population are almost nonexistent. Personnel from the Philadelphia prison system indicate that virtually all of the profile data available emanates from the Court's computer system. There is also some indications that the prisoner census (COJINT) has been inaccurate. The difficulty seems to reside principally in inaccurate updating, resulting in undercounts and overcounts for most days. Another difficulty with COJINT is that it is employed mainly in printing lists for given days. The COJINT program's summary and analytic capacity appears minimal, particularly in light of the fact that information is wiped off the computer disk after one month of storage. ROR records were also found to be incomplete for research purposes. A high percentage of case records, particularly those in which the defendant was held in under \$1,000 money bail, appear to be incomplete for followup purposes because they did not show the actual date that the per cent deposit

TABLE 6
BAIL-DETENTION CENTER INPUT-OUTPUT
MARCH AND APRIL, 1975

A	B	C	D	E	F	G	H	I
TOTAL ARRESTEES INTERVIEWED BY ROR STAFF	TOTAL ARRESTEES GRANTED ROR	PERCENTAGE B/A	NUMBER DISCHARGED	NUMBER HELD ON BAIL	NUMBER OF DETAINees RECEIVED BY DETENTION CENTER	E/F	MEAN DETENTION POPULATION	B/H
791	413	52.2	$\frac{\text{March 3-March 8}}{84}$	$\frac{294}{294}$	207	1.42	1899	0.217
836	431	51.6	$\frac{\text{March 9-March 15}}{70}$	$\frac{335}{335}$	266	1.26	1883	0.228
962	430	44.7	$\frac{\text{March 16-March 22}}{105}$	$\frac{427}{427}$	275	1.55	1906	0.226
911	488	53.6	$\frac{\text{March 23-March 29}}{137}$	$\frac{286}{286}$	238	1.20	1911	0.255
842	384	45.6	$\frac{\text{March 30-April 5}}{83}$	$\frac{375}{375}$	254	1.48	1932	0.199
839	367	43.7	$\frac{\text{April 6 - April 12}}{98}$	$\frac{374}{374}$	274	1.36	1924	0.191
864	452	52.3	$\frac{\text{April 13-April 19}}{77}$	$\frac{335}{335}$	249	1.35	1938	0.233
829	400	48.3	$\frac{\text{April 20-April 26}}{60}$	$\frac{369}{369}$	280	1.32	1930	0.207

was paid, only that the defendant was released on 10% deposit.

Acknowledging these limitations, a sample of 500 defendants who did not immediately make bail was drawn from the bail entry log of February, 1975. The principal focus was the arrest date, the bail date (if any), the charge, and the amount of bail.

Relationship of Criminal Charge and Average Detention Time.

Average detention by charge is shown in Table 7. While the more serious charges (murder, rape, and aggravated assault) understandably have high detention times, several of the less serious charges also reveal detention times of over ten days. For example, those charged with burglary average 16 days in detention, those charged with theft--11 days, and possession of drugs--17 days. While this limited sample is far from definitive, the data do suggest a need for a detailed analysis of the reasons for the relatively long detention times for these categories of charges, or indeed if the charge is even related to the length of pre-trial detention.

Relationship of Bails \$1,000 and Under and Detention Time

Of the 500 cases examined, 114 defendants were held in bails of \$1,000 or under. Of this group, at least 40 were held because of parole and probation detainers. Another 12 eventually made cash bail. Another 12 received a final disposition, usually from crash court. No followup data was readily avail-

able on 23 defendants, meaning that their date of release was unknown. None were incarcerated at the time of the study. (This followup was conducted in May, 1975--more than two months after the initial arrest). The average detention time for those having bails of \$1,000 and under was 15 days, suggesting that even these relatively low bail amounts are sufficient to cause moderate periods of incarceration for those who are still presumed to be innocent until proven guilty.

TABLE 7

AVERAGE DETENTION TIME IN DAYS
BY CHARGE
(FOR THOSE IN WHICH RELEASE IS INDICATED)

Charge	No. Cases	Average Length Of Detention in Days
Knowing Possession	29	17.20
Theft Unauthorized Taking	23	10.86
Attempted Theft Unauthorized Taking	4	19.00
Burglary	45	16.00
Att. Burglary	3	29.00
Agg. Assault	26	22.26
Robbery	45	16.90
Retail Theft	9	8.20
Driving Under Influence	8	4.50
Murder	17	18.30
PIC Weapon	12	7.40
Possessing Instrument of Crime	3	6.30
F. Disorderly Person D.	1	5.00
Recklessly Endangering Another Person	1	3.00
Receiving Stolen Property	1	11.00
Resisting Arrest	2	5.50
Resisting Arrest/Auto	1	5.00
Unlawful Use of Solvents	1	10.00
Rape	7	25.90
Promoting Prostitution	2	32.00
Indecent Assault	1	2.00
Sale & Illegal Use of Certain Solvents	1	8.00
Fugitive from Justice	4	5.25
Simple Assault	8	6.60
Man/Del/or Poss. W/I Man or Del Cont. Sub.	1	12.00
Involuntary Manslaughter	1	7.00
Theft RSP	2	3.00
Lotteries, etc.	2	6.50
Attempted Theft Unauthorized Taking	4	19.00
Burglary	45	16.00
Attempted Burglary	3	29.00
Aggravated Assault	26	22.26
Robbery	45	16.90
Retail Theft	9	8.20
Driving Under Influence	8	4.50
Murder	17	18.30
PIC Weapon	12	7.40
Possessing Instrument of Crime	3	6.30
F. Disorderly Person D.	1	5.00
Recklessly Endangering Another Person	1	3.00
Receiving Stolen Property	1	11.00
Resisting Arrest	2	5.50
Resisting Arrest/Auto	1	5.00

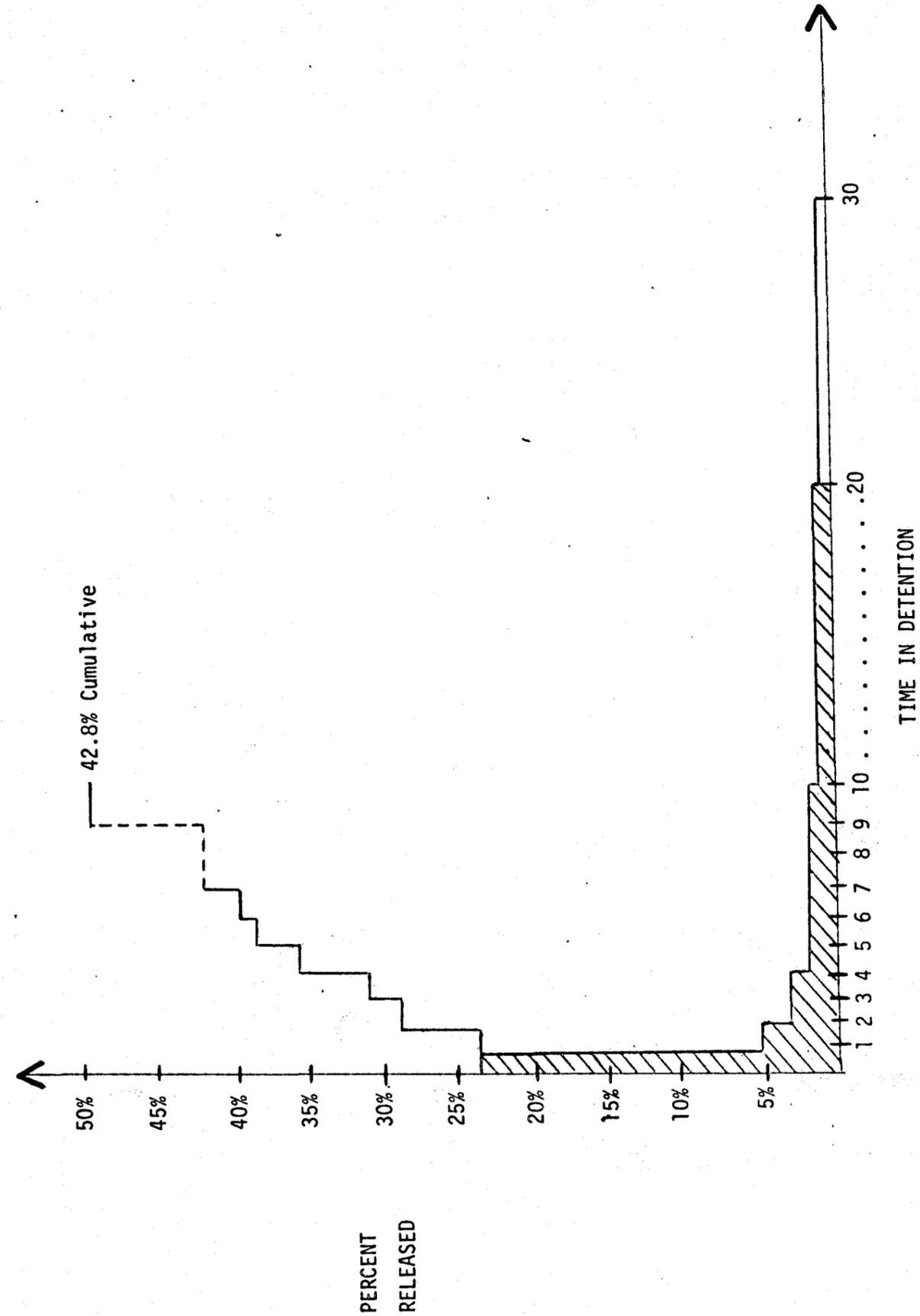
TABLE 7 (Cont.)

AVERAGE DETENTION TIME IN DAYS
BY CHARGE
(FOR THOSE IN WHICH RELEASE IS INDICATED)

Charge	No. Cases	Average Length of Detention in Days
Unlawful Use of Solvents	1	10.00
Rape	7	25.90
Promoting Prostitution	2	32.00
Indecent Assault	1	2.00
Sale & Illegal Use of Certain Solvents	1	8.00
Fugitive from Justice	4	5.25
Simple Assault	8	6.60
Man/Del/or Pos W/I Man or Del Cont. Sub.	1	12.00
Involuntary Manslaughter	1	7.00
Theft, RSP	2	3.00
Lotteries, Etc.	2	6.50
Carrying Concealed Deadly Weapon	1	5.00
Theft of Services	2	14.50
Carrying Firearms Without License	1	5.00
False Alarms to Agencies of Pub. Safety	1	11.00
Criminal Conspiracy	1	11.00
Larceny of Auto	1	4.00
Attempted False Pretenses	1	5.00
Voluntary Deviate Sex Int.	1	16.00
Arson Endangering Persons	1	26.00
Prohibited Offensive Weapons	4	6.00

Patterns of Time in Detention. A recent study conducted by the Philadelphia Bar Association and the Philadelphia Commission for Effective Criminal Justice indicates that 42.8% of detainees are released within ten days of detention (See figure 1). In fact, the model detainee has a length of stay of one day. About one quarter of those detained fall into the one-day category. (Table 8). But examining those who are held over one month reveals that this category (combining those staying 1-2 months, 2-3 months, and over 3 months) accounts for over 33 percent of the detainees. Upon closer inspection (Table 8) it can be seen that those held for one day account for less than one percent of the total bed days of the detention center, while those held over one month account for 87 percent of the total bed days. From these data we may conclude that it is not the defendant who remains in the institution for a few days until he makes bail who accounts for the bulk of detention costs. Rather, it is long-term detentioners who cause detention costs to remain high. From the perspective of ROR, there is little that can be done within the present program framework to relieve this problem. The clear priority for an ROR release are the 23 percent of detainees who remain in the institution for less than a day; the priority for a conditional release are the people held for over one month accounting for 87% of the bed days.

FIGURE 1
CUMULATIVE PERCENT OF DETENTIONERS RELEASED
BY DAYS IN DETENTION CENTER¹



¹Taken from Interim Report, "Possible Interventions to Reduce Short Term Detention," prepared by Walter B. Cohen for the Philadelphia Bar Association, March 1975.

TABLE 8
NUMBER OF DETENTIONERS AND BED/DAYS
BASED ON 1 MONTH SAMPLE

Length of Stay	No. of Detentioners	% of Detentioners	No. of Bed Days	% of Bed Days
1 day	465	23.7	465	0.7
2 days	92	4.6	184	0.3
3 days	75	3.8	225	0.3
4 days	64	3.2	256	0.4
5 days	56	2.8	280	0.4
6 days	43	2.1	258	0.4
7 days	51	2.6	357	0.5
8-10 days *	137	6.9	1,233	2
11-20 days *	185	9.4	2,775	4
21-30 days *	119	6.0	2,975	4
1-2 months *	233	11.8	10,485	16
2-3 months *	122	6.2	9,150	14
over 3 months*	316	16.1	37,920	57
	1,958	99.2	66,563	100

* We estimate the average length of stay as the midpoint, and, for over three months, we used 120 days. Source: "Possible Interventions to Reduce Short Term Detentions" Op Cit.

The Relationship of Detention Time and Bail Amount. The relationship between the amount of time which a defendant is detained and the amount of bail is shown in Table 9. For the 184 cases in which clear data was available, it is again obvious that once money bail is set the average incarceration time is over two weeks. Of the 39 defendants who were held in bail of under \$500, 35 were held on parole or probation. Money bail, in these cases, indicates a minor violation which will receive a disposition within a few days. Since these data are based on time until release, those with very large bails (over \$15,000) do not show up in the table--because they were not released.

Over three quarters of those eventually released on money bail, have bails of under \$2,000. These low bail amounts, for the most part, appear to have little relationship to the present charge. Primarily, they represent court business relating to detainers, residency, previous offenses, etc. The clear priority for the criminal justice system is to find ways of accomplishing this court business more quickly than the 15 days required for the typical detainee. Since a great deal of this time is taken up with the decision-making regarding parole and probation violations, faster means must be developed to make decisions in this area.

TABLE 9
BAIL AMOUNT BY TIME UNTIL RELEASE

Bail Amount	Number of Cases	Mean Days Until Release
\$ 0 - 499	39	14.6
\$ 500 - 999	65	11.7
\$ 1,000 - 1,499	40	13.4
\$ 1,500 - 1,999	15	8.8
\$ 2,000 - 2,999	11	19.3
\$ 3,000 - 3,999	3	21.6
\$ 4,000 - 4,999	0	-0-
\$ 5,000 - 7,499	6	4.5
\$ 7,500 - 9,999	1	17.0
\$10,000 - 14,999	4	4.3
\$15,000 - 19,999	0	-0-
\$20,000 -	0	-0-

Summary of ROR Policy Issues Regarding Detention. Listed below are specific recommendations relative to ROR's function in reducing the detention population.

1. Profile data on the detention population indicate that the typical defendant is detained for one day. ROR should develop a detailed profile of this group, exploring ways to accomplish release without resorting to incarceration.
2. Defendants who are held on bails of under \$500 are almost without exception those who are held because of parole and probation detainers. The average detention time for this group is 15 days. ROR should explore ways of obtaining a faster hearing and disposition regarding these factors.
3. While information regarding detainees who have been incarcerated for more than a week appears adequate, up-to-date information on defendants having shorter terms is almost non-existent. ROR should develop a management information system which provides a daily listing of: (a) Defendants having low bail amounts and steps required to secure ROR, (b) Defendants held on detainers, and steps required to remove same, (c) Defendants held subsequent to a recommendation of ROR denied by the judge.
4. The court computer system should provide a weekly,

monthly, and annual summary of those incarcerated by charge, length of incarceration, bail amount, and steps required prior to release or disposition.

5. It is possible that those denied ROR because of a previous record of FTA could be released under close supervision. This is being done, particularly for those charged with drug possession, burglary, and theft. These appear to spend long periods in pre-trial detention. Possibly other alternatives could be found for this group. The new ROR point system may help to alleviate this problem.

Analysis of Bench Warrant Disposition Procedure

Lag Time in Warrant Issuance. In cases instituted through private complaints (private arraignments) the warrant must be issued by the administrative judge, usually requiring two to three days. Standard Municipal Court bench warrants require 2-3 days from the time of FTA until time of issuance. The fastest time between FTA and warrant issuance occurs for divisional courts, Common Pleas Trial Courts, and calender courts--an average of one day between FTA and warrant issuance.

Warrant Service Procedure on FTA (Bench) Warrants. When a warrant is received by the warrant service unit the following procedure is followed:

1. The defendant's detention status is checked to assure

that he is not incarcerated.

2. Postcards are sent to the defendant, advising him of his fugitive status and advising him of his obligation to voluntarily surrender. A copy is sent to the District Attorney's Office.
3. The defendant's case folder is pulled. If the record reveals one or more FTA's in which the defendant did not surrender voluntarily, the case is assigned to the field staff on the evening of the day which the warrant was issued. (Warrants are picked up between 3:30 and 4:30 P.M.)
4. In those instances in which there is no photograph of the defendant in the case folder (when no prior FTA is recorded) photographs are ordered from the Police Department. This requires two days--during which attempts are made to reach the defendant by telephone.
5. Notification of the warrant is sent to PCIC, the police computer.
6. For those defendants who do not voluntarily surrender, the primary factor in determining whether the defendant is picked up or arrested depends on the excuse the defendant offers for the FTA. The defendant is given several warnings that he must surrender before an actual arrest takes place, although the defendant may receive no war-

ning if he attempts to flee or hide.

7. If the defendant is arrested between 6:00 and 11:30 A.M., he will be placed on the City Hall bench warrant hearing list for that day. If the defendant is arrested during late afternoon or at night he is held at the detention center until the hearing later that day (after midnight) or the next day (before midnight), since there are no facilities to hold defendants for longer than eight hours.
8. Bench warrant hearings are held both at the prison and in room 876 of City Hall. For the City Hall hearings if a defendant surrenders voluntarily in the morning, he is given a subpoena directing him to return in the afternoon for the hearing. All defendants who are transported by warrant service personnel, however, are held in the day room until the hearing. The court representative appears at the hearing to present information relative to the circumstances of the FTA. He (the defendant) may have moved and not notified the court of his new address; he may have been rearrested; he may have said that he will never come to court, etc. This information is conveyed to the trial commissioner. Other excuses, such as hospitalization, are verified by court personnel prior to the hearing.
9. The trial commissioner then makes a decision. Generally,

defendants having a hearing at the Detention Center will have their bail amount increased--because they have been rearrested. Cases heard at City Hall tend to be voluntary surrenders (walk-ins). Generally, the trial commissioner takes this into consideration and does not increase the bail amount.

In the review of this process several problem areas were revealed by project staff. First there is the reality that those arrested during the late afternoon or night must be detained at the Detention Center. This procedure results in a further increase in the number of one-day detainees who are already swelling the detention population. Possibly, bench warrant hearings should be conducted on a continuous basis in City Hall.

Secondly, there is the matter of the degree of discretion which can be exercised by warrant service personnel in deciding to make an arrest. Interviews with staff suggest that there may be considerable variation depending upon the style and inclination of the individual investigator. Again, while no instances of unfair treatment were revealed, the potential appears to be clearly present. The code of behavior and ethics in the investigators manual, clearly spelled out in writing, answers this need.

The Court Representative Function. The qualifications and functions of the "petitioning" court representative are

Job Description

COURT REPRESENTATIVE DEPARTMENT

COURT REPRESENTATIVE

listed below, as per the job description provided by the
Pretrial Services Division.

Qualifications: College Degree
Ability to pass the City Typing Test
Driver's License
Prior experience in Court Bail Program (Desirable)

Functions:

1. Type bail reduction petitions and present them to a District Attorney and a Judge for final approval.
2. Interview and appear in court with information about defendants at Bench Warrant Hearings; make recommendations concerning the dispositions.
3. Order Bring-ups for defendants who have been arrested on a new charge and are in prison at the time they are due in court for a hearing.
4. Obtain continuances for defendants who are under the supervision of the Court Bail Program and are unable to attend their hearings.
5. Participate in Bail Review for incarcerated defendants who have not made bail after two weeks from the date of their arrest.
6. Recommend Conditional Releases by interviewing a defendant and petitioning for bail reduction upon the condition that he enter a specified rehabilitation program prior to his trial.
7. Respond to prison mail including requests from incarcerated defendants for bail reductions.

Evaluation: Job performance evaluation will be performed by the Court Representative Supervisor on a monthly and quarterly basis.

Source: Pretrial Services Division
July 1975

Interviews with ROR administrators indicate that court representatives emphasize three functions:

1. Conditional release recommendations, for those who are held on money bail. Conditions recommended may include narcotics addiction or alcoholism treatment, employment counseling, etc. This function is becoming an increasingly important duty of court representatives as the newly developed conditional release program moves to full-scale operation.
2. Review of defendants held in lieu of bail. Court representatives explore various alternatives to incarceration available through the Philadelphia Criminal Justice System. In addition, cases of defendants having a previous record of FTA (who are not normally recommended for ROR) are carefully evaluated for possible pretrial release.
3. Assistance to the Public Defender in those cases where bail reduction is being requested. Information is provided which will aid in presenting the defendant's case. Currently the court is hearing about 200 bail reduction petitions monthly.

The court representative function is crucial to the administration of justice in that it determines whether large numbers of defendants will ultimately be released on their own recognizance or through conditional release. It is

recommended that the initial evaluation report for the forthcoming fiscal year include both a participant observation and statistical analysis of court representative functions. The analysis should take into account both the efficiency and fairness of court representative procedures.

Status of ROR Point System. One of the conditions (requested by the Pretrial Services Division) for the implementation of the 1975 Unified Pretrial Service Grant was that the new ROR point criteria developed through the evaluation be adopted. Although development of on-line computing capability has been painfully slow, the system now appears ready for field testing. A part of this test will be to validate the weightings developed through the initial longitudinal study of 1,800 defendants over a six month period. Results of this validation procedure will be presented in the initial evaluation report under the new grant. The collection and processing of information for the on-going defendant profile continues on schedule. Follow-up data on FTA, slow return, rearrest on the same charge, and rearrest on a different charge are now being entered in the data bases. Following keypunching, computer analysis will proceed.

Setting Recommendation Levels with the New Point System.

Employing the data base developed for the revision of the ROR point criteria, a table of estimated release rates, FTA rates, and efficiency indices for each point level are shown (Table 10).

TABLE 10

FTA POINTS BY ESTIMATED RELEASE RATE,
ESTIMATED FTA RATE, AND ESTIMATED EFFICIENCY INDEX

Points	Estimated Release Rate	Estimated FTA Rate	Estimated Efficiency Index
0-49	5.4	1.5	53
50-99	17.6	2.0	172
100-149	39.8	5.0	378
150-199	54.8	6.0	515
200-249	65.1	7.0	605
250-299	72.8	9.0	662
300-349	79.2	14.0	681
350-399	85.0	14.0	731
400-449	93.1	15.0	791
500-549	98.1	16.0	824
550-600	100.0	19.0	810

For instance, setting the recommendation cutoff point at 199 points should result in an FTA rate of six percent, a release rate of 54.8% and an efficiency index of 515. This should result in a seven percent increase in the release rate and a two percent reduction in the FTA rate. The increase in the overall efficiency index should be from 439 to 515--an improvement of 17 percent. It must be emphasized that these are projected rates, based upon regression equations. Actual operating levels will have to be determined after collection of baseline data developed through actual operation.

Refinement of Point System and Theory of Release Through Factor Analysis Procedures.

The sixteen variables employed to predict FTA in the new point system were recently factor-analyzed to determine underlying dimensions. Four distinct factors emerged through a varimax rotation procedure (Table 11):

Factor 1: Loaded heavily with the defendant's age, the fact that he was married, and lived with his spouse. We have labeled factor 1 "life cycle stage."

Factor 2: Loaded heavily with the absence of previous arrests, drug use, and failures to appear. We have labeled factor 2, "law-abiding qualities."

Factor 3: Loaded heavily on being employed and time on the

job. We have labeled factor 3, "labor force participation."

Factor 4: Loaded heavily on the length of time lived at the current address and the fact that the defendant has a phone. We have labeled this factor, "communications stability."

Of particular interest is the fact that these factors differ somewhat from the original Vera criteria which stress "residence and community ties", "family ties", "economic and employment factors", "criminal history", and "character". The results of the factor analysis suggest several refinements to the original VERA theory:

1. Life-cycle stage should replace family ties as an explanatory factor.
2. Communications stability is probably a more accurate concept than residence and community ties. The length of time that a person has resided at an address and the fact that he has a telephone are probably more indicative that the court is able to communicate with the defendant, rather than the fact that he is integrated socially within the community. This finding is particularly important in designing and implementing communication systems which focus on assuring that the defendant appears in court. The emphasis should be on the capacity to communicate

with the defendant, rather than on his social and family ties within the community. The new point system developed by Paul F. Lazarsfeld in his evaluation of the Pretrial Services Agency of the Vera Institute of Justice (December 16, 1974) also emphasizes telephone access and residential stability, suggesting that the communications factor is an overarching concern which subsumes residence and community ties, rather than the reverse.

TABLE 11

FACTOR ANALYSIS OF VARIABLES EMPLOYED TO
PREDICT FAILURE TO APPEAR

VARIMAX ROTATED FACTOR MATRIX

		Factor 1 Life Cycle Stage	Factor 2 Law Abiding Qualities	Factor 3 Labor Force Participation	Factor 4 Community Stability
Age	VAR001	0.47829	0.19823	-0.24868	0.04564
Time At Address	VAR002	0.02449	0.03671	-0.06194	0.67903
Lives with Spouse	VAR003	0.56883	-0.00717	-0.01104	-0.04188
Phone at Address	VAR004	0.02449	0.04678	-0.00772	0.34101
Identification on Person	VAR005	0.23592	0.19423	-0.20265	0.20082
Utilities in Name	VAR006	0.40041	0.18435	-0.13300	0.07939
Married	VAR007	0.73712	0.08074	-0.00130	-0.01754
Employed	VAR008	0.12263	0.71779	-0.03264	0.07558
Time on Job	VAR009	0.23587	0.85718	-0.11165	0.14559
Money Owed	VAR010	0.15968	0.16050	-0.08055	-0.02464
Pays Rent or Mortgage	VAR011	0.43201	0.17341	-0.12156	0.17644
Total Adult FTAs	VAR012	0.04303	0.05294	-0.02614	0.02932
Heroin User	VAR013	-0.07103	-0.14451	0.37131	-0.01043
Total Previous Arrests	VAR014	-0.02388	-0.08695	0.50046	-0.02294
Arrested on Same Charge (6 mos.)	VAR015	-0.03315	0.01805	0.53545	0.00899
Arrested on Different Charge (6 mos.)	VAR016	-0.12002	-0.08718	0.53545	-0.02640
FTA-Current Charge	VAR017	-0.05940	-0.02088	0.36090	-0.06866

APPENDIX A
EXCERPTS FROM

POSSIBLE INTERVENTIONS TO REDUCE SHORT-TERM DETENTION

Issued: 18 March 1975

Prepared under the direction of
Walter W. Cohen for the Philadelphia
Bar Association and the Philadelphia
Commissioner for Effective Criminal
Justice under the Sponsorship of the
ABA BASICS Program

Contact: Philadelphia Commission
for Effective Criminal
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DESCRIPTION

Set nominal bail rather than low bail, but make persons who fail to appear liable for the bail amount that otherwise would have been set. The effect of this intervention would be to eliminate the admission of anyone given low bail but not having a detainer. (Data we have indicate that persons having bail set at \$1,000 or less constitute approximately 86% of all same day bail releases. Thus the impact of this intervention on the short-term detention situation could be significant. However, there are detainees on low bail who stay in for weeks and longer; thus, this intervention would also have an effect on long term detentions.)

SYSTEM IMPACTS

Data show that approximately 16 persons/day are now admitted on bail of \$1,000 or less and that on a typical day over 100 persons without detainers are being held on bail of \$1,000 or less. Thus, the impacts of this intervention (assuming a low bail is \$1,000 or less) would be:

- Decrease detainee admission by approximately 16/day.
- Decrease beds by over 100.
- Decrease detainee trips by 16/day minimum (does not include elimination of detainee trips to and from hearings and trials).

KEY IMPLEMENTATION STEPS

- Change bail policy

POTENTIAL PROBLEMS

- Adverse reactions to bail reform
- May be thwarted by setting bails over the cut-off level. leading to a higher average bail level.
- Increased FTA's.

DATA NEEDS

- Number of trips to court of individuals who are being detained on low bail.
- Estimates of FTA rates for those who would be released.
- Bail releases by bail level for two(2) days to one(1) week time to make bail.

INTERVENTION #2 (Bail procedure; eliminate admissions)

DESCRIPTION

Grant ROR to all persons given low bail, under the provision that they return within a given length of time with 10% of the bail amount. If they can't raise the 10% in the set time they are then incarcerated. (Data we have indicate that approximately 56% of all bail releases make bail in 48 hours or less and that of these, approximately 86% have bail set at \$1,000 or less. Thus, the impact of this intervention on short term detention could be significant. The impact on long term detention should be negligible because, most likely, persons who are able to make bail quickly on ROR status, could also have made it relatively quickly after being admitted).

SYSTEM IMPACTS

Using the above figures and a daily bail release of 18 persons (from data we have), it is seen that approximately 8 persons/day are now released within 48 hours on bail of \$1,000 or less. Thus, the impact of this intervention (assuming the time allowed for making bail is 48 hours and that "low bail" is \$1,000 or less) would be:

- Decrease detainee admissions by approximately 8/day.
- Decrease beds by approximately 10 (6 persons assigned a bed for one night, 2 persons assigned a bed for 2 nights).
- Decrease detainee trips by approximately 8/day.

KEY IMPLEMENTATION STEPS

- Change bail policy

POTENTIAL PROBLEMS

- Adverse reactions to bail reform
- May be thwarted by setting bails over the cut-off level, thereby leading to a higher average bail level.
- Increased FTA's
- May cause more crime via those released trying to raise the 10% in the allotted time.

DATA NEEDS

- Bail releases, for periods between 48 hours and one week, by bail level.

INTERVENTION #3 (Bail procedure; eliminate admissions)

DESCRIPTION

Provide short term holding at the Roundhouse for persons who have had bail set and who, it is believed, have a reasonable chance of making bail in a short time. If they can't make bail in the allotted time they are then incarcerated. We assume, initially, that because of the high correlation between low bail and ability to make bail in a short time, a primary determinant to be used in deciding to hold a person at the Roundhouse will be his bail level. (Data we have indicate that approximately 56% of all bail releases make bail in 48 hours or less and that, of these, approximately 86% have bail set at \$1,000 or less. Thus, the impact of this intervention on short term detention could be significant. The impact on long term detention should be negligible because persons able to make bail quickly while at the Roundhouse could probably also have made it relatively quickly at the detention center.)

SYSTEM IMPACTS

Using the above figures and a daily bail release of 18 persons (from data we have), it is seen that approximately 8 persons/day are released within 48 hours on bail of \$1,000 or less. Thus, the impact of this intervention (assuming a 48 hour holding time is allowed at the Roundhouse for making bail and that the bail "cut-off" level for holding a person is \$1,000) would be:

- Decrease detainee admissions by approximately 8/day.
- Decrease beds by approximately 10 (6 persons assigned a bed for one night, 2 persons assigned a bed for two nights).
- Decrease detainee trips by approximately 8/day.

KEY IMPLEMENTATION STEPS

- Obtain police approval
- Plan, develop, and operate a short-term holding facility at the PAB.
- Provide all reasonable opportunities for making bail at the PAB.

POTENTIAL PROBLEMS

- Requires money for developing and staffing a short-term holding facility.
- Police may object to having correctional personnel staff at PAB.
- Weekend peaking may require too much area given over to holding.

INTERVENTION #4 (ROR policy; eliminate admissions)

DATA NEEDS

- Holding facility costs.

DESCRIPTION

Change ROR screening policy so that persons accused of one of the "five offenses" may, in certain cases, be recommended for ROR. (We have no data to indicate how much this intervention would affect short term detainees but believe it is worth investigating further.)

SYSTEM IMPACTS

This intervention will eliminate admissions and thus will affect admissions, beds, and detainee trips. Data are needed, however, to specify these impacts.

KEY IMPLEMENTATION STEPS

- Change ROR screening policy

POTENTIAL PROBLEMS

- Adverse reactions to perceived leniency, loss of credibility of ROR.
- FTA
- Costs of developing and administering another ROR screening procedure.

DATA NEEDS

- Cost estimates
- FTA estimates for the "five offenses"
- Percent of detainees admitted and percent of detainees incarcerated as a function of each of the "five offenses" and of other detainee characteristics upon which ROR would be based.
- Distribution of detention time for the above categories.

INTERVENTION #5 (Summons policy and arraignment rules; eliminate admissions)

DESCRIPTION

Issue summonses at the districts for all persons accused of certain crime categories, e.g., misdemeanors. (In this way the admission of all persons accused of these crime categories would be eliminated, at least until trial or hearing. Both short term and long term detainees would be affected by this intervention but we have no data at this point to say how many.)

SYSTEM IMPACTS

By eliminating admissions this intervention could affect admissions, beds, and detainee trips, but data are needed to specify those impacts.

KEY IMPLEMENTATION STEPS

- Change rules about misdemeanants having to appear at a preliminary arraignment.
- Shift ROR and bail-setting activities for certain crime categories from the preliminary arraignment to the preliminary hearing.
- Provide data transmission capabilities between the districts and the PAB.

POTENTIAL PROBLEMS

- Rule changes needed
- Adverse reactions to perceived leniency
- Requires money for equipment and for decentralizing ROR and bail setting.
- FTA

DATA NEEDS

- Distribution of average length of stay, by charge.
- Percent of detainee population incarcerated by charge; percent of detainee population admitted, by charge.
- Cost estimates.

INTERVENTION #6 (Diversion program, screening programs, conditional release procedures; eliminate admissions)

DESCRIPTION

Admit persons directly to diversion or screening programs from preliminary arraignment, or make the conditional release decision at preliminary arraignment. (We have no data indicating the extent to which this intervention would affect short term detention but believe it merits further investigation.)

SYSTEM IMPACTS

This intervention, by eliminating admissions, will affect admissions, detainee trips, and beds. The impacts on each will depend on the number of detainees now admitted to diversion and screening programs, or conditionally released, and their respective detention times.

KEY IMPLEMENTATION STEPS

- Change arraignment procedures
- Increase data gathering and processing during the PAB holding period.

POTENTIAL PROBLEMS

- Requires money for additional staff work.
- Information may be required from agencies that are closed after 5:00 P.M. and over weekends.

DATA NEEDS

- Cost estimates for additional staff work.
- Numbers of detainees admitted to diversion programs, to screening programs and conditionally released, and their respective detention times.

INTERVENTION #7 (Bail procedure; lessen
detention time)

DESCRIPTION

Facilitate the making of bail at the detention center.
(This intervention would probably affect mainly short term detainees because those who would benefit the most would probably make bail relatively quickly anyway.)

SYSTEM IMPACTS

There would be no impact from this intervention on admissions and probably no significant impact on detainee trips. However, if there were an n% increase in the number of persons able to make bail the same day, because of this intervention beds would be decreased by approximately 0.07 nT where T is the average time in detention (in days) for persons in on bail without a detainer and it is assumed from data we have that 7 persons per day now make bail the same day.

KEY IMPLEMENTATION STEPS

- Develop and implement procedures at the detention center to facilitate the making of bail.

POTENTIAL PROBLEMS

- May require money for additional staff work.

DATA NEEDS

- Cost estimates
- Average time in detention for persons in on bail without a detainer.

INTERVENTION #8 (ROR procedure; lessen
detention time)

DESCRIPTION

Decrease time until ROR review of detainees. (We have no data yet to assess the impact of this intervention on short-term detention but believe it is worth further investigation.)

SYSTEM IMPACTS

There would be no impacts on admissions or on detainee trips because of this intervention. Impact on beds will depend on the decrease achieved in detention time and on the number of detainees thus affected.

KEY IMPLEMENTATION STEPS

- Increase rate of data gathering and processing in preparation of ROR review.

POTENTIAL PROBLEMS

- Requires money for additional staff work.
- Requires a more "real time" data system to identify who has not made bail on his own.

DATA NEEDS

- Numbers of detainees released as a result of ROR review and the time elapsed between such review and their release.
- Cost estimates.

INTERVENTION #9 (Diversion program, screening program, conditional release procedures; lessen detention time.)

DESCRIPTION

Expedite admission of detainees into diversion programs or screening programs, or expedite their conditional release. This may involve enlarging the programs if the program size is found to be a significant factor in determining how quickly people are admitted to them. (We have no data indicating the extent to which this intervention would affect short term detention, but believe it merits further investigation.)

SYSTEM IMPACTS

This intervention will have no impact on detention admissions or on detainee trips. Impact on beds will depend on the reductions in detention time produced by the intervention and on the number of detainees thus affected.

KEY IMPLEMENTATION STEPS

- Increase rate of data gathering and processing in screening detainees for admission to the above programs or for conditionally releasing them.
- Possibly, enlarge the programs.

POTENTIAL PROBLEMS

- Requires money for additional staff work and for possible program enlargement.

DATA NEEDS

- Cost estimates
- Number of detainees admitted to diversion programs, to screening programs, and conditionally released, and their respective detention times.

INTERVENTION #10 (Crash court procedure; lessen detention time)

DESCRIPTION

Expedite the use of crash court. (We have no data to indicate how much this intervention would affect short term admissions but believe it is worth investigating further.)

SYSTEM IMPACTS

This intervention will have no impact on admissions or on detainee trips. Its impact on beds will depend on the decrease achieved in detention time and number of detainees thus affected.

KEY IMPLEMENTATION STEPS

- Remains to be determined.

POTENTIAL PROBLEMS

- Remains to be determined.

DATA NEEDS

- Numbers of persons released from detention via crash court and their length of stay in detention.

INTERVENTION #11 (charging procedure;
eliminate admissions
and lessen detention
time)

DESCRIPTION

Working with police and/or the District Attorney's Office, try to bring charges more in line with offenses for certain crime categories for which there is now a tendency to overcharge. (We have no data indicating how much this intervention would affect short term detention but believe it merits further investigation.)

SYSTEM IMPACTS

By producing a reduction in charges, in certain cases, this intervention would result in lower bail levels and increased ROR recommendations. In turn, the admissions of both short and long term detentioners would be reduced and detention times for certain of those admitted would be lessened. However, trying to predict the resultant impact on admissions, detainee trips, and beds would appear to be a difficult task.

KEY IMPLEMENTATION STEPS

- Obtain the cooperation of the police and the DA's Office.

POTENTIAL PROBLEMS

- Resistance to change

DATA NEEDS

- Remain to be determined.

The Philadelphia Bar Association Study proposes a number of modifications to the criminal justice system to attach the short-term detention problem. They are shown in Appendix A. Some of the problems raised by these suggested interventions are discussed in a letter from the ROR Administrator. This is included in Appendix B.

Most of these changes will require a relatively long period to evaluate and implement. Discussed below are some immediate steps which might be taken by the Pretrial Services Division to alleviate the short-term detention problem.



DEWAINE L. GEDNEY, Jr.

Director

April 3, 1975

APPENDIX BCOMMENTS ONPOSSIBLE INTERVENTION TO REDUCE SHORT-TERM DETENTION

Prepared by the Director of
Pretrial Services, Dewaine L.
Gedney, Jr., Esquire

Walter W. Cohen, Esq.
Master
Court of Common Pleas
Room 200
1700 Walnut Street
Philadelphia, PA 19103

Dear Mr. Cohen:

I am in receipt of your *Interim Report on Possible Interventions to Reduce Short-Term Detention*. At your request I am responding to some of the things that were covered in the report. Please understand that my answers are somewhat limited, but you have certainly produced a report of some breadth.

My first thoughts concerning the report can be summarized as three overview points. These are as follows:

1. *Long-Term Detention*. While your report specifically deals with the problem of short-term detention, I do not feel that enough mention was made of the dangers associated with long-term detention. It is my personal feeling that this problem is the one that should be addressed first. As noted in your report in the table following page 7, only 3% of the bed days are taken up by short-term detentioners. Additionally, many of the costs of detention that you raise are really only associated with long-term incarceration. This can be seen by a quick review of the costs that you mention in pages 8 through 11 inclusive. For example, daily maintenance cost for such things as extensive staff services only apply to those that have been in detention for a longer period of time. The one and two day detentioner does not receive extensive staff services. Loss of a job is also something that does not occur within the first day or two of detention, but rather to those that miss extensive periods of work. A similar observation applies, as you indicate, for those families that are driven to public assistance through long-term incarceration of the family wage earner. And again, the Vera observation that those detained had a much higher conviction rate only apply to those that were detained up to and through trial. For all of these reasons, then, I view the problem of long-term detention to be the one that most seriously affects the quality of justice.

2. *Current Detention Reducing Programs.* Your report mentions that approximately 45% of those who are detained are released within one day. This does point out the high number of those released in a short period of time. What it does not do is look to the number of those who are arrested charged with felonies or misdemeanors who suffer no post bail setting incarceration at all. This currently covers about 72% of the arrest population. These people are either released on ROR, are able to pay the requisite financial bail before transportation to the Police Administration Building, or have the charges discharged. This high percentage of the population that is immediately released compares favorably with other cities in the United States. Were it not for the fact of their release, the pressure on the Detention Center would be unbelievable.
3. *24 Hour a Day Operation.* Philadelphia is distinguished nationally as being one of the few jurisdictions that has a Judge sitting around-the-clock. The fact that this is done, however, raises certain problems not found elsewhere. In most jurisdictions a person is incarcerated until the time of the initial bail setting. This is generally at some point on the first available work day following the date of arrest. Many people are then released immediately at the point at which bail is set. In Philadelphia, in an effort to move bail setting forward, bail is set 24 hours a day. This obviates the need for much incarceration while waiting for bail to be set. This benefit accrues particularly to those released on ROR. Unlike the other jurisdictions mentioned, the ROR releasee has only had to wait a matter of several hours, rather than up to several days, in order to be released. Those with money bail, however, are often unable to pay the amount until financial institutions and the like are open. The result is that there is at worst lower detention in Philadelphia for ROR cases and an equal amount of detention for those with financial bail. The difference is that those held in Philadelphia on financial bail are held after bail setting and not before. Secondly, the 24 hour a day operation makes it more difficult for the bail program to get information. This is mentioned in your report, but may not have been highlighted enough. It might be useful to compare the time of intervention of the Pretrial Services Division with the arrestee in Philadelphia with that in other jurisdictions. Data obtained in a national survey shows the average number of hours before the arrestee is reached by the bail project for eight American cities. The average number of hours in the cities are as follows: Indianapolis, 4.5

hours; Washington, D.C., 18.0 hours; San Francisco, 18.0 hours; Baltimore, 24.0 hours; Los Angeles, 28.0 hours; Chicago, 30.0 hours; Atlanta, 36.0 hours; and St. Louis, 60.0 hours. P. Wice, *Freedom for Sale 101 (1974)*. While the bail program interviews could be made more complete in Philadelphia by waiting until business is open and criminal justice and other social agencies open their doors, this is not done. In the long run this approach has appeared to increase the number of people released on their own recognizance within a few hours of the time of arrest. Those that might be afforded the same style of release because of a lack of information can only be assisted at a later time. This is currently being done.

I think that your report would be made somewhat more complete if you included information about the 10% Cash Bail Program. As you are certainly aware, the provisions of the program allow private third party sureties to post money to guarantee the appearance of someone with financial bail. Philadelphia currently has one of the best 10% programs in the country. With as high as 90% of the bails put up by an interested third party. In each such case the court system has been fortunate to "hire" the services of a citizen of the City of Philadelphia. This third party has a financial stake in seeing that the defendant returns as well as undertaking a moral responsibility to notify the court system at any time prior to a scheduled court appearance when the person disappears. The presence of these third parties has appreciably altered the rate at which the financial releasees fail to appear. Currently the rate of the financial releasees approaches that of those released on their own recognizance. The bail program here has assisted in this process by notifying the third party sureties of each and every court date. The abolition of 10% releases by several of the Interventions will create a subsidiary problem that should be addressed - loss of revenue. The 10% Program currently generates over half a million dollars yearly to support the operation of the bail program. One of the key implementation steps would have to be to find a way to either replace these funds, or to do away with their need. At any rate, I feel that the great contribution represented by the 10% system should be somewhat more reflected in the report.

There were several items of a minor nature that I had some thoughts about. I am including these seriatim. They are keyed to the page number where they appeared in your report:

Page 1 - The report states in the first footnote that the figures as to the number released within seven days is very close to that cited some time previously. While the figure for all full week has remained unchanged, it should be noted that the distribution has changed somewhat, so that a great many more people are released in the first day, but fewer between the

first and second day. This has resulted from certain changes in bench warrant hearings at the Detention Center. The result is that there has been somewhat fewer days of detention of people incarcerated for a week or less.

- Page 1 - The second footnote alludes to a communication from me. This should be corrected to read that approximately 80%, not 50%, of the persons having bail set have it set outside the normal work hours of 8:30 to 5:00. At the same time this section could say correctly that 50% of those having bail set have it set from Friday at 4:00 p.m. to Sunday at 4:00 p.m.
- Page 12 - One might also add as a benefit of detention the incentive that it places on the defendant to see a case go to final disposition, e.g., Crash Court rather than to have the case continued. I include this because of your discussion of the difference between goals and benefits. I do not necessarily subscribe to this as a proper goal.
- Page 14 - The report indicates towards the bottom of the page that "(f)or the other 90% of preliminary hearing date is set;" as a matter of strict legalism, preliminary hearings are only held in felony cases. Misdemeanor cases have no preliminary hearing, but rather are set for a trial listing at the time of their preliminary arraignment.
- Page 14 - It should be pointed out that the percent of cases that are held without bail is now extremely low. For example 1.2% of the number of cases were held without bail in 1974.
- Page 15 - Detainers may be a more serious problem than the report indicates. The last paragraph on page 15 states that persons on probation or parole may receive a detainer at the preliminary hearing. Often something called "wanted cards" have been lodged by the applicable officer and are lodged at the time of an arrest on other charges. In such cases even those who are released on ROR would have to be transported to the prison. The same effect occurs with Bench Warrants on those arrested where a Bench Warrant is lodged at the same time. Regardless of how small the bail is, there is no possibility of release. A great number of those entering the system have probation or parole wanted cards, or outstanding Bench Warrants.

I next read the 10 Interventions that the report outlined. I had some comments about each of them:

Intervention #1. This suggestion is already available to the judge at the Police Administration Building. It is termed Sign Own Bail in the City of Philadelphia. It is a release on your own recognizance (ROR) release which has a financial penalty in the event of a later failure to appear. In other places it is called an unsecured appearance bond. It is virtually never used. Its use raises several problems, i.e., how do you go about collecting the amount of money that it specifies. With conventional bail, and I use that term conventionally advisedly, the money has been posted before the release occurs. There is no problem with this after the fact collection. I know of no jurisdiction in the United States in which this form of release is used except on extremely rare occasion. This, however, does not mean that its usage could not be implemented by Rule of Court or legislative statute.

Intervention #2. This suggestion is something that has been spoken about before, but never to my knowledge tried anywhere. I would think from a practical standpoint that it would not work at all. The 10% bail system uses money paid prior to the release to create an incentive to return. Most of that money will be returned to the person who deposited it at the conclusion of the case. This is the only form of financial release that I know of that creates an incentive to return. There is some sort of an incentive, but one that is slightly negative, associated with the unsecured appearance bond suggestion in Intervention #1. The old bail bondsmen system has no incentive either way, i.e., the person pays for freedom and is really unconcerned as to whether they should come back to court, or to flee. A release such as outlined in this section of your report creates a negative incentive. Failures to appear would most certainly be induced by those who would have otherwise come back, but who were unable to raise the money.

Intervention #3. This certainly would be much kinder than the current system. In some ways, though, it is like a "bait and switch". While getting rid of short-term detention at the Detention Center, it would create short-term detention at the Police Administration Building. The only savings would be in trips to the Detention Center. (It should be noted that trips to the Detention Center from the Police Administration Building do not always wait until there is a full van. This means that some trips could be added with virtually no increase in the cost.) It might be possible to achieve the same result by establishing an interim facility at the Detention Center for qualifying cases. Those thought to have a high likelihood of rapid release could avoid full entry processing and save the costs associated with that process.

This would save on the construction of new facilities at the Police Administration Building and the added burden in attempting to serve food and the like at that down-town facility. On the other hand, I would think that such a facility would greatly ease the impact of the bail setting process of those that are arrested.

Intervention #4. A study was completed in early 1975 that should permit a recommendation of those accused of one of the "five offenses".

Intervention #5. The problem associated with a misdemeanor citation program is the lack of positive police identification in such cases. Citation and summons programs around the country are quite often used as safety valves to permit the release of less serious cases before court opens on the next working day. As I indicated previously, this is not a problem in Philadelphia since the court is open 24 hours a day. The Philadelphia Preliminary Arraignment Court is located at the same facility as the police identification operations. Since the police would argue that the defendant, or more properly arrestee at that point, has to be brought to the Police Administration Building for positive identification, it seems unnecessary to use a summons program instead of having the person appear before a bail setting judge.

Intervention #6. Some additional problems associated with this suggestion would lie in the inability to utilize community-based organizations most of the time. This is because releases occur in the overwhelming majority of the cases outside of normal working hours. It should also be recognized that those persons most eligible for diversion are those that are already being released on conventional forms of bail, especially ROR.

Intervention #7. This is an extremely good idea. In fact, it is one in which the Pretrial Services Division has recently begun to expand its efforts. Unlike the suggestion in your report, however, our new attempts are to facilitate the making of bail at the Police Administration Building. This has required the reallocation of resources, but basically entails a more rapid attempt to find someone with the requisite amount of money and to explain to them what has to be done to secure the defendants release. Not only will this cut down on the stay at the Detention Center, but will also impact on the number of admissions. I'm not certain from the description what exactly is planned at the Detention Center but extensive efforts are already being made and off hand I can't think of any additional ones. I would be more able to comment if the description was more concise as to what "facilitate" meant.

Intervention #8. This too has already begun. Our current plans are to extend the review process to within a few minutes

of the time bail is actually set and to plan to do the bulk of the work that requires contact with outside agencies on the first working day following arrest. This form of the suggestion is really an extension of that mentioned in Intervention #6.

Intervention #9. In many ways this is really an extension or alternative way of saying what was contained in Intervention #8. As outlined there, the Pretrial Services Division has already begun to extradite Conditional Releases, although it would appear there would always be the possibility of doing more with more staff and an enlarged program that you mentioned. I would feel that particularly the diversion aspect would have a very limited impact on the detention population and a particularly limited impact on long-term detentioners. As I indicated earlier, I am most concerned with the impact of the detention process on long-term detainees.

Intervention #10. This suggestion is excellent. One of the potential problems not mentioned is that the expansion of Crash Court would in fact be thwarted by the early releases of those misdemeanants qualifying for it. Crash Court to some degree is an alternative for those unable to afford conventional bail. To the degree that your report is successful in reducing detention time, and people will have a decreased incentive to stay incarcerated until they can appear at Crash Court.

Intervention #11. A reduction in the nature of the charge could possibly bring about a lower, and therefore more attainable, bail amount. It is unlikely, however, that such a change would result in increased ROR recommendations. With the exception of the five enumerated crimes - rape, robbery, burglary of a private residence, aggravated assault and murder - all charges are treated equally in terms of the recommendation they receive. It would seem unlikely that there would be significant instances in which one of these five crimes were reduced to a lesser included offense at the time of the preliminary arraignment. These are now the type of charges in which there is a tendency to over charge. Therefore, I submit, there would be little change in the nature of the bail recommendation.

As was noted individually, four of the eleven Interventions discussed have already been implemented, or are possible at the present time. These are numbers one and seven through nine inclusive. Two more of the Interventions discussed are currently planned for implementation in the near future. These are numbers four and six. On balance, though, those items that you presented in your report seemed to comprehensively cover the area. The only two ideas that I would present as possible additions to your list of Interventions would be as follows:

1. *First Suggested Intervention.* The first suggestion has to do with the creation of a work release center for pre-trial detainees. This center would enable those who had employment to be released during the hours of that employment with an understanding that they would spend the remainder of their time living at the work release center. This could be a facility ranging from an extension of the prison to one that would be a house located someplace in the community. In the area of systems impact one could hope for a reduction in the human costs by releasing all of those who were currently employed. This would keep families from going on welfare and the defendant from losing his or her job. While this would have the most meaningful impact to those who would otherwise have been detained for long periods, the short-term releases are those most heavily involved in employment. For this reason it would have a measurable impact on the short-term detention population. Key implementation steps would be the obtaining of a work release facility. Potential problems would have to do with the cost of such facilities and the possible increase in failures to appear for those so released.
2. *Second Suggested Intervention.* Another possibility would be accelerated calendars for felons. Such a suggestion could include stipulated testimony for some of the preliminary portions of the proceeding and an accelerated trial listing for those detained. This would be somewhat like a "Crash Court" for felons. It might also be possible to have accelerated listings for anyone detained in lieu of bail. This would tend to bring such cases to a more prompt disposition. This would have an impact not only on short-term detention, but on all detention. Key implementation steps would be to change certain rules allowing for such an accelerated calendaring. Potential problems would lie in the legal aspects of due process to those not detained, but it is something that is being done in other locations.

I'm not sure how helpful the information contained in this letter will be. If any of it is unclear, or if you desire additional information please do not hesitate to contact me.

Sincerely yours,

Dewaine L. Gedney, Jr.

DLG:mb

END