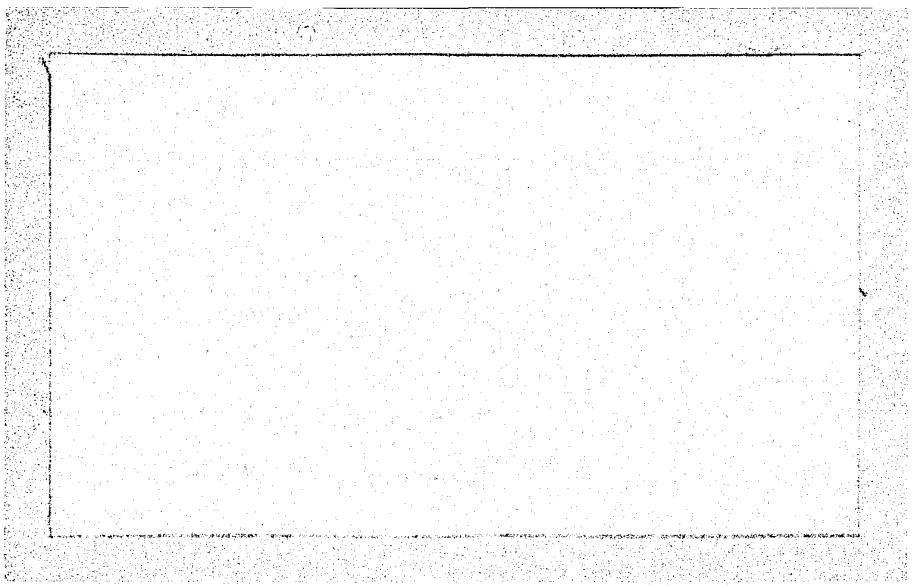

PHASE I EVALUATION OF PRETRIAL RELEASE PROGRAMS

WORK PRODUCT TWO -

PROJECT NARRATIVES AND FLOW DIAGRAMS

FEBRUARY 1976

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PHASE I EVALUATION OF PRETRIAL RELEASE PROGRAMS

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Preface

Comprehensive, structured telephone interviews with the directors of 109 pretrial release programs served as the basis for selecting 10 pretrial release programs for site visits. During the telephone interviews, detailed information was obtained on the organizational structure and operating procedures of the programs as well as the forms of pretrial release emphasized. The interviews also produced information on the overall system of pretrial release in the jurisdictions within which the programs operate and the state laws and local court rules which govern the pretrial release system. The 10 programs selected for site visits were considered representative of the major, alternative approaches pretrial release programs have taken to the pretrial detention problem. An effort was also made to select programs from different regions of the country. The programs visited and the major considerations leading to their selection were as follows:

West

Denver--An LEAA funded program administered by the probation department, it serves only felony defendants and intervenes immediately after arrest and booking. It was selected primarily because of its close proximity to the Phase I staff in Denver. Because of this fact, it is the most comprehensive of the 10 site visits. This site visit was used as a "pilot study" to determine the appropriate observations, data gathering and analysis which should be done for each of the other programs.

San Francisco--An independent program, operated by a private foundation, the San Francisco project most nearly reflects the procedures of the original Manhattan Bail Project. It employs a point scale for determining release eligibility and makes extensive use of community volunteers and low-salaried law students in its operation.

Santa Clara, County, California--A court administered pretrial release agency which emphasizes the quick release of misdemeanor defendants. The program operates around the clock at the Santa Clara County Jail and can release misdemeanor defendants without seeking prior judicial approval. The program has recently implemented a conditional release program for felony defendants. This program has strong political support.

San Diego--Based upon the results of the 1973 OEO survey and data in Thomas' work, the San Diego program appeared to be one of the most successful probation operated programs in the country. It handles felony defendants only and submits its recommendations at a defendant's initial bail hearing.

Mid-West

Des Moines--The Polk County Pretrial Release Program is one of the oldest in the country and its success and the high use of nonfinancial releases in Des Moines has been long recognized. The Des Moines Community Corrections Program of conditional release for "high risk" defendants was selected by LEAA as one of its exemplary programs.

Minneapolis--The Hennepin County Pretrial Court Services Agency is a large, comprehensive court services agency which, in addition to administering pretrial release interviews, screens defendants for public defender eligibility and for diversion program participation. Originally funded by LEAA, the program made a smooth transition to local funding due to its strong local political support.

Chicago--Two pretrial release programs--one court administered and the other independently operated--exist in Chicago. The role of a pretrial release program in a jurisdiction relying heavily on 10 percent deposit bail was a major factor in selecting the Chicago programs for site visits.

East

Washington, D.C.--One of the largest and most well-known pretrial release programs in the country, the D.C. Bail Agency was the first program to move into the area of conditional nonfinancial releases. A comprehensive pretrial court services agency, the Bail Agency has an overall responsibility for seeing that the liberal release practices contained in the Bail Reform Act of 1966 are carried out in the District of Columbia. The rate of nonfinancial pretrial release in felony cases in the District of Columbia is the highest in the country.

South

Fayetteville, North Carolina--A relatively new program funded by LEAA, the pretrial release program in Fayetteville operates under the guidance of a board of directors which contains strong representation from all facets of the criminal justice system. Despite this diverse representation on its advisory panel, which we felt would be conducive to strong, broad-based program support, the program was in serious danger of being discontinued during the time of our site visit.

New Orleans--The New Orleans program is unique in that it is directly administered by the office of the District Attorney. The program receives limited funding from LEAA.

The purpose of making site visits was to observe actual program activities in progress and to investigate the impact of each program on the pretrial release of defendants in its jurisdiction. In each report, process flow diagrams with accompanying narrative describe project operations and intervention into the criminal justice system. For each jurisdiction visited, Phase I staff compiled relevant information about the framework in which the program operates

including the local criminal justice system, the nature of the defendant population and any other intervening variables which might affect program outcomes. During each site visit a review of the available data was made to ascertain the potential for measuring project outcomes and overall impact on the pretrial detention system.

While we believe that each report is accurate as to the time of the observation, these reports are working drafts deliverable to LEAA as preliminary investigations. They have not been verified with the project directors, something that must be done before any publication or distribution of this material.

Wayne H. Thomas, Jr.

Project Director

PHASE I EVALUATION OF PRETRIAL RELEASE PROGRAMS

Project Narrative

THE DENVER PRETRIAL RELEASE PROGRAM

DENVER, COLORADO

July 1975

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I. THE JURISDICTION

Denver, the "Gateway to the Rockies", is at the core of a metropolitan area of 1.2 million people. Founded in 1858 by goldrushers, Denver became the central supply point for the mining industry that sprang up in the Rockies. As the twentieth century approached, the old-west tone of the city dissipated, and residents became increasingly concerned with city planning, working conditions, and the lot of the poor; Denver is the home of the nation's first Juvenile Court and the first "Opportunity School."[1]

Today, Denver is a city of white collar jobs and light industry. Gates Rubber Company and Samsonite are two of the oldest manufacturing firms in the city, and Denver ranks sixth in the country in degree of diversification of jobs. Because of this diversification, the recent recession and other economic fluctuations have had less of an effect on Denver than on most major American cities. According to the 1970 census, Denver had a slightly lower unemployment rate (particularly among women and minority groups) than other cities. One of the largest employers in Denver is the federal government--only Washington, D. C. has more federal offices than Denver. Denver is also the second "oil capital" of the United States (after Houston), and many of Denver's recently built skyscrapers were constructed with oil money.

Prior to World War II, Denver was relatively small. Following the war, however, many GI's settled in Denver after having been stationed at surrounding military bases, a pattern that repeated itself after the Korean and Vietnam wars. A second factor which has increased Denver's population is the growth

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[1]Denver's Emily Griffith Opportunity School was founded in 1916 as an adult and vocational education division of the Denver Public Schools.

of the skiing industry and tourism. In the late sixties, Denver became a mecca for the counterculture, and so many young people moved to Denver that by 1972, the median age was in the mid-twenties. Today, the five-county area (Denver, Adams, Arapahoe, Boulder, and Jefferson Counties) has reached a high of 1,227,529 people (ranking 27th in the nation). Of the total, the city of Denver comprises only 514,678.

Between 1960 and 1970, a dramatic change took place in the ethnic topography of the city. While the number of white residents dropped by 11 percent, the number of blacks increased by 55 percent and the number of Chicanos by 100 percent. Denver, however, remains a predominantly white city, with Chicanos comprising about 17 percent of the population and blacks about 9 percent.

Like most other metropolitan areas, a great deal of Denver's growth has been in the suburbs. One of the factors that has accelerated the flight away from the inner city is the sharp increase in crime over the past twenty years. For instance, in 1974, Denver had the unenviable honor of being first in the nation in the number of rapes per capita. In response to this distinction, as well as to the increase in other kinds of crime (particularly robbery and burglary), the Denver Anti-Crime Council[2] has sponsored a number of crime prevention programs such as Project Escort (intense police patrolling using motor bikes for greater mobility), Neighborhood Crime Prevention (a citizen-participation program), SCAT (Special Anti-Crime Attack Team which is aimed at reducing the frequency of robbery), as well as implementing other precautions such as replacing street lights and establishing special projects to help prevent rape and work with rape victims.

To some degree, the programs seem to be working. DACC reports show that the number of rapes committed has dropped from a high of 480 in 1970 to

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[2]The Denver Anti-Crime Council (DACC) is a recently established LEAA-funded program whose role is to monitor and evaluate innovative criminal justice programs in the Denver area. Within this role, DACC has been active in the initiation of new programs.

about 400 in 1974 (Denver is currently third in the nation for number of rapes per capita). Homicides similarly decreased, and the only crime which showed an increase over the previous year was burglary. Interestingly, the Denver Victimization Survey conducted by the Census Bureau in 1970 found that young persons were more likely to be the targets of personal crimes than older people.

The youth of Denver's population is just starting to be reflected in city and state government. As Denver is the state capital, its residents have a strong influence over state politics. Traditionally a fairly conservative state, Colorado has been experiencing recent manifestations of liberalism, much of which has stemmed from concern over the environment. In general, Denver could be characterized as a city with a strong "old west" tradition which has undergone a recent influx of well-educated youthful residents.

II. THE CRIMINAL JUSTICE SYSTEM IN DENVER

In 1904, the City and County of Denver were merged and now cover the same geographical area and are run jointly by a mayor and city council. There are three criminal courts in Denver: the City Court, which handles misdemeanor cases only; the County Court, which handles misdemeanor cases through disposition and which serves felony cases through preliminary hearing; and the District Court which has felony trial jurisdiction. All County Court judges are appointed by the mayor for four-year terms, while District Court judges are appointed by the Governor. After this term expires, each judge may decide whether or not he wishes to run for retention. If he does, his name is placed on the ballot and the voters decide whether he is to be retained for a second four-year term. In addition to the local courts, both the Federal District Court for Colorado and the 10th Circuit Court of Appeals are located in Denver.

Law enforcement in Denver is provided by the Denver Police Department. In 1974, there were 1,358 persons employed by the department and 752 police

officers were assigned to patrol. During recent years, the Police Department has instituted a number of programs designed to prevent crime and improve police efficiency. Among the projects are SCAT, Project Escort (which provides 20 officers on motor bikes patrolling the Capital Hill area to reduce the recent upsurge of violent crimes in that area), the Criminal Analysis Section (which was instituted to improve police planning), and Operation Identification (a program which engraves ID numbers on the property of participating organizations to reduce burglary). These programs receive most of their funding from LEAA, which contributes over $1,400,000 annually to the Department.

Unlike many other cities, the Sheriff's Department in Denver has no arrest power, and is not separate from the city government. The primary duty of the Sheriff's Department is to maintain and oversee the city and county jails, transfer prisoners from jails to the courtrooms, maintain security at the courts, and to serve legal papers (such as eviction notices). Interestingly, a recent move by the deputy sheriffs to acquire arrest power for that department was voted down by Denver residents.

There are two main jails in Denver: the city jail, which houses arrestees overnight, and the county jail, which holds persons being detained prior to trial. The city jail, which was built in the 1930's, is now being replaced by a new facility with an expected completion date of 1976. The county jail is relatively new, having been built about fifteen years ago, and in addition to prisoner cells, contains other facilities such as a library and gym. Over the last few years, the daily population of the county jail has been diminishing, from an average daily count of 750 in 1971 to a low of 493 in 1974. Both men and women are housed in the jail, although they have separate facilities. The majority of the detainees in the jail are charged with felonies: for instance, on June 16, 1975, there were 569 persons in detention, of which 323 were charged with felonies.

There are three offense classifications in Denver: felonies, state misdemeanors, and general session misdemeanors. General session misdemeanors are offenses against city ordinances and are tried in City Court. Within the felony and state misdemeanor classifications, offenses are stratified in severity by minimum and maximum sentences. There are six levels of felony offenses and three levels of state misdemeanor offenses:

		Minimum Sentence**	Maximum Sentence**
FELONIES	Class 1	Life	Death
	Class 2	10 years	50 years
	Class 3	5 years	40 years
	Class 4	1 year or $2,000	10 years and/or $30,000
	Class 5	1 year or $1,000	5 years and/or $15,000
	Unclassified		
MISDEMEANORS			
	Class 1*	6 mos. and/or $500	24 mos. and/or $5,000
	Class 2	3 mos. and/or $250	12 mos. and/or $1,000
	Class 3	$50	6 mos. and/or $750

*Persons charged with Class 1 misdemeanors may request a preliminary hearing, although few do.

**For defendants between 18 and 21 years old, there is an option to sentence to the reformatory; any reformatory sentence is indeterminate.

Denver began its Public Defender program in 1967, although the state of Colorado instituted a statewide public defender system in 1970 which subsumed Denver's program. A public defender is available for indigent defendants charged with any type of felony or state misdemeanor, and for some general session misdemeanors and some juvenile cases. In 1974, the Public Defender's office handled a total of 4,982 cases, of which about 1,500 were felonies, 2,800 state misdemeanors and 600 juvenile cases. This averaged about 225 cases per attorney in the Public Defender's office.

The prosecutor's office in Denver is headed by District Attorney Dale Tooley. In addition to the police crime prevention programs, the District Attorney's office in Denver instituted the Priority Prosecution Program in June of 1974 with a $220,000 grant from LEAA. Under the supervision of Assistant District Attorney Richard Wood, the primary purpose of the program is to improve prosecutorial effectiveness through more systematic methods of investigation. In addition, the program provides pretrial diversion for a few selected "high impact crime" offenders.

III. CASE PROCESSING IN DENVER

In this section we will describe the release process as it operates for felony cases, and then for misdemeanor cases. This description follows Flow Charts #1 and #2. The numbers shown on the flow charts represent a six month period, from November 1, 1974 through April 1, 1975, and were derived from the Pretrial Release Program's data and from information provided by the Denver Anti-Crime Council. Where the raw numbers used did not represent the same time frame, they were pro-rated for a six-month period (see Appendix A for more discussion of the data used in this paper).

A. Felony Cases (Flow Chart #1)

An arrested person is initially transported to the Denver Central Police Building for booking, after which he may be interrogated by a detective assigned to the case. Shortly after his arrest and booking, a felony defendant will be interviewed by a deputy sheriff assigned to the Pretrial Release Project's staff. As Flow Chart #1 shows, during a recent six month period, 3,425 of the 3,897 persons arrested on felony charges (88%) were interviewed, 74 were unable to be interviewed and 398 refused the interview.[3]

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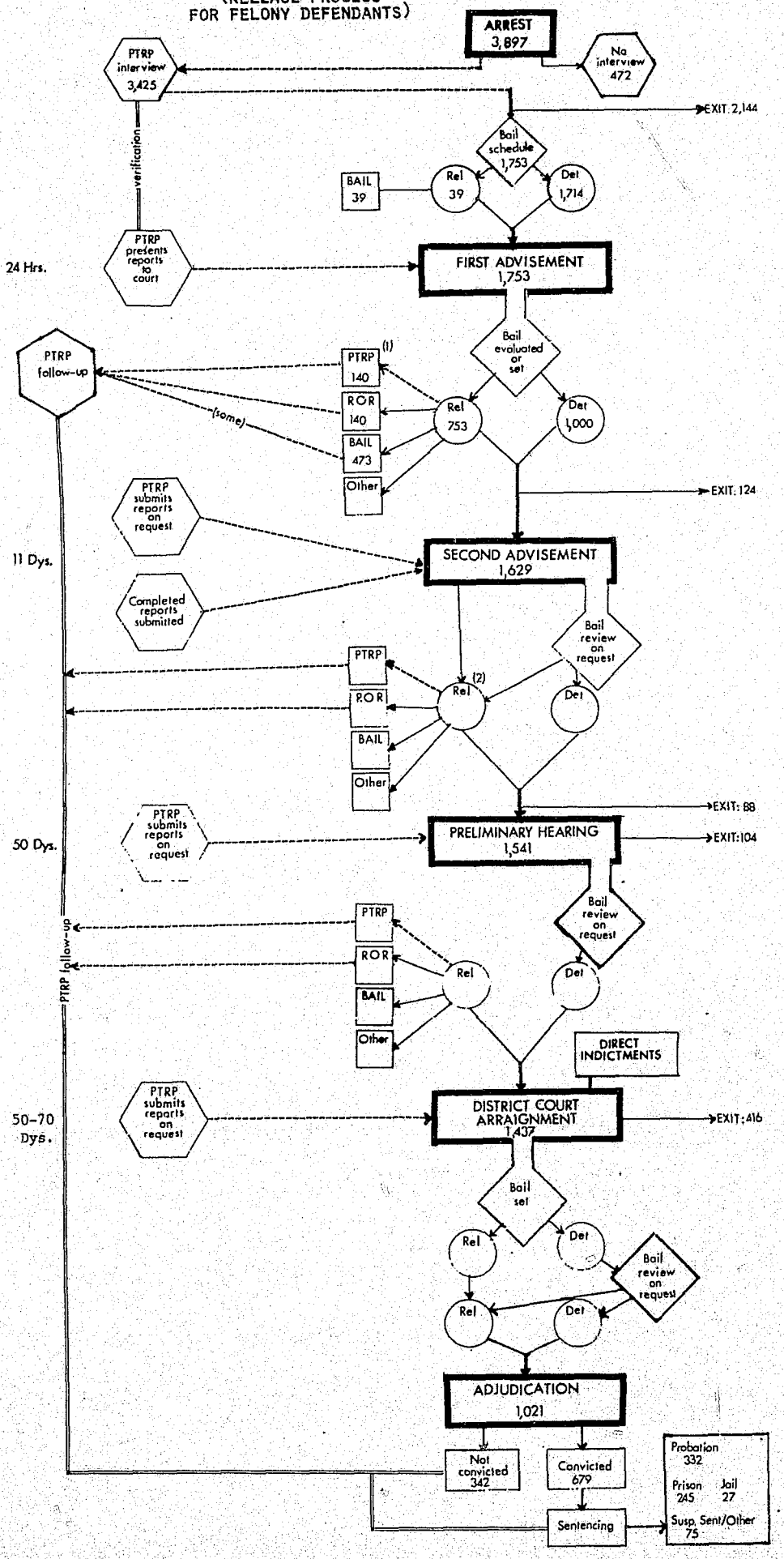
[3]Data obtained from the PTRP Second Year Grant Application.

DENVER PRETRIAL
RELEASE PROGRAM
JUNE 1975

FLOW CHART #1
(RELEASE PROCESS FOR FELONY DEFENDANTS)



NOTES:

(1) PTRP, as opposed to ROR, refers to cases in which the defendant was released on his recognizance as a result of a positive PTRP recommendation. ROR refers to defendants released on their recognizance against PTRP's negative recomemndation or without any PTRP recommendation.

(2) The release figures we have are not adequate to calculate the exact release distributions at each stage of the release process. We do know, however, that of those defendants who are bound over to District Court (a total of 1,437), 613 (42%) are in detention and 824 (58%) are on release. Of those released, 204 (25%) are out on recognizance bonds, 437 (53%) are on surety bonds, and 183 (22%) are out on other forms of bond.

One distinctive aspect of the Denver criminal justice system is that approximately 65 percent of all felony arrests are "investigative arrests" in which the defendant is not immediately charged with a specific offense. As a consequence of the large number of investigative arrests, approximately 55 percent of all persons arrested for felony offenses have their charges dropped or reduced to misdemeanors prior to their initial court appearance. The felony arrest population is, thus, reduced by over half prior to any court appearance. Although pretrial release is available prior to a court appearance in felony cases -- including investigative arrests -- through the use of a felony bail schedule, only about 2 percent of the defendants secure release in this manner.

Within twenty-four hours of arrest, First Advisement of rights is held in County Court. At First Advisement the defendant is informed of the charge against him (or in the case of a person arrested for investigation, told that he will probably be charged with a particular offense), and bail is set. The police may present information relating to the particular crime and to the defendant's prior record, and the detective or police may recommend own recognizance or a high or low bond. In addition, the Pretrial Release Project presents its recommendations at this time. Since there is no public defender at First Advisement, the only persons who have had an opportunity to consult with an attorney are those who have retained private counsel. According to the limited data available, about 43 percent of the persons who reach First Advisement are released at that time; the remaining 57 percent stay in detention. Of those released, 19 percent are granted personal recognizance on the basis of a positive recommendation from the pretrial release program and an additional 19 percent are released on recognizance without the program's recommendation or in spite of a negative recommendation from the program, and 62 percent are released on surety bonds.[4]

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[4]Data obtained from a sample of 121 cases from PTRP records between May 1, 1975 and May 12, 1975 (sample drawn by Phase I staff).

All defendants released on their recognizance -- whether through program recommendations or not -- are supervised by the program. In addition, the court has the option of requesting program supervision for some defendants released on bail, which it uses occasionally.

Between three and eight days after First Advisement, Second Advisement is held.[5] During the interim, and additional 3 percent of the original arrest population have their felony charges dropped and exit from the system. At Second Advisement, bail may be reviewed on the request of the defendant and the pretrial release program submits completed reports on all defendants, including those whose information was not verified at the time of First Advisement. Of the 1,629 persons who reached Second Advisement (which comprised 42 percent of the original arrest population), an additional 325 were released after Second Advisement (130 on their recognizance -- only a small percentage, however, on the basis of a favorable program recommendation -- and 195 on surety bonds).[6] However, since we were unable to determine what portion of the persons who exited prior to Second Advisement were on release and what portion were detained, it is impossible to calculate the change in the number of pretrial detainees following Second Advisement. We can only estimate that the detention population was reduced from 1,000 to somewhere between 551 (if all the persons who exited were in detention) and 675 (if none of the persons who exited were in detention). Since it was clear in interviews with judges that one of the factors entering into release decisions is the weight of the evidence against defendants, it seems reasonable to assume that following Second Advisement, the number of persons remaining in detention was closer to 675 than 551.[7]

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[5]In an interview, Judge Irving Ettenberg noted the court is considering elimintating Second Advisement altogether and processing cases from First Advisement directly to preliminary hearing.

[6]Data obtained from Phase I sample of 121 cases.

[7]This suggestion was supported in an interview with PTRP staff who noted that a large number of persons initially granted PR bonds exit through dismissal or charge reductions prior to District Court arraignment.

The next court appearance for most felony defendants is the Preliminary Hearing, which is an optional hearing (that is, the defense may choose to proceed directly to District Court Arraignment). We do not have data on the number of felony defendants who bypassed the Preliminary Hearing and; therefore we will assume for purposes of statistical description that all felony defendants opted for Preliminary Hearings. Between Second Advisement and Preliminary Hearing, an additional 88 defendants exit from the system, either through charges being dropped or reduced to misdemeanors. Thus, 1,541 of the original 3,897 arrestees reach the Preliminary Hearing stage (39 percent). At Preliminary, the case is reviewed to determine if there is sufficient evidence to warrant further prosecution. As a result of this review, another 104 defendants exit by having their charges reduced, their case dismissed, or prosecution deferred.[8] From this point on, the only participation of the release program is to provide information on the request of the court or defense, and this happens rarely.

The release data available after First Advisement does not enable us to distinguish the number of persons released at Preliminary Hearing from those released at or just following Second Advisement. We know only that of the felony defendants who reached District Court through the County Court advisement process, 58 percent were on release and 42 percent in detention at the time of District Court arraignment.[9]

In addition to cases being bound over from County Court, there are two other ways felony cases reach District Court arraignment. Some cases are filed directly in District Court by the prosecutor, bypassing the County Court system altogether. The cases which are directly filed generally constitute the more serious offenses such as murder, rape, or kidnapping. According to figures supplied by DACC, about 18 percent of the cases filed in District

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[8]Data obtained from DACC records.

[9]Data obtained from Phase I sample of 121 cases.

Court are direct filings (in 1974, there were 495 such filings,[10] giving us an estimate of about 250 for a six-month period). Since few of these defendants are released prior to District Court Arraignment, we can assume that the direct filings substantially increase the detention population. Combining the group of defendants who are processed through County Court with those whose cases are directly filed, the percentage of persons in detention at the time of District Court Arraignment is actually about 60 percent rather than 42 percent. Of those on release at the time of Arraignment, about 25 percent are on personal recognizance, 53 percent are on surety bonds, and 22 percent are on other forms of bond (such as deposit bail) or combination of bond types.[11] The third method by which cases reach District Court Arraignment is through Grand Jury indictments. In 1974, it was estimated, however, that there were only eight such cases.[12]

The time span between arrest and District Court Arraignment ranges between one and two months, and is dependent, among other things, on whether or not the defendant requested a Preliminary Hearing . Of the defendants reaching the District Court level, approximately 24 percent exit from the system through dismissal, reduced charges, or deferred prosecution. Of the 1,271 persons eventually adjudicated in District Court, it appears that about 67 percent are convicted, of which 49 percent are placed on probation, 36 percent sentenced to prison, 11 percent given suspended sentences, and 4 percent sentenced to jail.[13]

Summarizing the flow of felony defendants, we can tentatively conclude that:

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[10]Data from Clerk's Office, District Court.

[11]Data from Clerk's Office, District Court.

[12]Data obtained from DACC records.

[13]Data obtained from DACC records.

1. Of the 3,897 persons arrested, 1,021 (26 percent) are eventually adjuicated in District Court. Following the arrestees through court processing, we find:

   a. By First Advisement, only 45 percent are still in the system;

   b. By Second Advisement, only 42 percent are still in the system;

   c. By Preliminary Hearing, only 40 percent are still in the system;

   d. By District Court Arraignment, only 37 percent are still in the system;

   e. By District Court adjudication, only 26 percent are still in the system.

2. In addition to the persons reaching District Court through the County Court advisement process (approximately 1,437) an additional 250 defendants reach District Court through direct filings and a few defendants (estimated 4) reach District Court through Grand Jury indictments, making the total number of persons arraigned in District Court over a six month period roughly 1,391.

3. Although the data on release distributions and number of persons detained are scanty, we observe that:

   a. At First Advisement, 43 percent of those advised are released and 57 percent detained. Of those released, 38 percent are released on recognizance, half of which resulted from positive program recommendations.

   b. After Second Advisement, between 551 and 675 persons remain in detention, a range of 34 percent to 41 percent of the defendants who reach Second Advisement.

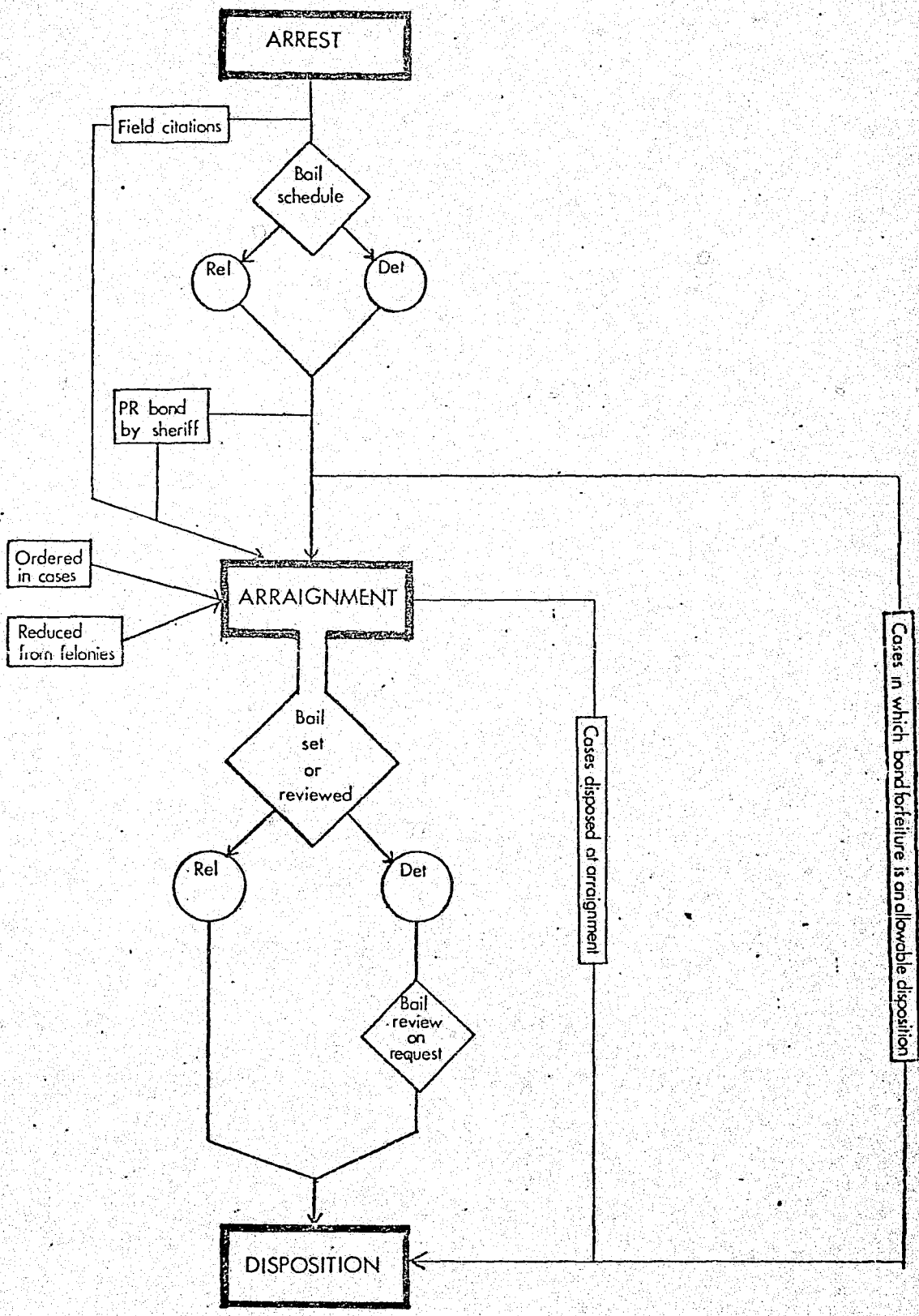
   c. Of those persons who are bound over to District Court, 58 percent are on release and 42 percent are in detention. Of those on release, 25 percent are on their own recognizance, 53 percent are on surety bonds and 22 percent are on another form of bond or combination of bond types.

B. Misdemeanor Cases (Flow Chart #2)

As noted earlier, criminal misdemeanor offenses are divided into two categories: state criminal offenses and general session offenses. The former includes violations of state statutes, while the latter refers to violations of city and county ordinances. Processing of misdemeanor arrests differs from felonies in that, first, the police use field citations for many of the general session offenses, and second, a summons may be used in state criminal offenses.

For persons arrested and booked at the jail, a bail schedule is available, and the sheriff does issue personal recognizance bonds (although fairly

FLOW CHART #2
(Release process for
misdemeanor defendants)



infrequently, and only when court is not in session). Unfortunately, the data available for misdemeanor arrests and release distributions were scanty and did not enable us to estimate either the actual number of misdemeanor arrests or the frequency with which the different types of releases are used.

First court hearing for state misdemeanor cases is in County Court. At arraignment, bail is set or reviewed, and the defendant may enter a plea. It is estimated that about one-third of the state criminal cases are disposed at arraignment; how many of the general session cases are disposed immediately is unknown, but presumed to be fairly high.

Very few of the misdemeanor cases proceed to trial. Many are disposed at arraignment; many of the cases are dropped by either the police or prosecution, some defendants may in effect plead guilty and pay a fine through forfeiting their bail, and a number plead guilty to either the original or a lesser charge. Of the state criminal offenses filed in County Court, it is estimated that only 3 percent actually go to trial.

The Pretrial Release Project does not service defendants in misdemeanor cases, and when a felony case is reduced to a misdemeanor, the program ceases to handle the defendant (bond is reset at County Court Arraignment). Since it was not possible to obtain statistical information on the flow of misdemeanor defendants, it is impossible at this time to estimate any potential effect that release project intervention would have in such cases

IV. THE PRETRIAL RELEASE PROGRAM

In 1963, after hearing about the success of the Manhattan Bail Project and other similar efforts, Denver instituted a small-scale release project to serve indigent defendants. Operated by the District Court Probation Department under Chief Probation Officer John Yurko, the program was staffed by two persons and offered post-advisement interviews to defendants who had been in detention over

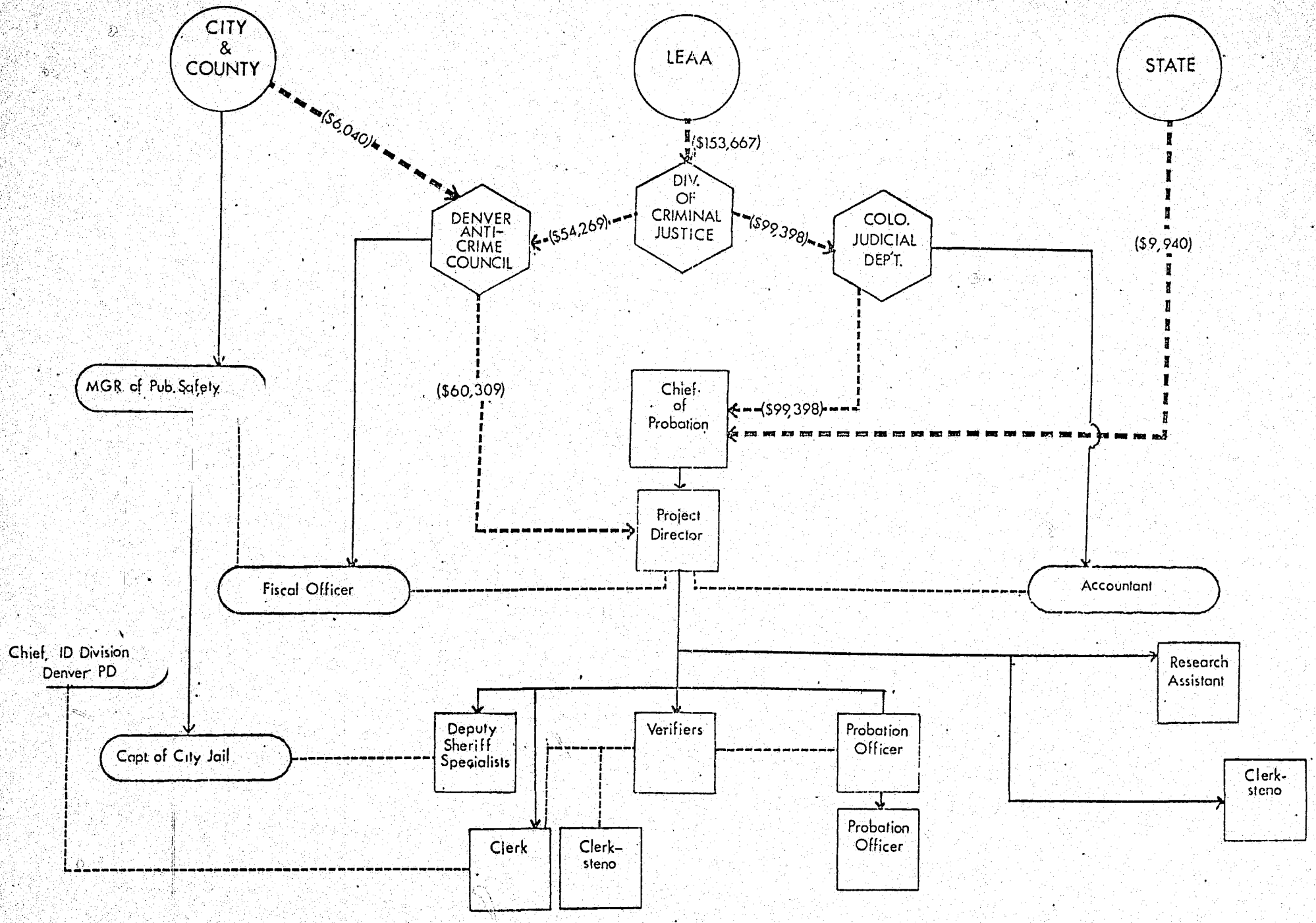
one week. Glenn Cooper of the DACC estimated that approximately six percent of the felony defendants advised in County Court secured personal recognizance through the program's efforts.

The Probation Department program was felt to be deficient in many ways; in particular, there was not sufficient staff to interview or supervise all of the defendants needing the program's services. When the Probation Department found itself unable to obtain more staff for the program, Mr. Yurko collaborated with DACC staff members Glenn Cooper and Katherine Blackman in writing a grant for federal funding of a release project. Zita Weinshienk, then a County Court Judge and Chairperson of DACC's Task Force on the Courts, and Tom Lehner of the State Judicial Department were also consulted in the early planning stages. Because DACC is a part of LEAA's Impact Cities Program, it was necessary to limit the scope of the proposed program to felony defendants. The original proposal, which was patterned after the Philadelphia Pretrial Services Division, suggested that release interviews be conducted by law students prior to First Advisement and that recommendations be submitted to a judge on a round-the-clock basis. When it was made clear that the sheriff's department would not allow civilian personnel into the jail and that judges would not be available on a 24-hour basis and would not permit non-judicial personnel to make bond decisions at night, several changes had to be made. The final proposal, approved by Colorado Supreme Court Chief Justice Edward Pringle on Judge Weinshienk's recommendation, called for the pretrial release interviews to be performed by four specially trained deputy sheriffs and the reports submitted to the court at First Advisement.

LEAA funded the proposal for $153,667, the funds being channeled to the program through the State Division of Criminal Justice (see Flow Chart #3). The Division of Criminal Justice, in turn, channeled $99,398 of the LEAA funds (65 percent) through the State Judicial Department and the remaining $54,269

Denver Pretrial
Release Program
June 1975

FLOW CHART #3
(PTRP Organization)



Flow Chart #3
Narrative

The Denver Pretrial Release Program operates on a yearly budget of $169,647. Funds come to the program from three sources: LEAA ($153,667), the State of Colorado ($9,940), and the City of Denver ($6,040). The lines of funding to the project are shown in the chart in heavy dotted lines. Money from the City of Denver and part of the money from LEAA are channeled through the Denver Anti-Crime Council, which acts as monitor and evaluator for the project. The remaining LEAA funds are channeled through the Colorado Judicial Department. Funds channeled through the Judicial Department, as well as money from the State, are given directly to the Chief of Probation. Money from the Denver Anti-Crime Council goes to the Project Director.

Lines of reporting and responsibility are denoted by the use of unbroken lines. The Project Director is responsible to the Colorado Judicial Department through the Chief of Probation for the achievement of project objectives. The Project Director is responsible to the Denver Anti-Crime Council only for the coordination of fiscal reports to fulfill grant requirements. Since fiscal reporting is also required by the Colorado Judicial Department, joint narrative progress reports are submitted to both DACC and the Judicial Department.

The Project Director has supervision over the immediate program staff, which consists of deputy sheriff specialists (who perform project interviews), verifiers, and probation officers assigned to the project. In addition, the Project Director works with the Research Assistant to compile data on program performance.

Indirect lines of responsibility and communication are shown by the light dotted lines. The deputy sheriff specialists are individuals who originally worked for the Sheriff's Department, which runs the city jail. The Captain of the City Jail, as well as the Fiscal Officer who aids the program in budgetary matters, are directly responsible to the Manager of Safety. Additional help is received from the Accountant assigned to the Colorado Judicial Department.

Thus although the program receives independent funding from LEAA and has an independent internal organization, it is closely tied to other components of the criminal justice system and is considered to be a part of the Probation Department of the City of Denver.

(35 percent) through the City of Denver and DACC. In addition to the LEAA money, the state and city contributed match funds of $9,940 and $6,040 respectively, bringing the total program budget to $169,647 annually. The Project Director reports directly to the Chief of Probation, and DACC acts as the program's monitor and evaluator.

As stated in the grant proposal, the Project's main goals were:

1. To increase the speed of OR release;
2. To increase the percentage of defendants released OR;
3. To reduce failure-to-appear and pretrial crime rates; and
4. To reduce post-disposition recidivism by providing defendants with appropriate social services through community placement.

PTRP began operations in November 1974, with a staff of 15 persons, including a director, research assistant, four Deputy Sheriff Specialists I to conduct interviews, two probation officers, and a probation supervisor to supervise persons released to the agency, three verifiers, and three clerks. In addition a city fiscal officer and a state accountant contribute 10 percent of their time to the program.

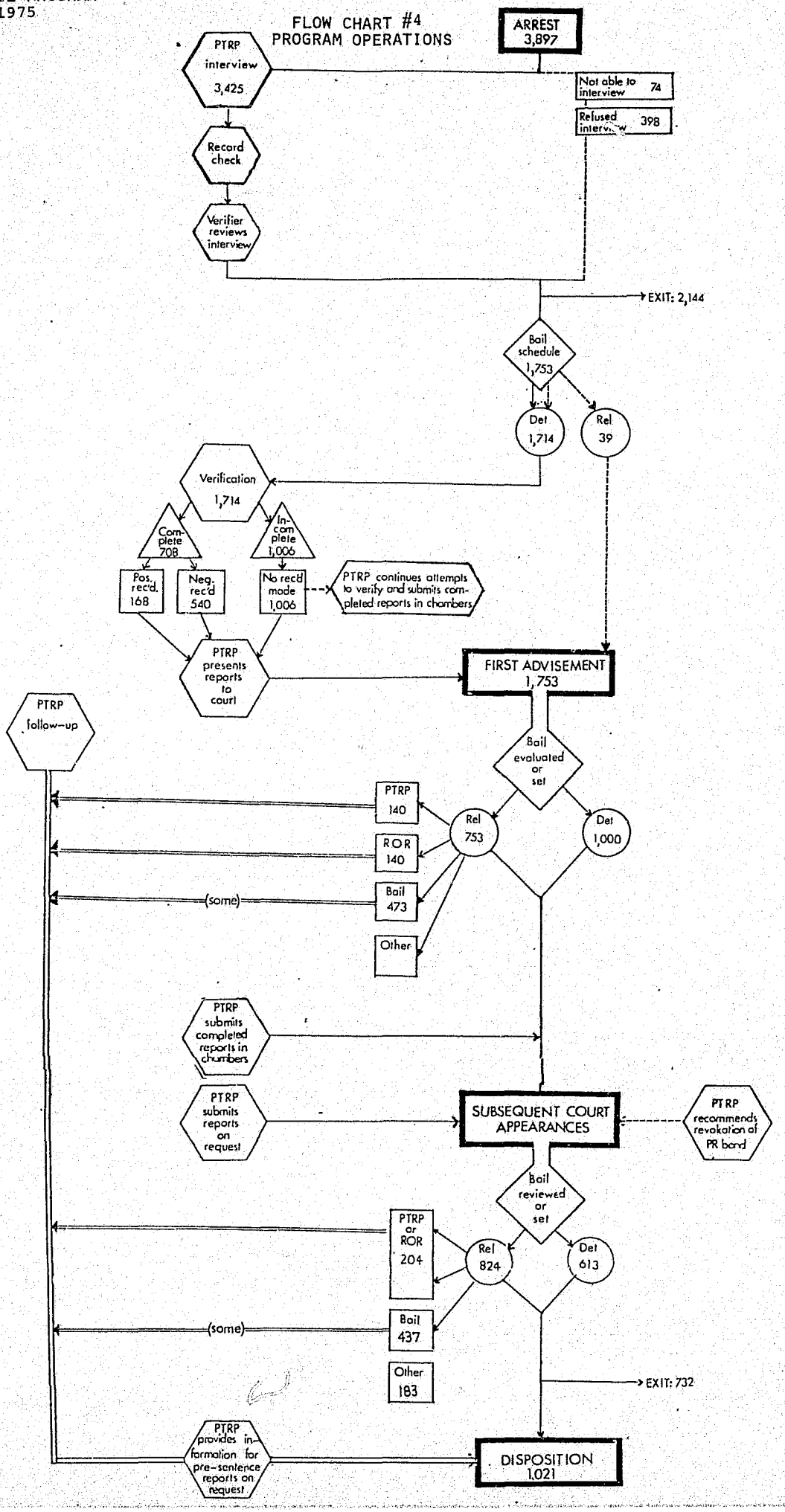
A. Program Operations (see Flow Charts #4 and #5)

When an arrest is made for a felony offense, the arrestee is immediately booked and jailed at the Central Police Building. A Deputy Sheriff Specialist I assigned to PTRP is on duty seven days a week to administer a Bond Investigation Interview, although interviews are often conducted by other Deputy Sheriffs as well. Interviews are conducted twenty-four hours a day. Of the 3,897 felony arrests during the first six months of program operations, PTRP interviews were administered to 3,425 (88 percent). Seventy-four arrestees were unable to be interviewed and 398 (10 percent of all arrested) refused to be interviewed.

The program uses a questionnaire which probes the arrestee's length of residence in Denver, his family ties, employment status, prior criminal record

DENVER PRETRIAL
RELEASE PROGRAM
JUNE 1975

FLOW CHART #4
PROGRAM OPERATIONS



(which includes prior convictions and failures to appear), and probation or parole status. Following the interview an initial assessment of the defendant's eligibility for own recognizance is made by totaling the number of points he has scored. Points are given to each local tie the defendant has to the Denver area (PTRP's point scale is included in Appendix C). Points may also be subtracted if the current offense is a serious violent crime or if it involves the sale of narcotics or dangerous drugs, if the defendant has a prior FTA, or if he has committed the same offense that he is currently charged with during the past five years. In addition, the interviewer may, on the basis of his judgment, add or subtract points from the total. Any other information which the interviewer feels will be pertinent to the verifier's work or to the court's decision is added. The questionnaire is then placed aside for later PTRP action. This interview process, from initial defendant contact through completion, takes about fifteen minutes. Once the questionnaire is complete, the PTRP clerk/typist who works in the Denver Police Department's Criminal Identification Division runs copies of the defendant's police record and attaches it to the questionnaire.

Every morning at 5:30 a.m., a staff member from the verification unit goes to the city jail, gathers all completed interviews, and obtains a list of those persons scheduled to be advised during the morning session of the County Court (persons interviewed whose charges were dropped or reduced to misdemeanors, or who posted bail at the jail are excluded from the verification list). The forms are then returned to the PTRP office where verifiers attempt to contact by telephone references provided by the defendant who can vouch for the veracity of the information on the form. Since time is limited, those persons with high point totals are verified first so that their reports will be completed for First Advisement. The average time for each verification is thirty-six minutes, and there are three staff persons doing verification during the two hours allotted to that task.

When verification has been completed, the number of points scored in the interview which have been verified is tallied and a recommendation made to grant or deny release on personal recognizance. Five or more verified points are required for a positive recommendation, but even if the defendant makes the requisite number of points, the interviewer has the option of adding or subtracting an unspecified number of points based on his subjective impression of the defendant's reliability (thus, the point system in effect acts as more of an eligibility screening mechanism than a solid basis for recommendation). During the program's first six months, verified reports were submitted at First Advisement for only 41 percent of the defendants and, of these defendants, about 24 percent were favorably recommended for personal recognizance. If verification is incomplete at this point, the program submits the information at First Advisement without a recommendation. It then continues to attempt verification and resubmits the completed report in chambers just prior to Second Advisement. Copies of the defendant evaluations are also distributed to the district attorney and public defender.

At First Advisement, the program submits its report to the judge and a staff person from PTRP is available in court to answer any questions. Since neither the district attorney nor the public defender is present at First Advisement, the court relies heavily on PTRP input and recommendations. In addition, the court receives information from the police. The extent of the court's reliance on PTRP is reflected in the 95 percent acceptance rate of PTRP recommendations at First Advisement. However, since the recommendations are conservative in nature (only 24 percent of the verified cases being favorably recommended) and since the PTRP places priority on verifying information on those defendants it feels will qualify for OR (i.e., verification for high scoring defendants is done before verification for low-scoring defendants), the persons recommended by the program represent the best pretrial release risks. Furthermore, the fairly large number of persons who are given OR release without a program

recommendation or in spite of a negative recommendation indicate that the program could recommend more persons than it currently does. The only cases in which the judge is likely to go against PTRP positive recommendations are those in which the nature of the defendant's prior record is such that the court feels he would be a poor risk or if a detective has made a contrary recommendation regarding bond type.

As noted earlier, PTRP's participation at Second Advisement consists of submitting completed reports. Since a significant number of cases are still unverified at the time of First Advisement, this represents a considerable number of reports. These reports are not submitted at the hearing itself, but rather in chambers prior to the hearing. In addition, PTRP will resubmit the reports on all defendants not released by Second Advisement. Since both the District Attorney's office and the Public Defender's office are represented at Second Advisement, PTRP does not maintain a staff representative at the hearings. Similarly, PTRP may resubmit nore detailed reports at District Court hearings (on request) to aid in bail decisions. However, this type of PTRP participation constitutes only a small proportion of its activities.

All persons released on personal recognizance in County or District Court, as well as some persons released on bail who are placed under PTRP supervision, are required to report to the PTRP office within 24 hours of release. According to PTRP, the majority of defendants comply; however, if a defendant fails to comply, PTRP attempts to initiate contact with him. At the 24-hour check-in, the terms of release are specified to the defendant, and if the court has ordered or the defendant requests social services assistance, a referral may be made.

PTRP also notifies all defendants of upcoming court appearances, by phone if possible, or otherwise by mail (since very few defendants have telephones, most notification is done by mail). If a reminder is mailed, defendants are requested to respond to the letter; if they do not, PTRP again attempts to

initiate contact.

Currently, the supervision caseload averages 300 defendants per month, or 150 per supervisor. In order to adequately supervise this number of clients the Supervision Unit staff has implemented the following procedures. At a defendant's first visit to PTRP offices the supervisor determines the specific terms of reporting based on the PTRP narrative reports, prior record, and the verified information. Two major categories of supervision are in use (see Flow Chart #5): (1) marginal supervision, in which the client is referred to community agencies which may help solve employment or other difficulties, and the client calls in person at the PTRP subsequent to all court appearances; (2) intensive supervision, in which the clients are required to call in person or by phone, weekly or bi-weekly, while the supervisors actively work to arrange for diagnostic evaluation and enrollment in community programs. If an 'intensive' client fails to contact PTRP at a required time, PTRP attempts to initiate contact, but does not inform the court prior to the defendant's next scheduled appearance.

The case supervisor attempts to refer the client to an agency or program for therapy, counseling, and/or employment. According to the Project Director and DACC, employment is the area of greatest need for PTRP clients. The case supervisor follows up on the referral by contacting the agency or program and client to see if satisfactory enrollment, services, and advice were obtained. If a client is enrolled in an ongoing program, a weekly and/or monthly followup schedule is implemented to follow the client through the program. The client continues to report to PTRP following each court date, even if enrolled in a special community project.

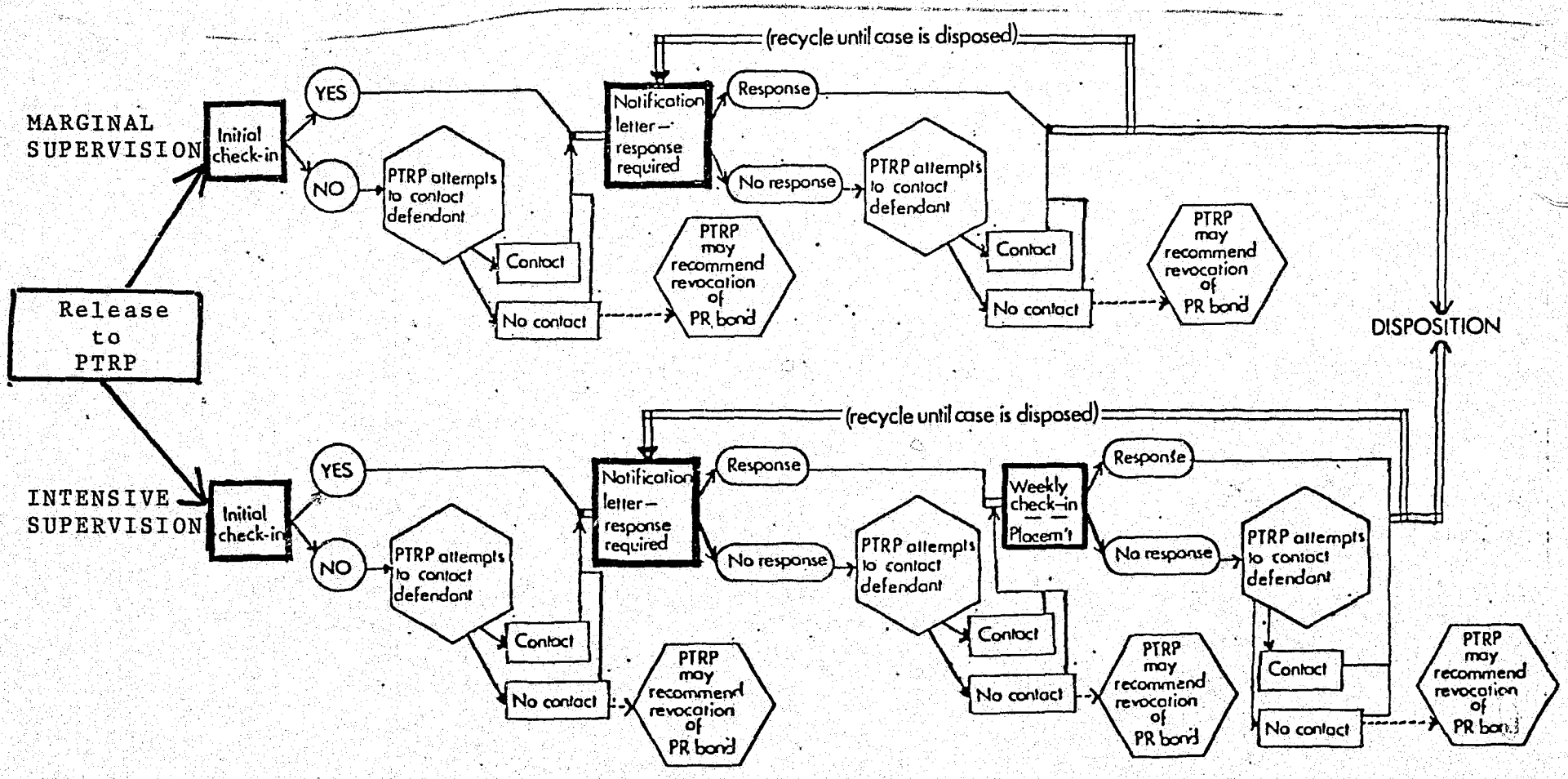
B. Program Impact on the Criminal Justice System

With a deputy sheriff interviewer on duty at the City Jail seven days a week, 24 hours a day, the Denver Pretrial Release Program is successful in completing pretrial release eligibility interviews for a substantial proportion

FLOW CHART #5

FOLLOW-UP PROCEDURES

Denver Pretrial
Release Program
June 1975



of the total felony arrest population. During the program's first six months, interviews were successfully completed with 3,425 arrestees out of a total felony arrest population of 3,897 (88 percent). Of those defendants not interviewed, the vast majority, 398, were contacted by PTRP but refused the interview. Included within the interview total, however, are a substantial number of defendants who exit from the felony system prior to First Advisement either through the filing of misdemeanor charges or the dismissal of the charges altogether. This means that the program expends a considerable amount of time interviewing and verifying information on defendants for whom no pretrial release recommendation is made. Of the 3,897 persons arrested on felony charges over the six month period, only 1,753 (45 percent) were advised in County Court.

PTRP has had considerable difficulty meeting the objective of having verified narrative pretrial release reports available for each defendant at First Advisement. Over its first six months the program was able to submit verified reports on only 41 percent of the persons advised. While the program has continually improved in this area (currently the program is submitting verified reports in approximately 60 percent of the cases), serious problems still remain. The second year grant proposal explains that the program under-estimated the number of defendants it would be servicing and thus during the first year did not have sufficient staff to do verifications. This staffing problem coupled with the limited time (two hours) available for verifications makes it extremely difficult for completed verifications to be submitted in all cases at First Advisement. The second year grant application also observes that verifications are not possible in cases where references cannot be reached by phone and in cases involving non-resident defendants who have no local references.

Since the program only submits release recommendations in verified cases (unverified reports are submitted to the court without a recommendation), the large number of unverified cases may be reducing the program's success in securing nonfinancial releases. On the other hand, it is questionable how

much impact improved verification procedures would have on the number of favorable recommendations made. Although the program favorably recommended approximately 24 percent of the verified cases presented at First Advisement, the overall rate of favorable recommendations was much lower. In January and February of 1975, for example, the program submitted 443 completed reports but recommended only 49 of the defendants (11 percent) for personal recognizance. It is, thus, obvious that very few of the cases which are verified after First Advisement qualify for a favorable release recommendation. This is likely the result of two factors. First, the program's policy of giving verification priority to those defendants who appear most qualified for release has resulted in verified reports for many of these defendants by First Advisement and, second, defendants who are good pretrial release risks secure release by some means at First Advisement even without a verified program report.

The most pertinent problem for the program to consider during its second year is why such a low percentage of the interviewed defendants are favorably recommended for pretrial release. During its first year the program will interview approximately 8,000 felony defendants in order to identify about 300 qualified for own recognizance. A major problem is that approximately one-half of the defendants interviewed never appear for felony advisement. Using data in the program's second year grant application, it can be calculated that roughly 525 man-hours were spent over the first six months of PTRP's operation interviewing persons never advised. This creates a serious dilemma. The program could reduce by one-half the number of interviews conducted but at the cost of not having their release recommendations ready for First Advisement.

The use of personal recognizance bonds was substantial in felony cases during the program's first six months of operation -- approximately 31 percent of all felony defendants advised in County Court secured personal recognizance release; 24 percent of the defendants in County Court and 7 percent in District Court. Furthermore, slightly more than one-half of the total personal recognizance releases were granted to defendants at First Advisement. While this might appear to indicate

that program intervention at First Advisement is important, this may not be the case. The data further reveal that only about one-half of the personal recognizance releases granted at First Advisement were the result of a favorable release recommendation from the program. The remainder of the personal recognizance releases at First Advisement were granted by the judge without a program recommendation or in spite of a negative program recommendation.

This would seem to indicate that Judge Irving Ettenberg who handles all felony cases in County Court is more disposed to the use of personal recognizance than is the program. Not only does Judge Ettenberg release on personal recognizance virtually all of the defendants favorably recommended by the program, he in addition releases others not recommended.[14] From this, one might speculate that most of the defendants now being released at First Advisement on a favorable project recommendation would continue to be released by Judge Ettenberg even without program intervention. On the other hand, it may be that, while the project recommendations themselves are not so important to Judge Ettenberg, the background information on local ties and prior record is crucial and that without the program reports on which to reach his own decision, the judge's use of personal recognizance would decrease substantially. Thus, although less than one-half of the personal recognizance bond releases can be directly attributable to favorable program recommendations, the program may nevertheless be indirectly responsible for considerably more of the releases.

Since all defendants released on personal recognizance are placed under the supervision of PTRP, the program does have an active role in the judicially initiated personal recognizance releases. This too may have an imporant bearing on the judge's decision to grant releases. The program's second year grant

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[14] Most of the additional releases are to defendants recommended by the police. The judge gives great weight to these recommendations because the police often have more complete information than the program owing to the short time from arrest to First Advisement.

application indicates that the program has been successful in reducing both the rearrest rate and failure to appear rate for defendants on personal recognizance release. During the program's first six months, five percent of the defendants released on personal recognizance were rearrested during the period of their release and 4.7 percent of the defendants failed to appear in court (this latter figure goes up by one percentage point if non-willful FTA's are included, i.e., those persons who failed to appear due to illness or some other justifiable reason and whose personal recognizance bonds were continued by the court). Prior to the program's implementation, the rearrest rate was reported as six percent and the failure to appear rate (including non-willful FTA's) was 8 percent. However, since the pre-program rates are based only on District Court defendants and the program rates include defendants in County as well as District Court, the two figures are not strictly comparable.

A sample of 300 cases from PTRP records offers a general idea of the demographic characteristics of persons advised who were a) interviewed by PTRP; b) recommended for OR release by PTRP; and c) granted PR bond in County Court. A summary of these data is presented below:

Table 1

Pretrial Action by
Demographic Characteristic

Characteristic:	Interviewed	Recommended	Granted OR
Unemployed	49%	26%	18%
Non-white	57%	58%	47%
Male	88%	71%	79%
Over 21	65%	59%	58%

The most striking finding to emerge from these data is the small percentage of persons granted personal recognizance who were unemployed in relation to the percentage of unemployed persons interviewed. It appears that there is a systematic weeding out of unemployed persons as the release decision progresses. In part this may be a result of the point scale administered by the program which gives the employment factor double weight. Under the Denver point scale, a defendant can achieve from one to three points depending on how long he has been on his current job. In this respect the Denver scale is similar to that employed by most pretrial release programs. In addition, however, two more points may be obtained by a defendant who lives with or has contact with AND supports a family. The Denver scale is unique in requiring that the defendant support a family; most programs award points for family ties without requiring the second element of support. Obviously, an unemployed defendant not on welfare is not likely to achieve many points for family ties under the Denver scale.

Analyzing the defendant sample drawn from PTRP's records also shows that the program is most active in securing the release of defendants charged with property crimes. Nearly 40 percent of the defendants interviewed by the program were charged with either burglary or felony theft and 44 percent of the personal recognizance bonds were granted to defendants charged with these offenses. On the other hand, there were no personal recognizance bonds granted to defendants charged with homicide (which is not a bailable offense) and rape offenses and robbery defendants were rarely granted personal recognizance. However, in felony assault cases, the use of personal recognizance was substantial. The following table shows the distribution of charged offenses for defendants interviewed by PTRP, recommended for release by PTRP and released on personal recognizance.

Table 2

Pretrial Action by
Type of Charge

Charge	Interviewed	Recommended	OR'd
Homicide	3%	0%	0%
Assault	7%	7%	15%
Rape	4%	1%	0%
Burglary	24%	25%	29%
Robbery	11%	3%	4%
Theft	15%	20%	15%
Forgery	7%	9%	3%
Fraud	3%	6%	7%
Dangerous Drugs	3%	2%	1%
Narcotics	13%	14%	12%
Other	9%	11%	12%

C. The Program and Its Environment

The success or failure of any pretrial release program depends on its relationship with its environment, particularly other components of the criminal justice system. This is especially true of Denver's PTRP since it is a new program, receives funding and is accountable to several different sources, and because it deals almost exclusively with one County Court judge.

A single County Court judge handles felony advisements, and therefore acts on all PTRP recommendations at First Advisement and at later bond reduction hearings. Judge Irving Ettenberg, who currently fills this role, is generally quite favorable toward PTRP, and this attitude is reflected in his high rate of acceptance of PTRP's recommendations. His predecessor, Judge Urso, was not as willing to go along with PTRP's recommendations, even though he did exert a strong conservative influence on the design of PTRP's point system. Despite

the already heavy emphasis on prior record in PTRP's point system, Judge Ettenberg expressed a desire to see more emphasis on prior felony convictions and previous offenses committed while on pretrial release, as well as more room for discretion in the area of a defendant's 'attitude'. Aside from prior record, however, Judge Ettenberg sees himself as more liberal on PR bonds than PTRP since he virtually always grants PR bonds with a positive PTRP recommendation and, in addition, grants a number of PR bonds in cases of no PTRP recommendation or despite a negative recommendation. In most of the PR releases without a program recommendation, however, a favorable recommendation by the police is involved.

Captain Harvey Snyder, Denver Sheriff, after initial reservations, is now an enthusiastic supporter of PTRP and feels that much of the reason PTRP has been successful is because of the good relations PTRP has maintained with other components of the criminal justice system.

The district attorney's office and the public defender's office both receive copies of PTRP's defendant evaluations. While the two offices interact with PTRP from a different perspective, they share a similar need: to be provided with verified background information on defendants for bond determinations. Both offices were in favor of the inception of PTRP. Larry Schoenwald, Chief Trial Deputy Public Defender for the City and County of Denver, feels that PTRP does a good job, but that its point system is too conservative both in its formal structure and in the degree of discretion left in the hands of the deputy sheriffs who conduct the interviews. He feels that such discretion is better left to the court. He would have preferred an independent pretrial release program, separate from the probation department. He did feel, however, that PTRP does provide useful information and the fact that his office receives a copy of the PTRP report avoids the duplication of investigative efforts

that existed prior to November. Pamela Holton, of the same office, had a similar view of the conservativeness of PTRP's selection criteria, but was less positive about the value of PTRP's information, indicating that information on prior record was not always accurate and that overall there was insufficient depth in the report.

David Purty, of the District Attorney's office, similarly felt that PTRP's report lacked sufficient depth and accuracy in the area of prior record. Two areas in which he specifically felt more information was required were prior record of FTA's and details on the nature of the offense. He also felt that the narrative form used by the Probation Department prior to November was easier to use than PTRP's current checklist. He further stated that he is not greatly influenced by PTRP's recommendations on bond reductions because he doesn't understand the point system and he has never had an orientation to the method of scoring used by PTRP.

Since LEAA funding of PTRP cannot continue past three years (a transfer over to local funding will be sought by PTRP after its second year of operation), the opinions of both city and state officials are important to PTRP's ultimate survival. Thomas Lehner, Director of Planning at the State of Colorado Judicial Department, views the State (through its Department of Probation) as the appropriate future funding source for PTRP and expects that the State will eventually replace LEAA as PTRP's primary funding source. Glenn Cooper of DACC mentioned the State as a possible future funding source, but was of the opinion that it was more likely that future funds would come from the City's Department of Corrections since the primary financial benefit of PTRP is savings in County Jail costs. However, Mr. Lehner feels that while PTRP has had some impact on the speed with which PR bonds are granted, he does not believe it has substantially increased the number of persons released and that the program is, therefore, too expensive in light of its effectiveness.

Appendix A

Nature of the Available Data

Much of the statistical information necessary to fully describe the pretrial release system in Denver is simply unavailable at this time. One major area in which we were unsuccessful in locating suitable data involved the processing of misdemeanor defendants. In the felony area, however, information was supplied to the Phase I staff by both the Denver County and District Courts and by the Denver Anti-Crime Council and the Denver Pretrial Release Program. In addition the Phase I staff collected its own data set by sampling case files maintained by the Denver Pretrial Release Program. Since the figures and percentages used in describing the flow of defendants through the criminal justice system are based upon data supplied by a variety of sources, the nature of the data are described briefly.

Denver Anti-Crime Council: Two studies by DACC were supplied to the Phase I staff. The first was a flow chart of the criminal process in both Denver County and Denver District Court. The diagram indicated the number of cases which reach each stage of the court process, e.g., advisement, preliminary hearing, District Court arraignment, trial, etc., and the number of cases which exit at each stage. The figures contained in the flow diagram, however, are projections for 1974 based on 1972-73 fiscal year data compiled by the Colorado Department of Court Administration. Thus, the diagram is only an estimate as to what the 1974 case flow actually was. Even more serious problems, however, limited the utility of the figures contained in the diagram for our purposes. Most importantly, while the diagram was invaluable to us in describing the processing of cases and the flow of defendants through the system, the flow chart did not adequately describe the system of pretrial release. Information was not presented on the number of defendants who secure pretrial release and by what method. Second, the flow chart for County Court combined felony and state misdemeanor defendants. Since the County Court's role is

considerably different in these two categories of offenses, the flow diagram would have been more helpful if felony offenses were kept separate from the misdemeanors.

The second set of data provided by DACC was a felony disposition study. A sample of 611 cases filed in Denver County Court from November 1972 to March 1973 was analyzed along a variety of dimensions with the principal focus being upon the length of time passing between the different stages of prosecution. The chief limitation on using the data for our purposes was that it covered a time period prior to the establishment of the Denver Pretrial Release Program.

DACC also provided to the Pretrial Release Program data derived from an archival study of 200 felony cases bound over to District Court prior to project implementation and showed the percentage of personal recognizance releases granted, and failure to appear and rearrest rates for these defendants. PTRP uses these figures to show that the project expanded the use of personal recognizance and reduced the rates of rearrest and failures to appear during the first six months of its operation. Although we use this data in the section on PTRP's impact on the criminal justice system, the figures are not strictly comparable to the project's figures on its first six months of operation since the earlier data includes only District Court defendants and the project's figures include both District and County Court defendants.

Denver Pretrial Release Program: Aware of the need for adequate statistical information on program performance, PTRP built a research position into its staff structure. This position, however, carries the additional responsibilities of overseeing some program operation and aiding the project in securing funds. Furthermore, since other parts of the system (such as the jail or

bonding office) rely primarily on manual records, the program has difficulty in obtaining information about bailed defendants and persons not interviewed. This problem, in conjunction with the added responsibilities of the research position, have reduced the project's ability to maintain complete statistical information. The project did, however, supply the Phase I staff with a copy of its second year grant application. In this document were data on the project's activity over the first six months of operation. Information from that report on the number of defendants interviewed, number of verified reports submitted and number of defendants released on personal recognizance was used in this paper.

In addition Phase I staff drew two samples of defendants from PTRP's records. The first was a 300 defendant sample, consisting of 100 randomly selected defendants in each of three categories: a)Persons interviewed by PTRP and advised in County Court; b) Persons recommended for personal recognizance by PTRP and advised in County Court; and c) Persons granted personal recognizance in County Court. The information obtained from this sample is displayed in Table 1. The second sample consisted of all defendants advised in County Court during the period from May 1 to May 12, 1975. This sample was taken in order to determine the percentage of defendants who secured pretrial release and by what method and at what stage of the criminal process. It also served to identify the percentage of the personal recognizance bonds which were the result of favorable project recommendations as distinguished from those which were granted by the court without a project recommendation.

Court Records: In addition to the data provided by the Denver Anti-Crime Council and the Denver Pretrial Release Program, secondary reliance was placed on information supplied by the local courts. Although both the County and District Court personnel were very cooperative, the data compiled by their offices were not in a form that could be utilized for determining proportions or making comparisons. The data were compiled for the use of the court

and, therefore, the records are kept in terms of functions served by a particular division (i.e., cases filed, arraignments held) rather than by number of defendants. This makes it extremely difficult to establish a basis for comparison. For example, the Criminal Division of the Courts reports the number of cases filed each month and indicates that 20 percent of the felony cases have multiple defendants, but the number of defendants that are involved in these cases is not recorded.

The County Court does compile data on the number of persons released at the County Court level on some form of bond. It is, thus, possible to determine the relative frequency in the use of surety bonds and personal recognizance bonds at the County Court level, but without information on the number of detained defendants it is impossible to determine the overall rate of pretrial release. In order to evaluate a pretrial release program, it is not sufficient to know only the number of personal recognizance releases. Unless the detention rate is known, it cannot be determined if personal recognizance is simply being used to substitute for surety bonding or whether it is accomplishing the release of defendants who would otherwise be detained.

The Denver District Court provided data on bond releases for those defendants who were bound over from County Court. The data revealed both the type of bond and the date bond was posted and served as the basis for our discussion of bond releases at the District Court level. A major limitation with the data for our purposes, however, was that it did not indicate the point in the District Court proceedings at which bond was posted.

Appendix B

Constitutional and Statutory Provisions
Governing Pretrial Release

The Colorado Constitution guarantees that all persons have a right to be admitted to bail by sufficient sureties except when charged with a capital offense and when the proof is evident or the presumption great (Col. Constitution Article II §19). The right to bail is reiterated in §16-4-101 of the Colorado Revised Statutes, 1973. The amount of bail and type of bond is to be set by the judge at the first appearance of a person in custody before a court of record unless an indictment, information, or complaint was previously filed and the amount of bail and type of bond set thereon. (CRS, 1973 §16-4-103). If bail has been previously set, it is to be re-evaluated at the defendant's first court appearance.

Section 16-4-104 of the Colorado Revised Statutes sets forth alternative bail bond types. In the discretion of the judge, the defendant may be released either upon his personal recognizance or upon the execution of bond in the full amount of the bail. If the judge requires the latter, bail may be secured, at defendant's option, by: 1) a deposit of cash or stocks and bonds equal to the full bail amount; 2) real estate located in the State of Colorado; or 3) sureties worth at least one and one-half the amount of bail set or by corporate surety company. (CRS, 1973 §16-4-104). Colorado statutes do not provide for the release of defendants upon posting a percentage deposit of the full bond amount but judges in Denver do utilize 10 percent deposit bail on occasion under the authority of a court rule.

The factors the judge is to consider in setting bail and selecting the type of bond are set forth in section 16-4-105. These include the defendant's employment status and financial condition, his family ties, his residential stability, his character and reputation and the identity of persons who will agree to assist him in meeting his court appearances. The judge is also

to consider the nature of the present offense as well as the likelihood of conviction and possible sentence and the defendant's prior criminal record. Concern for the safety of persons in the community is evidenced by other factors to be considered such as the likelihood of the defendant committing additional offenses or harassing or intimidating witnesses while on release. Other factors listed in 16-4-105 relate directly to the use of personal recognizance -- unless the district attorney consents, no person who is presently on bond in another criminal action involving a felony or a class 1 misdemeanor or who has been convicted of a class 1 misdemeanor within the past two years or a felony within the past five years is to be released on personal recognizance. Finally, no person is to be released on personal recognizance unless the judge has before him reliable information concerning the accused, prepared or verified by a person designated by the court, or substantiated by sworn testimony at a hearing before the judge.

The use of personal recognizance is also governed by section 16-4-11 which provides that the judge shall release persons accused of class 3 misdemeanors, petty offenses and any unclassified offenses with maximum penalties of less than six months imprisonment on personal recognizance unless one of the following conditions exist: 1) the person refuses to cooperate by not sufficiently identifying himself or by refusing to sign the personal recognizance bond; 2) continued detention or the posting of a surety bond is necessary to prevent imminent bodily harm to the accused or to another; 3) the person has no ties to the local jurisdiction reasonably sufficient to assure his appearance and there exists a substantial likelihood that he will fail to appear if released; 4) the person has previously failed to appear when given a release upon his promise to appear; or 5) there is an outstanding warrant for the person's arrest or there are pending proceedings against him for suspension or revocation of parole or probation.

Persons detained for two days for failure to post a secured bond set by the judge may file written motions for a bail re-evaluation (CRS, 1973 §16-4-105(2)). The district attorney must be given notice of this application for review and has the right to be present and advise the court on pertinent matters during the hearing. The district attorney may also apply to the court for a bail re-evaluation hearing in order to increase the amount of bail required (CRS, 1973 §16-4-107).

Appendix C

Forms Used by Denver PTRP

Item #1 ---------- Grading System in Determining Recommendations for Personal Recognizance Bonds

Item #2 ---------- Bond Investigation Questionnaire

Item #3 ---------- Court Narrative Report

Item #4 ---------- Application for Release on Personal Recognizance

Item #5 ---------- Terms and Conditions of Release on Personal Recognizance

Item #6 ---------- Reminder Letter

GRADING SYSTEM IN DETERMINING RECOMMENDATIONS FOR PERSONAL RECOGNIZANCE BONDS

Total grade must be five or more points to be favorably considered, but will not be construed to indicate a mandatory favorable recommendation.

POINT SYSTEM VALUES

The following offenses carry an automatic minus five (-5) points:
- Homicide
- Assault to a Peace Officer
- Aggravated Robbery
- Narcotics or Dangerous Drugs for Sale
- Sex Offenses: involving children, forcible rape and, assault to rape when coupled with another felony

The following offenses carry an automatic minus three (-3) points:
- Burglary of an occupied private dwelling
- Aggravated crimes against a person

Residence:
- Denver resident TWO YEARS or more 2
- Denver resident nine months to TWO YEARS 1
- Denver resident less than nine months 0

Family ties in Denver:
- Lives with/or has contact and SUPPORTS family 2

Employment, Student, Housewife:
- Present job over one year, or if unemployable 3
- Present job six months, or present job with prior job over one year 2
- Employment less than six months 1
- Other 0

Prior Record:
- No prior convictions. 3

Felony and misdemeanor convictions
- One misdemeanor conviction. 2
- Two misdemeanor convictions 1
- One felony conviction 0
- Three misdemeanor convictions 0
- Two or more felony convictions. . . . . -3

City Ordinance Violations
- One Ordinance Violation 0
- Two or Three Violations . . . . . -1

Failure to Appear . . . . . -3

Convicted for the Same offence within past five years . . . . -3

iscretion:

Points may be added or subtracted by person grading with the reason being shown for such action.

robation and Parole violators may be recommended favorably -- subject to the etermination of any pending revocation matter. If previously on Probation r Parole, favorable consideration may be given if adjustment was satisfactory.

BOND INVESTIGATION QUESTIONNAIRE

item # 2

DB_____

te Booked_____

terviewer_____

te_____ Time_____ am pm

fused Interview_____

gnature (if refused)_____

Verifier_____ Date_____

Recommendation: Grant___ Deny_____

Personal Advisement:

Date_____ Time_____ am pm

Bonded_____ Reduced_____

Dropped_____ Released_____

PR Bond_____ Date_____ Judge_____

SECTION I: IDENTIFICATION

Name_____ Sex M F

AKA/maiden name_____

Alleged Offense_____

_____

DOB_____ Age____ POB_____ Race: C N S I O

rifier

The following offenses carry an automatic minus five (-5) points
- Murder 1st Degree
- Assault to a Peace Officer
- Aggravated Robbery
- Narcotics or Dangerous Drugs for Sale
- Burglary of an occupied private dwelling
- Sex Offenses:
  - involving children,
  - forcible rape and assault to rape -- when coupled with another felony

The following offenses carry an automatic minus three (-3) points
- Murder 2nd degree
- Aggravated crimes against a person

SECTION II: RESIDENCE IN DENVER

Address_____ City_____ State_____

Name of Apt. house, boarding house,_____

Own____ Rent____ Board____ Neither____ Telephone:_____

Length of residence: Years_____ Months_____ Transient_____

Who may be contacted at residence?_____

Name and address of Landlord, mortgage holder_____

_____ Phone_____

Previous Address:_____ City_____ State_____

From date_____ to_____ Phone_____

Reference there:_____ none_____

Previous Address:_____ City_____ State_____

From date_____ to_____ Phone_____

Reference there:_____ none_____

rifier

Residence	Interviewer
Denver resident TWO YEARS or more.....2	
Denver resident nine months to TWO YEARS.....1	
Denver resident less than nine months.....0	

SECTION III: Family Ties in Denver

Mothers name_____ Deceased_____

Address_____ Phone_____

Mother's Employer_____ Phone_____

Father's name_____ Deceased_____

Address_____ Phone_____

Father's Employer_____ Phone_____

Marital Status: NM M S D W Years married_____

More than one marriage, Yes___ No___ Divorce/Separation date_____

Spouse's name_____ Phone_____

Address_____ Is spouse employed? Yes___ No___

Do you support your spouse? Yes___ Yes, court ordered___ No___

May spouse's employer be contacted? Yes___ No___

Spouse's employer_____ Phone_____

Number of children_____ Live at home? Yes___ No___

Do you support your children? Yes___ Yes, court ordered___ No___

Friends/Relatives: who may be contacted and will give you a reference:

Name Phone Employer Phone

1._____

2._____

rifier	Family Ties in Denver Lives with/or has contact and SUPPORTS family ...2	Interviewer

SECTION IV: EMPLOYMENT

Current employer_____ Phone_____

From date:_____ Full time___ Part time___ Wage/salary___

May employer be contacted for references: Yes___ No___ Name_____

1. Previous employer_____ Phone_____

From date_____ to_____ Why terminated_____

May previous employer be contacted? Yes___ No___ Name_____

2. Previous employer_____ Phone_____

From date_____ to_____ Why terminated_____

May previous employer be contacted? Yes___ No___ Name_____

Unemployed? Yes___ No___ How long:_____ Usual occupation_____

Student? Yes___ No___ School_____ How long?_____
Full time___ Part time___
Course_____ Reference_____

Other support: Parents___ Spouse___ Welfare___ Case Worker_____

Retired_____ Unemployment compensation_____ Other_____

Military Service: Yes___ No___ Branch_____ Length of Service_____

Type of Discharge_____ Date_____

rifier	Employment: Student: Housewife: Present job over one year, or if unemployable.....3 Present job six months, or present job with prior job over one year.....2	Interviewer

SECTION V: PRIOR RECORD

Prior Arrest Yes___No___Where_____When_____

Where_____When_____

Prior felony conviction Yes___No___Where_____When_____

Where_____When_____

Prior misdemeanor conviction Yes___No___Where_____When_____

Where_____When_____

Are you on probation now Yes___No___Officer_____

Location_____

Are you on parole now Yes___No___Officer_____

Location_____

Have you been on probation Yes___No___Officer_____

Location_____When_____

Have you ever been on parole Yes___No___Officer_____

Location_____When_____

Do you have a juvenile record Yes___No___Where_____When_____

Are you presently on bond Yes___No___Where_____Date_____

Have you ever forfeited a bond Yes___No___Where_____When

Have you ever missed a court appearance? Yes___No___Where_____When_____

Are there any other detainers or charges pending against you Yes___No___Where_____

Verifier	No prior convictions.....3 One misdemeanor conviction.....2 Two misdemeanor convictions.....1 One Felony conviction.....0 Three Misdemeanor convictions.....0 Two or more prior Felony convictions.....-3	Interviewer

Verifier

SECTION VI: DISCRETION

Comments_____

_____

Verifier	Points +1 and or -1 given for the following reason(s) _____ _____	Interviewer
Total Verified Score		Total Interview Score

Signed_____

Interviewer and Verifier comments:_____

_____

_____

item #3

STATE OF COLORADO CITY AND COUNTY OF DENVER THE PEOPLE OF THE STATE OF COLORADO -vs- Sam W. Brown Defendant	IN THE DISTRICT/COUNTY COURT PROBATION OFFICER'S REPORT REGARDING APPLICATION FOR A PERSONAL RECOGNIZANCE BOND INFORMATION NO. DPD NO. 123456

TO THE HONORABLE DISTRICT/COUNTY COURT OF THE STATE OF COLORADO, CITY AND COUNTY OF DENVER:

It is recommended that a Personal Recognizance Bond for Sam W. Brown who has received +two points toward recommendation be denied.

JOHN L. YURKO
Chief Probation Officer

By: John Simonet
John Simonet
Project Director
Pre-Trial Release Program

Identification:
Male, age 24, DOB 6/9/50, Denver, CO
Arrested 2/24/75, Inv. Aggravated Robbery

Residence:
Lives with Mother, Mary Brown, 1139 Delaware, Denver, CO, nine years/verified

Family Ties:
Mother: Mary Brown, 1139 Delaware, Denver, CO/verified
Father: Deceased/verified
Never married

Employment:
ABC Builders, 10 Broadway, Denver, CO, two years/verified

Prior Record:
Local record shows one prior misdemeanor conviction, 1971/verified

Verification by:
Mary Brown, Mother
Bill Jackson, employer
Frank Public, Probation Officer, Denver District Court

Investigated and respectfully submitted,

David Sanchez
David Sanchez, Probation Officer

2/27/75

TERMS AND CONDITIONS

item # 5

The defendant herein is released from custody on a Personal Recognizance Bond upon the following terms and conditions which must be obeyed:

A. Said defendant shall report within the next 24 hours to the Supervision Unit of the Pre-Trial Release Program, located at 1139 Delaware, 3rd floor North, and shall continue to report regularly thereafter according to terms to be established by the Supervision Officer.

B. Said defendant shall faithfully appear at all subsequent court hearings, knowing full well that a willful failure to appear will result in a bond forfeiture and rearrest.

C. Said defendant shall not change the place of residence without permission of the Supervision Office; nor shall the defendant leave the State of Colorado without first having obtained permission to do so.

D. Said defendant, if living outside the State of Colorado, shall make a written report on blank furnished by the Pre-Trial Release Program. This report to be countersigned by officials designated by the Pre-Trial Release Program.

E. Said defendant shall refrain from excessive use of alcohol or any other dangerous or abusable drug without prescription.

F. Said defendant shall not purchase, own, nor have in his possession a rifle, shot gun or revolver, or any other weapon, either in the home, in automobile, or on his person.

G. Said defendant shall not violate any of the laws of the United States or of the State of Colorado, or of any other state while therein, or any ordinance of Denver or of any other municipality in the State of Colorado, but shall conduct himself in every way as an upright and law-abiding citizen, and in such a manner as to indicate that a serious effort is being made to improve his character.

H. Said defendant, if not presently working, shall secure employment, remain steadily employed, and shall not change employment without first securing permission to do so from the case supervisor.

I. Said defendant, under exact terms to be designated by the Case Supervisor shall submit to the following (where checked):

_____ employment assistance	_____ alcohol treatment
_____ TASC	_____ DASAP
_____ CENIKOR	_____ family counseling
__X__ to be determined by Case Supervisor	_____ psychiatric treatment
_____ County Court Diagnostic Center	_____ other

Done and signed in open Court this _____ day of _____, A.D., 19_____.

BY THE COURT:

_____

Judge

Received a copy of the foregoing order this _____ day of _____, A.D., 19_____.

_____

item # 6

PRE-TRIAL RELEASE PROGRAM
OF THE
DISTRICT COURT
SECOND JUDICIAL DISTRICT OF THE STATE OF COLORADO

PHONE 825-2859
1139 DELAWARE STREET
DENVER, COLORADO 80204
11

ROBERT T. KINGSLEY
CHIEF JUDGE
JOHN L. YURKO
CHIEF PROBATION OFFICER

JOHN SIMONET
PROJECT DIRECTOR
DONNA L. JONES
UNIT SUPERVISOR

Dear

This letter is to remind you that you are to appear in Courtroom_____on_____ at_____AM/PM.

It is very important that you be in Court at the proper time and that you be there early. Failure to show up will result in a warrant being issued for your arrest.

Please call me upon receiving this letter (825-2859). If you have any questions, they can be answered at that time.

Sincerely,

John Simonet, Project Director

By:_____
Probation Officer

STATE OF COLORADO)		IN THE DISTRICT/COUNTY COURT
)		PETITION OF DEFENDANT
CITY AND COUNTY OF DENVER)		FOR PLACEMENT UNDER
)		SUPERVISION
THE PEOPLE OF THE STATE OF)	ss.	WHILE ON A PERSONAL
COLORADO)		RECOGNIZANCE BOND
)		
-vs-)		COURT ROOM NO.
)		
_____)		DPD NO.
Defendant)		
)		

The undersigned petitioner respectfully represents to the Court that he has applied for a Personal Recognizance Bond in the above numbered case; that while said bond is pending, and without regard to the determination thereof, the petitioner requests that - in connection with his Personal Recognizance Bond - he be given an opportunity to demonstrate his good faith and ability to be a useful, honest, law-abiding citizen by being placed under the supervision of the Pre-Trial Release Program for this period of time.

It is fully understood by the petitioner that placement under supervision by this Court in no way indicates that favorable consideration will be given him, and that if he is given such opportunity he will abide by all terms and conditions as set forth by the Court or the Pre-Trial Release Program.

Respectfully submitted:

_____
Petitioner

Dated this _____ day of _____ A.D., 19___.

ORDER PLACING PETITIONER
UNDER SUPERVISION OF
PRE-TRIAL RELEASE PROGRAM

The matter of the petition of _____ to be placed under the supervision of the Pre-Trial Release Program while under a Personal Recognizance Bond being heard this day before the Court, and the Court being fully advised in the premises,

DOTH GRANT the request of the petitioner, and he is hereby placed under the supervision of the Pre-Trial Release Program until further order of the Court.

AND IT IS FURTHER ORDERED: That the Probation Officer place a hold order as a detainer against the defendant in the event he is arrested for violation of the law of the United States, State of Colorado, or any other state while therein, or any ordinance of Denver or any other Municipality in the State of Colorado. That the Probation Officer report this to the Court with all convenient speed; that Probation Officer is HEREBY ORDERED to make such other or additional terms and conditions as he may deem necessary, convenient or expedient in carrying out the purposes of the Order of the Court and the defendant shall obey the same in every respect as those originally made.

PHASE I EVALUATION OF PRETRIAL RELEASE PROGRAMS

Project Narrative

THE SAN FRANCISCO OWN RECOGNIZANCE PROJECT

SAN FRANCISCO, CALIFORNIA

July 1975

PHASE I SITE VISIT STAFF:

Janet Gayton

Ann L. Williams

This report was prepared under Grant Number 75 NI-99-0071 from the National Institute of Law Enforcement and Criminal Justice, Law Enforcement Assistance Administration, U. S. Department of Justice. Points of view or opinions stated in this document are those of the authors and do not necessarily represent the official position or policies of the U. S. Department of Justice.

TABLE OF CONTENTS

I. CASE PROCESSING IN SAN FRANCISCO

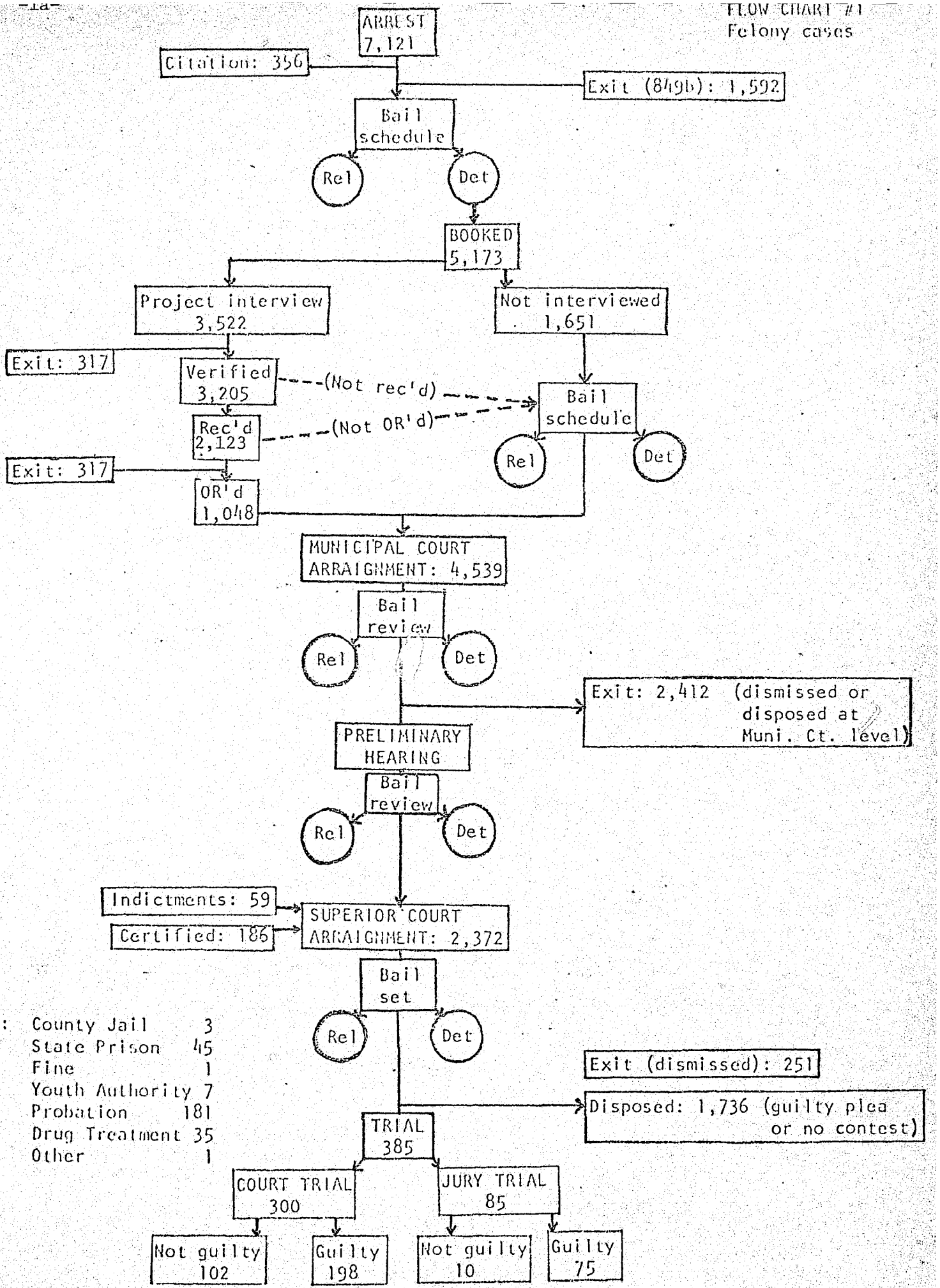
Since the processing of misdemeanor and felony defendants in San Francisco differs substantially, the two classes of defendants will be dealt with in separate sections of this report.

A. Processing of Felony Cases (Flow Chart #1)

When a person is arrested for a felony offense in San Francisco, he is taken by the arresting officer to one of the nine police substations in the city to await transportation to the City Prison. There are two methods by which a person may be arrested in California: through a warrant issued for his arrest (in which case the bail amount may be fixed on the warrant and it is possible for the arrestee to post bail at the police substation) and "probable cause" arrests (in these cases the arrestee may post bail as set by a felony bail schedule). In addition to posting bail at the substation (either from the amount on a warrant or through the bail schedule), a felony arrestee may be released after questioning under section 849b of the California Penal Code which states that a person in custody must be released immediately if no charges are to be filed or if no prosecution will ensue.

Statistics on the number of persons released at the police substations either on bail or by 849b were not available. Since the bail schedule is high and the number of warrant arrests relatively low, however, it seems probable that few felony arrestees are released at the substation. Interviews with staff members of the ROR program and with personnel of the San Francisco Police Department supported this opinion. Furthermore, in addition to the reluctance of the police to release felony arrestees without booking, the bail bonding offices are located near the City Prison,

FLOW CHART #1
Felony cases



ntences:

County Jail	3
State Prison	45
Fine	1
Youth Authority	7
Probation	181
Drug Treatment	35
Other	1

making it very difficult for an arrestee to obtain help from a bondsman while at a police substation.

Three or four times a day, paddy wagons collect prisoners from the substations and bring them to City Prison. Based on San Francisco Police Department Arrest Reports for the first six months of 1975, there are on the average 30 adult felony arrests processed through City Prison each day. The prison itself has a capacity of 437 male detainees and 50 female detainees, making a total capacity of 487. Run by the Police Department, the prison houses all unsentenced prisoners whose cases are either under investigation or are pending in Municipal Court. It is located on the sixth floor of the Hall of Justice (which also houses both the Superior and Municipal Courts, the District Attorney's and Public Defender's offices, main offices of the Police Department, and the ROR project).

A person may be booked at the City Prison on a specific charge or held for investigation of a crime. Within 72 hours of arrest an arrestee must either be released or brought before a magistrate. Even if no charges have been filed by that time, bail must be set. If the person has been booked on a charge, he will be formally arraigned. It is not known how many defendants are not immediately booked on a specific charge; however in the first six months of 1975, close to one fourth of all felony arrestees who were brought to City Prison were released under Section 849b.

Once a defendant has been booked there are several ways in which he may be released from custody prior to formal arraignment. The most obvious method is to post bail according to the felony bail schedule, which sets a bail amount for all bailable offenses. Unfortunately, statistics are not available on the number of defendants who make bail prior to arraignment

or at any other point in the process. However, OR Project Statistics for 1974 show that they were unable to interview 23% of the accused felons that they sought to see and it seems reasonable to assume that many of these individuals had made bail.

Another way in which a detainee might be released prior to arraignment is for the court to grant an OR release. The San Francisco OR Project conducts interviews of eligible defendants held in custody at City Prison twice a day and if the defendant has a total of five verified points, the project may make a recommendation to a judge in chambers that the defendant be released on his own recognizance. Depending on several factors which will be discussed at length later in this paper, the project recommendation may be made and OR granted either before or after arraignment. In 1974, the project was able to secure an OR release for 20% of all the felony cases it reviewed for eligibility. Captain Conroy, who is in charge of City Prison, reports that on occasion he has himself taken an OR petition to the judge and has never been refused.

A third way in which a felony arrestee may be released from custody is for City Prison officials to release him on a citation similar to the citations issued in misdemeanor cases. Under California law, citation release is not available to those charged with a felony. However, there are certain offenses, such as drug charges, carrying weapons, etc., which can be treated either as felonies or misdemeanors and police officials have been issuing some citations in these cases. If these offenses are counted as felonies then approximately 5% of all persons booked for felonies were released on a citation in the first half of 1975.

A fourth possible exit prior to arraignment for a felony arrestee is to have the charges against him dropped or reduced to a misdemeanor by the District Attorney. The District Attorney's office reviews the charges within 48 hours after an individual's arrest. Although specific statistics are not available, Deputy District Attorney Tom Norman, estimated that close to half of all felony arrestees have the charges against them dropped or reduced. He stated that this often results because of a questionable search and seizure procedure or the lack of cooperation of witnesses. A major influence on the high percentage of felony arrests that are prosecuted as misdemeaners is the California law which permits many felony offences to be charged as misdemeaners.

If a person is to be tried for a felony offense, he must be arraigned in Municipal Court. As mentioned earlier, if the defendant is held in custody, arraignment must take place within 72 hours of arrest, which is functionally three working days since no arraignments are held on holidays or weekends. Arraignment may be later than that if the defendant has secured release either by posting bail, being granted an OR release, or being issued a citation after booking.

At arraignment, the charges against the defendant are read and, if he is represented by counsel he may enter a plea at this time (if he is not, counsel is usually appointed). If the defendant does not enter a plea at this time, the court may schedule a second appearance for that purpose. If no bail has been set for the defendant in a bailable offense, bail will be set. Defendant or his counsel may also request that bail be reduced or an OR granted. Statistics on the number of defendants who are granted reduced bail or an OR release at arraignment or at any subsequent appearance were not available from either the OR project or the Municipal Court Clerk's Office.

If a defendant is still in custody five days following his arrest, a bail re-evaluation is automatically held. Once again, statistics on the number of such hearings held and their outcome are not available except in the form of raw data, but the possible outcomes are that an OR is granted, that bail is reduced, or that the original bail amount is maintained unchanged. In addition, the defendant may at any time request a bail re-evaluation; however, as time goes on it becomes less likely that a change in bail amount will occur absent a change in circumstances or new information.

At a second appearance the defendant may change his plea or enter a plea if he has not already done so. Once again it is conceivable that an OR request may be made and granted or that a reduction in bail amount may be given but statistics are not available. A defendant pleading not guilty is entitled to a preliminary hearing in Municipal Court but this may be waived. If it is not waived, the date for the preliminary hearing is set. The purpose of the preliminary hearing is to determine whether there is probable cause to bind the defendant over to Superior Court for trial. It is possible that the case against the defendant may be dismissed or that the charges against him be reduced to a misdemeanor at any court appearance in Municipal Court.

There are three ways that a defendant might be brought to trial in Superior Court. By far the most common method is for the district attorney to file an information in Superior Court after the case has moved through preliminary hearing in Municipal Court. In the fiscal year 1973-74 over 90% of all new actions filed in Superior Court entered in this way. An average of 21 days elapses between the filing of an information and arraignment in Superior Court. A second way that a defendant might be brought into Superior Court is on the basis of a Grand Jury indictment.

If this is the case, the defendant is not processed through Municipal Court at all and the indictment replaces the information. Usually this involves more serious offenses and it is not a common procedure (in the fiscal year 1973-74 only 52 cases representing only 2% of all new actions filed in Superior Court, were initiated in this way). A third way for a defendant to enter Superior Court is to waive the preliminary hearing, with or without pleading guilty. Municipal Court has jurisdiction to accept a felony defendant's plea but it lacks authority to sentence felons. In these cases, therefore, the defendants will be certified to Superior Court for sentencing only. Seven percent of all new actions in fiscal year 1973-74 were certified from Municipal Court.

On the average it takes forty days from arraignment in Superior Court to final disposition of the case. The vast majority of Superior Court cases are disposed prior to trial. In fiscal year 1973-74, only 9% of the cases went to trial. By contrast, 81% of the defendants were convicted on pleas of guilty entered in Superior Court. Many of these pleas were entered as a result of plea bargain agreements, however, it is not known how many plead guilty to the original charges and how many were pleading guilty to a lesser felony.

In Superior Court a defendant may change his plea to guilty, have his case dismissed or go to trial. In fiscal year 1973-74, 11% of all cases disposed were dismissed, 7% were acquitted and the remaining 82% were convicted. Of those sentenced in fiscal year 1973-74, fully two-thirds received probation and only 16% received prison sentences. A defendant's pretrial release status may be carried over from Municipal Court or he may have his bail increased or reduced, or be granted OR release. Unfortunately, these statistics are likewise unavailable except in raw form.

B. Processing of Misdemeanor Cases (Flow Chart #2)

A person arrested for a misdemeanor might not be taken into custody at all. California Penal Code §853.6 permits citation release of persons accused of misdemeanors either in the field by the arresting officer or at the stationhouse by the officer-in-charge. Exact statistics on the number of citation releases which are issued in the field by the arresting officer are not readily available, but it has been estimated[1] that 35% of all those charged with petty theft are released in this way.

If the arrestee is not given a field citation, he is taken by the arresting officer to the police substation in one of the nine police districts. At the substation the arrestee may be released under §849(b) of the Penal Code (charges dropped). If the police intend to prosecute, they need not hold the person for transfer to City Prison but can issue a stationhouse release instead. Although bail is available at the substation through the misdemeanor bail schedule, it is believed that few misdemeanor arrestees are released by this method at the substation.

Once the arrestee has been booked at City Prison, he may be released in one of several ways. It is possible for an accused misdemeanant to be released under P.C. §849(b), but in the first six months of 1975 less than 1% of all misdemeanor arrestees were actually so released. The officer in charge of the jail has the option of releasing the defendant on a citation; in 1973-74, a little over 29% of all defendants booked on a misdemeanor were released on a citation. Posting bail pursuant to the misdemeanor bail schedule is also a frequent mode of release for arrestees. Although statistics on the number of arrestees who make bail are not available, OR Project

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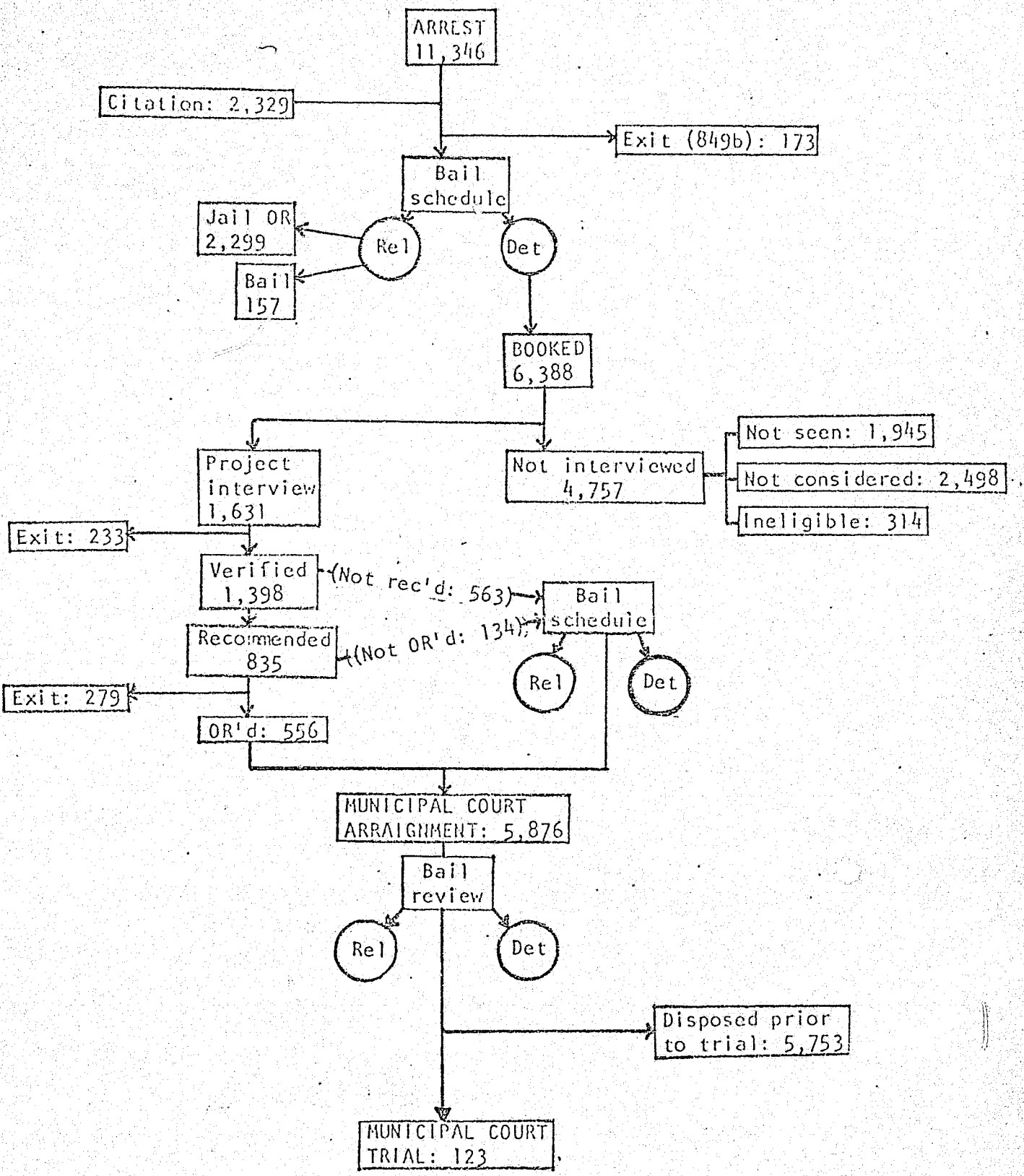
[1] Telephone interview with Ken Babb, Director of the San Francisco ROR Project, April 4, 1975.

FLOW CHART #2
Misdemeanor cases



statistics show that in 1974, half of the eligible misdemeanor defendants were not seen. Many of these defendants had undoubtedly posted station-house bail prior to the OR program interviews.

A person charged with a misdemeanor must be arraigned within 24 hours of arrest; functionally this means the next working day. The OR Project may interview the defendant prior to arraignment but the staff reports that it is fairly uncommon for them to have completed verification and submitted a recommendation before the defendant is arraigned. Although the project does not keep specific statistics on the number of defendants who secure a release or have their cases disposed at arraignment before a recommendation can be made, the project statistics for 1974 show that 14% of all misdemeanor defendants which they interviewed were released on bail or a court granted OR or had their cases disposed of at some court appearance before the project could make its recommendation. In addition, staff members of the OR Project report that they believe a sizeable percentage of misdemeanor defendants simply plead guilty at arraignment since the usual sentence is a fine or a few days in County Prison. The project staff noted that in the case of misdemeanor defendants, they usually wait until after arraignment and then concentrate on securing an OR release for those individuals who remain in detention.

It is fairly common for a misdemeanor defendant to be represented by counsel at arraignment. For those defendants who plead not guilty, the court may appoint counsel or it may suggest that the defendant contact the Public Defender's office. In addition to taking the plea at arraignment, the court may schedule a second appearance or the trial itself. There is usually a two week wait between arraignment and the second appearance. If

the defendant is still in custody five days after his arrest then there will be an automatic bail review hearing. Although statistics on the numbers and outcomes of such hearings are not known, it is reasonable to assume that few misdemeanor defendants are held in custody beyond their second appearance.

Few misdemeanor cases actually go to trial. In fiscal year 1973-74, 14,872 non-traffic misdemeanor cases were filed in Municipal Court, but 98% were disposed at some court appearance prior to trial.

II. THE SAN FRANCISCO OR PROJECT

A. Program Background

The San Francisco Bail Project was founded in 1964 through the efforts of the San Francisco Bar Association. Hearing of the activities of the Manhattan Bail Project and the Vera Institute for Criminal Justice, a small committee was set up to explore the feasibility of implementing a similar program in San Francisco. An initial grant of $3,500 was obtained from the San Francisco Foundation. To supplement this, a fund drive within the Bar Association was launched which raised an additional $12,190, with the biggest contributions coming from large law firms specializing in non-criminal practice. The project became operational in August of 1964, using VISTA volunteers as staff.

The next year, funding was picked up by the Economic Opportunities Council, a local organization which administered federal funds for five target areas in the city which were identified as poverty neighborhoods. EOC funding, supplemented by private gifts, continued until 1970, when it was decided that the limited EOC funds should be spent in other ways aimed at reducing poverty and that other funding sources for the OR Project should be sought. The City and County of San Francisco, faced with financial worries of its own, was unable to fund the program, and the project was forced to cease operations for a brief time in 1970. Shortly thereafter, however, the project was able to obtain a $24,000 grant from the San Francisco Foundation which the city agreed to match. A year later, with local government still unwilling to commit enough money to the program, the project was again close to termination until a grant from LEAA produced funds to carry the program for the remainder of 1971 and all of 1972. Finally, in 1973, local government picked up the project with an interim grant of $40,000 to

carry the program from January to July, and in July the project was funded for $128,000 for the next year as a part of the courts' budget. The project has been refunded by the city each year since then.

The OR Program is an independent organization which contracts annually with the City and County of San Francisco to provide pretrial services, and must report to the Board of Supervisors of San Francisco. In October 1969, the San Francisco Bar Association transferred its administrative control of the project to the San Francisco Institute for Criminal Justice. The Institute for Criminal Justice is a non-profit corporation established by the Bar Association primarily to secure funding and provide a board of directors for the OR project. The project's board was appointed by the president of the Bar Association until early 1975 when a restructuring took place. At present the board is composed of thirteen members with one Municipal and one Superior Court judge, representatives named by the District Attorney, the Public Defender, and a program staff representative. These eight members select five additional members who are neither lawyers nor employed in the criminal justice system.

The project has a paid staff of fourteen members which includes the director, assistant director, community aide, court representative, accountant, secretary, case coordinator, and eight interviewers. In addition, volunteers and work study students are utilized for interviewing. There are no formal job descriptions and few formal staff training procedures. New persons are given an informal orientation by the staff director and the rest is learned from on-the-job training and a procedures manual, which summarizes the basic information necessary to adequately perform the duties and responsibilities of an investigator.

The staff members generally have college degrees, which represent a variety of disciplines. The OR project has recently obtained the services of four CETA employees to work with it. Another source of staff members for the OR Project is Court Project 20. Project 20 began two years ago as an effort to improve police-community relations. Headed by a San Francisco police officer, Project 20 is a type of diversion program for persons arrested for traffic violations. In lieu of paying a fine, defendants are given the opportunity to request an "O.R." and, if granted, to do volunteer work for a cummunity agency, one of which is the OR Project. Project 20 supplies from one to two new volunteers to the OR Project each week to help with the interviewing of defendants.

Since the San Francisco OR Program was among the first formal OR programs in the country and the first formal OR program in the State of California, its operations have been frequently studied by various researchers in the pretrial release field. These studies include:

Elisabeth Jonsson. "Benefits and Costs of Own Recognizance Release: An Empirical Study of the San Francisco O.R. Project." June, 1971. (Mimeographed)

Naneen Karraker. "Who is not O.R.'d: A Report on Pretrial Detention in San Francisco." San Francisco: American Friends Service Committee, 1972. (Mimeographed)

Gerald S. Levin. "The San Francisco Bail Project." American Bar Association Journal, Vol. 55 (February 1969), p.135.

Robert E. Scott. "Bail Fact Finding Projects of San Francisco." Federal Probation, Vol. 30 (December 1966), p.39.

The San Francisco Committee on Crime. "A Report of the Criminal Court of San Francisco: Bail and O.R. Release." 1971. (Mimeographed)

Wayne Thomas. "Pre-Trial Detention of Felony Defendants in San Francisco, California, 1962, 1971." 1972. (Mimeographed)

B. Program Operations

1. Interview and Verification

Because of police and project procedures, it may be several days before an arrestee has the opportunity to talk with the OR Project. During this time there are several possible exits from custody as indicated above in the section on the criminal justice system, so that many of those arrested might never come into contact with the Project at all. The Project deals exclusively with defendants held in custody at City Prison. An arrest card is filled out by police personnel for all defendants booked and actually in custody. These cards list the detainee's vital statistics, charges, and time and place of arrest.

Three OR project staff members are allowed access to these cards twice a day at 6:00 a.m., and 6:00 p.m. and it is from these files that project personnel compile a list of defendants to be interviewed. The files are reasonably current and if a defendant is released from custody on bail or for some other reason, his card is removed. Since San Francisco has both a felony and misdemeanor bail schedule and since the project staff only sees the files once every twelve hours, it is quite likely that many defendants make bail before the project ever learns of their existence. Further support for this notion stems from the fact that about 80% of the intake at the jail occurs at night between 8:30 p.m. and 2:00 a.m. when project staff is not around.

The San Francisco OR Project works with both felony and misdemeanor offenses and theoretically, no offenses are excluded. However, capital crimes are nonbailable offenses under the California Constitution, and as a matter of policy, the project excludes from consideration persons in custody on traffic or drunk charges. Moreover, all arrestees who have en route or no-bail holds are ineligible for project interviews.

In the first six months of 1975, the number of persons falling in these categories represented approximately 48% of all arrestees processed through City Prison according to San Francisco Police Department Arrest Report statistics. However, it should be pointed out that the Arrest Report figures include juveniles, who are not held at City Prison. If only adult arrestees are considered for the same time period, 52% were ineligible. Of those ineligible, 80% of the arrests were for drunk or traffic charges.

After the list of all defendants to be interviewed is compiled, it is given to police officers. Included in this list, known as a "callout list," are new arrivals as well as all defendants still in custody who had been listed previously but who were not interviewed and all those defendants who were previously interviewed but who need to be re-interviewed because the project was unable to verify the information. The police officers take the list into the cell blocks and call the defendants into the visiting area, a glassed-front enclosure where the interviews take place over telephones. The defendants are brought out in three separate groups: women, male felony defendants, and male misdemeanor defendants.

According to OR staff estimates only 50 to 60 percent of the defendants on the callout list actually come to the visiting area to be interviewed. The reasons for this are not known but several possible explanations have been suggested. The jail officers may not call all of the names, or the defendants may not hear their names called because they are doing something else, or the defendants may simply choose not to be interviewed. [2]

In addition to those defendants who fail to come out for an interview, the project also misses persons because of time restrictions. The police allow the project two and a half hours in the morning and three hours at

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[2] Ronald Obert and Thomas G. Gee. "Report on the San Francisco OR Project and OR Release in San Francisco." July 3, 1975 (draft) p.16.

night to complete the entire procedure of compiling the callout list and conducting the interviews. It takes about thirty minutes with all three staffers working to make the callout list and the staff must wait from ten to thirty minutes for each group of defendants to be brought out.

If a defendant is not interviewed, the Project staff will continue to list his name on the callout sheet each time an interview session is held until he is finally interviewed or the arrest card file shows that he is no longer in custody. This means, of course, that the defendant must either wait in jail for another twelve hours or make other arrangements. Project statistics for 1974 show that the project interviewed 66 percent of the eligible defendants that it sought to see, but 23 percent of the accused felons and 50 percent of the accused misdemeanants were missed.

The interview itself lasts from five to fifteen minutes and covers such information as the defendant's name, age and address; the charges against him; whether he is on probation or parole or has ever been OR'd before; the length of time he has lived in the Bay Area; any relatives he may have which tie him to the community; and his means of support. Points are given according to a predetermined scale. A defendant earns three points each for having lived at his present address for over a year; for living with family and having contact with other family members in the area; and for holding his present job for a year or more. Two points are earned if the defendant has no prior convictions, and two points are subtracted if he has four or more prior misdemeanor convictions or three or more felony convictions. There are no discretionary points.

To qualify for a recommendation by the OR Project, the defendant must have a Bay Area address and a total of five verified points. Staff members estimate that about 20 percent of the interviewees do not have enough points even before any attempt at verification is made. When this happens the

interviewer explains to the person that he does not qualify for a recommendation for an OR release and asks him if there is someone he would like the project to contact who can arrange to get him bailed out.

During the interview, the interviewer asks the defendant for as many names as possible of friends and relatives who can verify the information that he has just given. Felony defendants need three references to verify the information in order to qualify for a recommendation and misdemeanor defendants need two references. Interviewers seek to get more than the required number of names of references who can be reached by telephone to avoid having to re-interview the defendant to obtain more names in cases where the project is unable to reach the references.

After the interviews are completed for each group, the forms are given to a police officer to take to those defendants who appear to be eligible. The defendants must sign releases for the project to obtain their criminal records and an authorization for the project to contact their references as well as a promise to appear if released on OR. Staff members wait ten to fifteen minutes per group while these forms are being signed.

The verification process begins when all the interviews are complete and all forms are signed. Two of the interviewers return to the OR Project office in the Hall of Justice and begin contacting references while the other interviewer goes to the Police Department Bureau of Criminal Identification in the same building to obtain the defendants' rap sheets. The rap sheets contain the defendants' prior criminal records and list any outstanding warrants.

To see the rap sheet, the staff person must fill out a Criminal Information Request form, listing the names of the defendants and their San Francisco Police Department arrest number. The investigator must wait until police department personnel come to the counter to help them. Especially during the

day, the OR staff person may wait up to an hour before someone comes to take the form and bring the desired rap sheets. When the clerk returns with the sheets, the investigator must handcopy the information. This whole process takes from forty-five minutes to an hour. Sometimes the rap sheet is incomplete and the investigator must next go to the Clerk of the Courts' office during the day to update it. This procedure can take up to a day.

A bench warrant for the defendant's arrest which has been outstanding for more than a month during the last five years renders the defendant ineligible for a Project OR and his case is closed unless there is a reasonable excuse for his failure to appear. If a defendant has been found guilty of contempt for failure to appear, he is also disqualified.

Before a recommendation can be made to a judge for defendants accused of a felony or a serious misdemeanor, a copy of the police report must be obtained from the Bureau of Criminal Information. There is frequently a delay in obtaining this since the arresting officer's report is not always promptly transcribed and filed. Further, no police reports are available at night. It takes about fifteen minutes per police report to get a copy for the project files. The original must be first photocopied and then certain information, (such as the names of the victim and of witnesses), must be deleted. Finally the censored photocopy is copied and given to the project.

When this process is complete, the staff person returns to the OR Project office and helps contact references for verification. There are four phones in the office set aside for this purpose and calls are made until 10 p.m. when the office closes. Staff members estimate that it takes from two to ten minutes to reach a reference although it can frequently take longer if the

reference is not at home when the project calls. Once the reference is on the line, the investigator explains why the OR Project is calling and what an OR release is, if necessary. The investigator then asks the reference some of the same questions asked of the defendant pertaining to the defendant's place of residence, length of residence, contact with any relatives in the area and his means of support. In addition, the reference is asked how long he has known the defendant and how often he sees him. He is asked if he feels that the defendant will return for court if released and whether the reference will be able to get a message to the defendant if released. This process takes about ten minutes per reference.

If two references disagree with each other on some fact about the defendant's background, the staff will usually try to contact a third reference depending on how important the fact is to the defendant's point total. If it is important, the staff will usually keep contacting references until they get the requisite number who agree. This may mean returning to the defendant and re-interviewing him to get more names.

From time to time a reference will say that he does not believe that the defendant will show up for court. Although this does not happen very often, the project may go ahead and recommend OR anyway especially if the reference has not given a good reason for his belief that the defendant will not appear. However, if the reference is a relative, the project tends to not recommend the defendant's release in these cases. Also, if a relative or friend states that he is afraid of the defendant, the project closes the case on that defendant. If the Project decides not to recommend a defendant -- whether because of lack of verification, previous unexcused bench warrant, or some other reason -- the defendant will be informed of this so that he may work on other arrangements for his release. No further use is made of the information collected on the defendant.

2. Presentation of Program Recommendations

When the verification is complete and all the necessary records and reports have been obtained, the case is given to the OR Project's Court Representative for review. If the recommendation is approved, the court representative takes the case to a judge. Any available Municipal or Superior Court judge can approve a felony OR and misdemeanor cases are presented to any available Municipal Court judge. The defendant's file is given to the judge in chambers and contains the interview form, a verification sheet which gives the responses of the references and their names and addresses, the copy of the police report, a prepared release form and prepared copies of the defendant's promise to appear (in triplicate).

The court representative goes to the judge as often as needed with completed cases during normal business hours. On weekends a duty judge is available to accept recommendations for one hour a day in the late afternoon. Often, the case file will be left in the judge's chambers and the OR Project will be informed within a few hours whether the OR has been granted or not.

Close to a third of all defendants interviewed in 1974 did not qualify for a recommendation by the project. In these cases no information is presented to the court. Sixty percent of all felony defendants and close to fifty-one percent of all misdemeanor defendants interviewed had their cases presented to the judge. Of those cases recommended to the judge in 1974, 49 percent of the felony defendants were granted OR. For defendants accused of a misdemeanor, the judges denied OR in only 16 percent of the cases.

If everything goes smoothly from interview through verification, it may still take a day or two to obtain an OR release. Many defendants simply do not wait that long unless they have no other choice. In 1974, nine percent of all felony interviewees and 14 percent of all misdemeanor interviewees left the system before a recommendation could be made to a judge. These

defendants exited by making bail, having their cases dismissed, pleading guilty, or receiving an OR from the court at arraignment without a recommendation by the Project. Because the Project knows that a sizeable percentage of interviewees will get out of jail one way or another before the Project is able to get a recommendation to the judge, staff investigators regularly check the arrest cards on defendants whose cases are being processed to make sure that the defendant is still in custody.

In addition to those defendants whose cases are disposed before a recommendation can be made, a significant number of the defendants recommended by the Project have their cases disposed after recommendation but before judicial action. The kinds of dispositions in these cases are the same as those for cases which are disposed before a recommendation can be made. Twenty percent of all felony cases receiving recommendations and 34 percent of all misdemeanor cases receiving recommendations in 1974 were disposed of prior to judicial action on the recommendation.

Taken together, project statistics for 1974 show that 21 percent of all interviewees accused of a felony and 32 percent of all interviewees accused of a misdemeanor had their cases disposed of in some way without utilizing the Project's services. Of all defendants interviewed by the Project in 1974, only 30 percent of those accused of a felony and 26 percent of those accused of a misdemeanor were released on their own recognizance through the Project's recommendation. This means that of all the cases reviewed for eligibility by the Project during that year, excluding persons in custody for traffic and drunk charges, only 17 percent were released on OR because of the Project's efforts. However, if one considers the years from 1971 through 1974 this percentage has been steadily growing, up from 14 percent in 1971.

If the Project's recommendation is denied, the court representative may wait until the defendant's next court appearance and re-submit the recommendation, especially if a different judge will be presiding. Theoretically, the court representative can continue to resubmit the recommendation for as long as the defendant's case is in Municipal Court, although staff members say that a recommendation is seldom re-submitted more than once or twice. Once a felony defendant has been bound over to Superior Court, the Project court representative is no longer responsible for presenting the Project's recommendation to the judge. The case file, however, is available to the defense attorney should he wish to use it in making a motion for an OR release in Superior Court.

3. Follow-up Procedures

If the judge grants OR release to a defendant pursuant to the Project's recommendation, the Project staff get the release papers from the Clerk's office and take them to City Prison on the sixth floor where the defendant is released. The defendant goes down to the OR Project office and signs out. He is told to call the Project office the next morning at 8:30 a.m. to learn where and when he must appear in court. If a felony defendant has been released to the Project prior to arraignment, he is instructed to call in daily for the next seventy-two hours to find out when his arraignment is scheduled.

The Project has a court liaison staff member responsible for maintaining contact with the defendants released on OR on the Project's recommendation and advising them of court dates. The court liaison person maintains records on the progress of each defendant's case and its disposition, checking court returns and docket books by hand to make sure the defendant has appeared. When it is learned that an OR client has additional court appearances, a

secretary mails a notice to the client, requesting him to call the OR office to confirm that he will appear. If the client has a valid reason which will make his appearance impossible, the staff will request a continuance either directly to the court or through the client's attorney.

A record is kept of all clients who have called in as requested and a list is made of all those who failed to respond. The staff on the evening shift attempt to contact these clients the night before their court appearance to remind them to appear. In the event that a client fails to appear, the court immediately issues a bench warrant for his arrest. When the Project learns of the defendant's nonappearance, the staff try to track down the client by telephone to find out why he missed his court date and to persuade him to return. The Project can get the bench warrant vacated if good cause for the failure to appear is shown. In its statistics, the project does not report a case as a failure to appear until sixty days have elapsed. Calculated in this fashion, Project statistics show that the number of OR clients who failed to appear and did not return within the sixty day period has increased from 1.1 percent in 1971 to 4 percent in 1974.

APPENDIX I

Forms Used by San Francisco OR Project

Item #1

ARREST DATE.....INTERVIEWED BY.....

CHARGES.....

NAME.....AGE.....D.O.B.....

AKA.....SEX.....OR'D BEFORE?.....WHEN.....

ON PROBATION/PAROLE? WHERE?.....OFFICER'S NAME.....

SPOUSE'S NAME.....MARRIED HOW LONG.....CHILDREN.....

PRESENT ADDRESS.....
(Street) (City) (Phone)

FOR HOW LONG.....

PREVIOUS ADDRESS.....FOR HOW LONG.....

HOW LONG IN BAY AREA?.....

LIVES WITH.....FOR HOW LONG.....
(name) (relationship)

RELATIVES IN THE BAY AREA (other than above)

NAME	RELATIONSHIP	ADDRESS	PHONE	HOW OFTEN SEEN

MEANS OF SUPPORT: Job, Welfare, Family, Savings, Pension, Social Security, Union Membership, Unemployment, or other

SUPPORTED BY.....FOR HOW LONG.....
(or Enrolled at)

POSITION.....PART TIME/FULL TIME

WHO MAY WE CALL TO VERIFY?.....PHONE #.....

PREVIOUSLY SUPPORTED BY.....FOR HOW LONG.....

POSITION.....PART TIME/FULL TIME HOW LONG AGO.....

REFERENCES (other than relatives)

NAME	ADDRESS	PHONE #

CO-DEFENDANTS.....NAME OF ATTORNEY.....

I voluntary authorize the Bail Project to contact the people named above and to make any and all inquiries and investigation for obtaining information useful to the court in establishing my eligibility for being released on my own recognizance. The above information is true and correct and I understand that this information is privileged.

.....

Item #2

REFERENCE FOR . . . . . (Defendant's Last Name) (First) (Middle)

RE: REFERENCE	I	II	III
NAME			
ADDRESS			
PHONE NUMBER			
FRIEND OR RELATIVE			
HAS KNOWN DEF. FOR HOW LONG			
SEES DEF. HOW OFTEN			
RE: DEFENDANT			
PRESENT ADDRESS			
FOR HOW LONG			
PREVIOUS ADDRESS			
FOR HOW LONG			
LENGTH OF TIME IN BAY AREA			
LIVES WITH (NAME)			
FRIEND OR RELATIVE			
FOR HOW LONG			

OTHER RELATIVES IN BAY AREA	Relation	How often seen	Relation	How often seen	Relation	How often seen

PRESENTLY SUPPORTED BY (ENROLLED AT)			
FOR HOW LONG			
POSITION			
PREVIOUSLY SUPPORTED BY			
FOR HOW LONG			
HOW LONG AGO			
POSITION			
WILL DEF. RETURN FOR COURT?			
CAN YOU GET MESSAGE TO DEF. IF RELEASED?			
CHECKED BY (Initials, Date, Time)			
TEL CALL, OUT CALL, VISIT			

Item #3

O.R. PROJECT REPORT

DEFENDANT . . . . . .
(last name) (first) (middle)

CHARGE(S) . . . . . .

. . . . . .

ARREST DATE . . . . . .ARREST NO. . . . . .

COURT APPEARANCES	
DEPT.	DATE
. . .	. . . . .
. . .	. . . . .
. . .	. . . . .

DEFENDANT HAS LIVED AT. . . . . .

FOR. . . . . .

PREVIOUSLY LIVED AT . . . . . .

FOR . . . . . .

HAS BEEN IN BAY AREA FOR. . . . . .

LIVES WITH. . . . . .

HAS FREQUENT CONTACT WITH . . . . . .

SUPPORTED BY. . . . . .

FOR . . . . . .POSITION . . . . . .

PREVIOUSLY SUPPORTED BY . . . . . .

FOR . . . . . .POSITION . . . . . .

CONVICTIONS WITHIN THE LAST 15 YEARS:

MISDEMEANORS. . . . FELONIES . . . . NO PRIORS. . .

OTHER CASES PENDING:

. . . . . .

ARREST DATE CHARGE(S) C/R DATE DEPT.

COMMENTS AND EXPLANATIONS . . . . . .

. . . . . .

. . . . . .

APPROVED BY . . . . .

FOR JUDGES USE - O.R. DENIED

JUDGE DEPT. DATE

. . . . . .

. . . . . .

. . . . . .

FOR OFFICE USE ONLY

NO REC - why
date . . . . . .

REC & REF - date
dept . . . . . .

RELEASED - how
date . . . . . .

REC & DISP - date . . . . . .

PRE-TRIAL RELEASE CRITERIA

TO BE RECOMMENDED FOR RELEASE ON OWN RECOGNIZANCE, A DEFENDANT NEEDS:

1. A Bay Area address where he can be reached, AND

2. A total of five points (verified by references) from the following:

RESIDENCE
- 3 Present address on year or more
- 2 Present residence 6 months, OR present and prior 1 year
- 1 Present residence 3 months, OR present and prior 6 months

- 1 Five years or more in the Nine Bay Area Counties

FAMILY TIES
- 3 Lives with family, AND has contact with other family members in Bay area
- 2 Lives with family, OR has contact with family in the Bay Area
- 1 Lives with a non-family person

MEANS OF SUPPORT
- 3 Present means of support 1 year or more. (job, spouse's job, ATD or AFDC, school, pension, or old age social security)
- 2 Present means of support three months, OR present & prior 6 months, OR regular employment through union membership
- 1 Current job or intermittent work
  - GA
  - Family
  - Savings
  - Unemployment
  - State Disability

PRIOR RECORD
- 2 No convictions
- 1 One misdemeanor conviction
- 0 Two misdemeanor convictions, OR one felony conviction
- -1 Three misdemeanor convictions, OR two felony convictions
- -2 Four or more misdemeanor convictions, OR three or more felony convictions

Item #4

R E L E A S E

I, ... , hereby authorize the San Francisco Police Department to release to the San Francisco Own Recognizance Project a copy of any and all records pertaining to my arrests and/or incarcerations being held by said Police Department. Further, I hold the City and County of San Francisco, its agents and employees, harmless from any and all damages that may result from their releasing the aforementioned records to the O.R. Project.

Signed . . . . . .

Date . . . . . .

Action No. . . . . .Warrant No . . . . . .

Violation. . . . . .

Date of Arrest . . . . . .

I hereby acknowledge receipt of the above described documents and agree and understand that the same shall be used for the official information of the San Francisco Municipal and Superior Courts only, and for no other purpose.

O.R. Representative. . . . . .

I.D. No. . . . . .

Item #5

IN THE MUNICIPAL COURT OF THE CITY AND COUNTY OF SAN FRANCISCO
STATE OF CALIFORNIA

AGREEMENT and ORDER SETTING BAIL

DEPT. NO._____

PEOPLE, ETC., vs _____ ACTION NO._____

Charged with:

_____

_____

I certify (or declare) under the penalty of perjury that, pursuant to provisions of section 1318.4 of the Penal Code, I hereby agree to the following conditions:

(a) that I will appear on _____ at the above designated department of the Municipal Court, located at the Hall of Justice, 850 Bryant Street in San Francisco, California, AND at all times and in whatever court, Municipal or Superior, in which the above matter may be scheduled.

(b) that if I fail to so appear and am apprehended outside of the State of California, I waive extradition.

(c) that any Court of competent jurisdiction may revoke the order of release and either return me to custody or require that I give bail or other assurance of my appearance as elsewhere provided by Chapter 1 of Title 10 of the Penal Code.

Executed on _____ at San Francisco, California

_____ _____
(Signature) (Address)

_____
(Telephone Number)

IT IS HEREBY ORDERED that the above named defendant be "Released on own Recognizance".

An order having been signed releasing the above named defendant on the above listed charges on his own recognizance, I hereby order that he be released from custody.

Date of appearance:_____or thereafter as ordered.

Time: _____

Place:_____

_____
Judge of the Municipal Court
Superior Court

Date:_____

Item #6

CRIMINAL INFORMATION REQUEST

[TO]: MEMBER-IN-CHARGE
IDENTIFICATION SECTION
RM. 475, HALL OF JUSTICE

SUBJECT: REQUEST FOR INFORMATION FROM THE OFFICIAL CRIMINAL RECORD FILES FOR POLICE REQUIREMENT.

REQUEST IS HEREBY MADE TO HAVE THE CRIMINAL RECORD FILES OF THE IDENTIFICATION SECTION EXAMINED WITH RESPECT TO THE SUBJECTS NAMED BELOW. IF THE SUBJECT HAS A POLICE RECORD INDICATE THE FILE NO. (S.F. NO.) FOR FUTURE REFERRENCE. COPIES OF RECORDS OR PHOTOGRAPHS ARE REQUESTED AS INDICATED.

(NOTE: COPIES OF RECORDS OR PHOTOGRAPHS WILL ONLY BE RELEASED UPON THE SIGNATURE OF A MEMBER AUTHORIZED TO RECEIVE SAME FOR REQUESTEE.)

[DA]TE	REQUESTED BY	RANK	STAR	UNIT

NAME OF SUBJECT [L]AST NAME, FIRST NAME, MIDDLE	RACE	SEX	AGE (D.O.B.)	COPY REQUIRED (RAP)	(PHOTO)	I.D. FILE CHECK	S.F. NO.
						( ) POSITIVE ( ) NEGATIVE	
						( ) POSITIVE ( ) NEGATIVE	
						( ) POSITIVE ( ) NEGATIVE	
						( ) POSITIVE ( ) NEGATIVE	
						( ) POSITIVE ( ) NEGATIVE	
						( ) POSITIVE ( ) NEGATIVE	
						( ) POSITIVE ( ) NEGATIVE	
						( ) POSITIVE ( ) NEGATIVE	
						( ) POSITIVE ( ) NEGATIVE	
						( ) POSITIVE ( ) NEGATIVE	
						( ) POSITIVE ( ) NEGATIVE	
						( ) POSITIVE ( ) NEGATIVE	
						( ) POSITIVE ( ) NEGATIVE	
						( ) POSITIVE ( ) NEGATIVE	

COPIES OF CRIMINAL RECORDS OR POLICE IDENTIFICATION PHOTOGRAPHS SHALL ONLY BE REQUESTED AND USED FOR POLICE PURPOSES AND NOT RELEASED TO PERSONS WHO ARE NOT AUTHORIZED TO RECEIVE SAME UNDER CURRENT RULES OF THE DEPARTMENT OR EXISTING STATUTES.

[P]ROCESSED BY	STAR	INFORMATION RECEIVED BY		STAR
[R]ELEASED BY	STAR	DATE	UNIT	

[B]UREAU OF CRIMINAL INFORMATION

SAN FRANCISCO POLICE DEPARTMENT

SFPD-140(10-70)

Item #7

PRIOR RECORD FROM B. of I.

Date Checked | Checked by | D.O.B. | Arrest Date

Arrest Number | Last Name | First Name | S.F.Number

CONVICTIONS WITHIN PAST FIFTEEN YEARS

Date	Arrest #	Offence	Disposition	Dept.	F/M

PENDING CASES			
Arrest Date	Arrest #	Charge	Disposition

PAST BENCH WARRANTS		
Date Issued	Charges	Date Disch.

COMMENTS (AWA,CYA,Etc.)

WORK AREA: (Pendings, Bench Warrants, etc.

PHASE I EVALUATION OF PRETRIAL RELEASE PROGRAMS

Project Narrative

THE SANTA CLARA COUNTY PRETRIAL RELEASE PROGRAM

SANTA CLARA COUNTY, CALIFORNIA

July 1975

PHASE I SITE VISIT STAFF:

Janet Gayton

Ann L. Williams

This report was prepared under Grant Number 75 NI-99-0071 from the National Institute of Law Enforcement and Criminal Justice, Law Enforcement Assistance Administration, U. S. Department of Justice. Points of view or opinions stated in this document are those of the authors and do not necessarily represent the official position or policies of the U. S. Department of Justice.

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I. THE JURISDICTION

A. Social Setting

The Santa Clara Pretrial Release Program is situated in a major metropolitan area of over 1½ million residents which in turn is adjacent to the city and suburbs of San Francisco. As a result, the number of defendants potentially eligible for release on recognizance is large. For example, the flow of bookings into the Main Jail in Santa Clara County during the 1972-73 fiscal year is estimated to be 27,731. Since the Main Jail handles about three-quarters of all the bookings in the entire county, the program is confronted with the task of choosing which of over 30,000 defendants are qualified for release on recognizance.

The difficulties commonly associated with large defendant populations are partially alleviated for the Pretrial Release Program (PTRP) by the fact that the criminal justice system is not as fragmented in Santa Clara as in some other jurisdictions such as Los Angeles. Because of the centralized nature of the detention centers, the PTRP is able to concentrate its resources and manpower during the critical period immediately after arrest. Instead of having to maintain several pretrial screeners at numerous detention centers which might have irregular flows of defendants, the PTRP can establish procedures to deal with every defendant in an efficient and systematic manner. For instance, the PTRP maintains a 24-hour screening and interviewing schedule at the Main Jail. Since over three-quarters of the defendants are kept in custody at the Main Jail, the pretrial screening staff is able to work continuously on the processing of detainees. Hence, during each eight hour shift maintained at the Main Jail, the PTRP is able to apply its selection criteria to virtually every defendant in a speedy and effective manner.

Finally, the court system in Santa Clara County is divided into a relatively small number of units. There are only six municipal courts which handle cases in which the PTRP makes investigations. Moreover, most of these courts are in close proximity to the detention centers. This allows the PTRP to concentrate its efforts in contacting judges to effect the release of felony defendants.

B. Linkages With the Criminal Justice System

The Santa Clara program is in the position of having favorable legal and informal relationships with the sheriff's office and local judiciary. Since the PTRP does not have the authority to release defendants, it must depend upon the agreement of the sheriff to effect releases for misdemeanor cases and a judge to effect releases for felony cases. The Program's Annual Report (1973) describes the agreement between the project and sheriff's office which provides for immediate release on recognizance of qualified misdemeanor cases:

> Consistent with Section 853-6 (i) of the California Penal Code and with the cooperation of the sheriff of Santa Clara County, it was decided that, in misdemeanor cases, if a defendant had the required number of points at both the interview and the verification stages, the person would be released from custody immediately. In misdemeanor cases the officer in charge of booking is required to show and justify why he did not authorize the release of an arrestee after a recommendation for release had been made by the Pretrial Release Specialist.

The importance of this relationship is seen by the fact that the sheriff's office virtually never rejects a positive recommendation. Consequently, as soon as the PTRP completes its task of identifying qualified defendants, it is assured of effecting a release within a short amount of time. For this reason it is reasonable to expect that the speed of the PTRP's interviewing and verification activities is a critical determinant in producing releases for defendants

charged with misdemeanors. The speed of the PTRP's operations and the certainty of release in instances of positive recommendations provide defendants with a viable alternative to the cash bond system.

For the release of felony defendants, the PTRP maintains ready access to judges, but it is not assured acceptance of its recommendations as it is in misdemeanor cases. The local judiciary are open to receiving recommendations from the PTRP daily during the hours of 9:00 a.m. amd 10:00 p.m. both in their chambers and by telephone.

II. PROJECT BACKGROUND

The first serious attempt to initiate a release on recognizance program in Santa Clara was made in 1966, when a municipal court judge returned from the second national bail conference held in New York. His efforts proved unsuccessful until 1969, when a committee of municipal court judges decided to take action. Nonfinancial release was being occasionally utilized in the area but generally not until arraignment or thereafter. At municipal court arraignment the judge had little or no factual information about the defendant on which to base a decision to release the defendant on his own recognizance or to set bail. The Conference of Municipal Court Judges of Santa Clara County felt that the institution of some sort of ROR program would remedy this. In addition, they viewed the implementation of an OR program as a potential solution to increasing jail costs and overcrowding.

In 1970 the first steps to establish a formalized pretrial release program were undertaken. With active participation of the local judiciary, law enforcement officials, the District Attorney and the Public Defender, the Santa Clara Criminal Justice Pilot City Program agreed to sponsor a four-month OR feasibility study serving only the San Jose Judicial District. The study proved successful and a request was submitted to LEAA for funds to support an OR project which would serve the entire county. First year funding of $138,000 came from LEAA and local government.

The Santa Clara County OR Program was designed to utilize the experiences of other OR programs in the United States, particularly the San Francisco OR Project which had been in operation for some time. Ronald J. Obert, who had worked in the Santa Clara Probation Department for 8 years, was hired as the director of the new program. A pre-program period of three weeks was set aside to communicate and explain the goals of the Program to all law

enforcement personnel in the county. Mr. Obert regularly appeared at the daily patrol briefings of each law enforcement agency in the county, presenting to the officers the goals and procedures of the program and answering questions. Department newsletters also carried articles about the program. The program became fully operational in March, 1971.

In the first years of its operation, the Project had six full time employees including the director, a stenographer clerk, and investigator and conducted interviews at the three pretrial jail facilities in the county operated by the County Sheriff. These three jails, the Main Jail, North County Jail and the Women's Jail, house all of the arrestees in Santa Clara with the exception of those arrested in the city of Santa Clara, which operates its own city jail. Last year, at the request of the judiciary, the Project increased its coverage to include Santa Clara City Jail and it now conducts interviews there at 8:00 a.m. daily.

The OR Project proved so successful that in 1973 local officials in the county began to consider whether or not the Program could be further expanded to include a supervised release component to deal with those prisoners not affected by the OR program. A jail survey revealed that there were, on any given day, 60 to 90 defendants in custody on felony charges who would ultimately receive no jail time or would be sentenced to the jail farm, but who, because of their inability to obtain pretrial release, would spend anywhere from 30 days to 6 months in jail awaiting disposition of their cases.

Accordingly, in August 1973 a committee of Santa Clara County officials paid a site visit to the suprevised release program in Des Moines, Iowa. This committee was comprised of the Sheriff, the Chairman of the Board of Supervisors, a Municipal Court Judge, a Superior Court Judge, a representative of the Bar

Association and a representative of the Taxpayer's Association. Four days were spent meeting with their Des Moines counterparts and examining the operations and impact of the supervised release program. This component of the Iowa program so impressed the visiting delegation that a recommendation was issued that the local judiciary review and consider the feasibility of implementing a similar program. Both the County Superior Court and Municipal Court Benches forwarded favorable comments regarding the concept to the Board of Supervisors, who in turn referred the matter to the County Executive for an implementation proposal.

At that time the Sheriff had 60 vacant positions and was in the midst of a hiring freeze. Nine of those positions were given to the OR Project for the Supervised Own Release component (SORP) representing $161,000. James Moyer was hired to oversee the SORP and to supervise the 3 pretrial release specialists assigned to it. SORP became operational in September 1974 and chose as its target group those defendants who were not released on OR, for whom no bail had been posted, and who would not be likely to be sentenced to a state institution.

Today, the Office of Pretrial Release Services is under the general administration of county government, but is separate and independent from any County department. It has a budget of $333,664 for the fiscal year 1976-76, which is completely funded by county government revenue. It has a full-time staff of 15 comprised of the Director of Pretrial Services; two supervisors, one for the SORP unit and one for the OR unit; 8 pretrial release specialists and one senior pretrial release specialist assigned to the Main Jail OR unit; and the 3 members of the clerical unit. Since the inception of SORP, all full-time staff members are deputy sheriffs.

In addition to the full-time staff, the Own Recognizance Unit uses 11

part-time people and CETA employees to help with interviews at the four detention facilities it serves. Temporary employees are drawn from the student bodies of Santa Clara Law School, Stanford Law School and the Police Academy at San Jose State University. The permanent staff must pass a civil service examination which tests their knowledge in such areas as caseload management, court procedure and the operation of the Criminal Justice Information Computer (CJIC) terminal. Almost all of the fulltime employees of Pretrial Services began as part-time employees and are all college graduates.

Policy for the Office of Pretrial Services is established by an Executive Committee of Judges comprised of one Superior Court Judge and five Municipal Court Judges. The committee holds regular monthly meetings with the director to chart program policies and activities. The director is hired by the Executive Committee and is responsible to it.

III. PROJECT OPERATIONS

The Santa Clara program has two objectives: first, to obtain the release, as soon as possible, of all defendants held in the sheriff's custody who can be expected to meet required court appearances and not engage in further criminal conduct; and second, to submit a report, containing information pertinent to bail setting, on all defendants who were not released to the judge at arraignment.

The Santa Clara Office of Pretrial Services is divided into two units: the Own Recognizance Unit and the Supervised Own Recognizance Unit. However since the interview process and verification are similar, they will be described together.

A. Staffing Patterns

The OR Unit conducts interviews at all four of the pretrial detention facilities within the county; however, the staffing patterns are slightly different at each jail.

The North County Jail is located in the City of Palo Alto and houses both male and female defendants arrested by the Palo Alto Police Department, the Mountain View Police Department, the California Highway Patrol and those defendants arrested by the Sheriff's Department in the North County area. It is operated by the Sheriff's Department and accounts for approximately 11% of all bookings in the county. Interviews at the North County Jail are conducted twice a day at 8 a.m. and 8 p.m. by three temporary employees, two men and a woman, who are students at Stanford Law School.

The Women's Detention Facility is located in the City of Milpitas and

houses all female defendants arrested in the county except those arrested in the North County area. It, too, is operated by the Sheriff and accounts for 9% of all bookings in the county. Until recently, the Women's Detention Facility was only visited once a day at 10 a.m. by the OR unit personnel. Three months ago, this was changed and now a temporary employee of the OR Unit is present at the facility from midnight to 8 a.m. daily. Four women who work 16 hours a week each are assigned to this facility. Interviews with defendants who are booked during the day are handled over the telephone.

The Santa Clara City Jail is the only pretrial detention facility in the county which is not operated by the Sheriff's Department. It houses all defendants arrested by the Santa Clara Police Department. Until one year ago, no interviews were conducted at this jail by the OR unit. At the request of the Municipal Court judges for the city of Santa Clara, a temporary employee of the OR unit now visits the jail daily at 8 a.m. and spends two to two and one-half hours interviewing defendants detained there. Exact figures on the percentage of bookings which are handled at this jail were not immediately available, but the Director of Pretrial Services reported that it is not very large (less than 1%) and that the number of releases which could be obtained by increased coverage of this facility would not be worth the cost required to do so.

The Main Jail is located in the City of San Jose, the largest city in the county, and houses all male defendants arrested in the Santa Clara County area. Since it accounts for 80% of all bookings in the county, it is staffed around the clock by OR personnel. During the week, three full-time Pretrial Release Specialists working eight-hour shifts conduct the interviews and on weekends the jail is covered by temporary employees.

B. Arrest and Booking Procedures

When a person is arrested for a misdemeanor in Santa Clara County, he may be issued a citation in the field by the arresting officer. Citations are commonly issued for minor misdemeanors such as petty theft, shoplifting and trespassing. Overall statistics on the number of field citations issued in Santa Clara County by the various law enforcement agencies were not readily available; however, San Jose Police Department figures for an 11-month period from June 1974 through April 1975 showed that 2,504 field citations were issued. Prorating this figure for a period of one year and comparing it with the prorated yearly number of arrests in Santa Clara County as a whole (based on data from November 7, 1973 through February 12, 1975), the average number of field citations issued by the San Jose Police Department alone is equal to a little over 12% of all arrests made in the county.

Not all arrestees are brought immediately to one of the pretrial detention facilities. If the person is arrested on a charge of public intoxication, a misdemeanor, he will be taken to Valley Medical Center for detoxification. Since July, 1974 detoxification has been mandatory and, should a defendant arrested on this charge be booked into jail instead, the arresting officer must file an affidavit stating the reason why the defendant was not admitted to the detoxification center. Involuntary detoxification has had a considerable impact on the misdemeanor population in the jails. Prior to the beginning of the detoxification program, there was an average of 550 arrestees processed through the jails on drunk charges per month. When a voluntary detoxification program was established this number dropped to 350 arrestees per month and since July 1974, this figure has been further reduced to 150 arrestees per month. Until recently, the OR Unit excluded persons arrested on drunk charges from

consideration for an OR release. However, since the inception of involuntary detoxification, the Unit now interviews and releases eligible misdemeanor defendants without any exclusions as to charges.

If an arrestee is not taken directly to Valley Medical Center, he may still be refused admittance to jail if it is felt he has a problem which requires medical attention. There are nurses on duty at the Main Jail around the clock who will examine the defendant if there is some question about his health and may recommend that he be transported to Valley Medical Center. Any arrestee who is taken to the Medical Center will not be interviewed by the OR Unit until he is brought back to the jail for booking.

Seventy percent of all arrestees brought to Main Jail are first processed through the Custody Classification Preprocessing Center. The center is located adjacent to the Main Jail and was implemented by the District Attorney's office in an effort to improve the quality of arrests. The Preprocessing Center has been in operation for about a year and until the fall of 1974, a representative from the OR unit was stationed there to conduct interviews with arrestees. The OR interview form is still used in the trailer but the interview is now conducted by a member of the Department of Social Services. OR Unit interviewers expressed the opinion that the social workers in the trailer do not adequately understand the form and tend to use it more as a tool for the social services evaluation and referral, which is the primary reason for their presence in the Preprocessing Center. Because of this, defendants are usually re-interviewed after being brought down from the trailer and formally booked into jail.

Of course, not all arrestees processed through the trailer are booked into jail. At the Preprocessing Center, a decision on what action is to be taken is made during an informal conference between the representative of the District

Attorney's Office, the Department of Social Services representative, the arresting officer and the watch commander. The defendant may be released on a citation, released under Section 849b of the Penal Code which means that no prosecution will ensue, transported to Valley Medical Center for a 90-day observation period, or booked. Figures on the number of defendants who are released from custody or taken to Valley Medical Center from the Preprocessing Center were not available; however, since one of the objectives in establishing the Preprocessing Center was to save money by diverting defendants from booking via citation releases, it is reasonable to assume that some defendants, if not a significant number, are released at this stage.

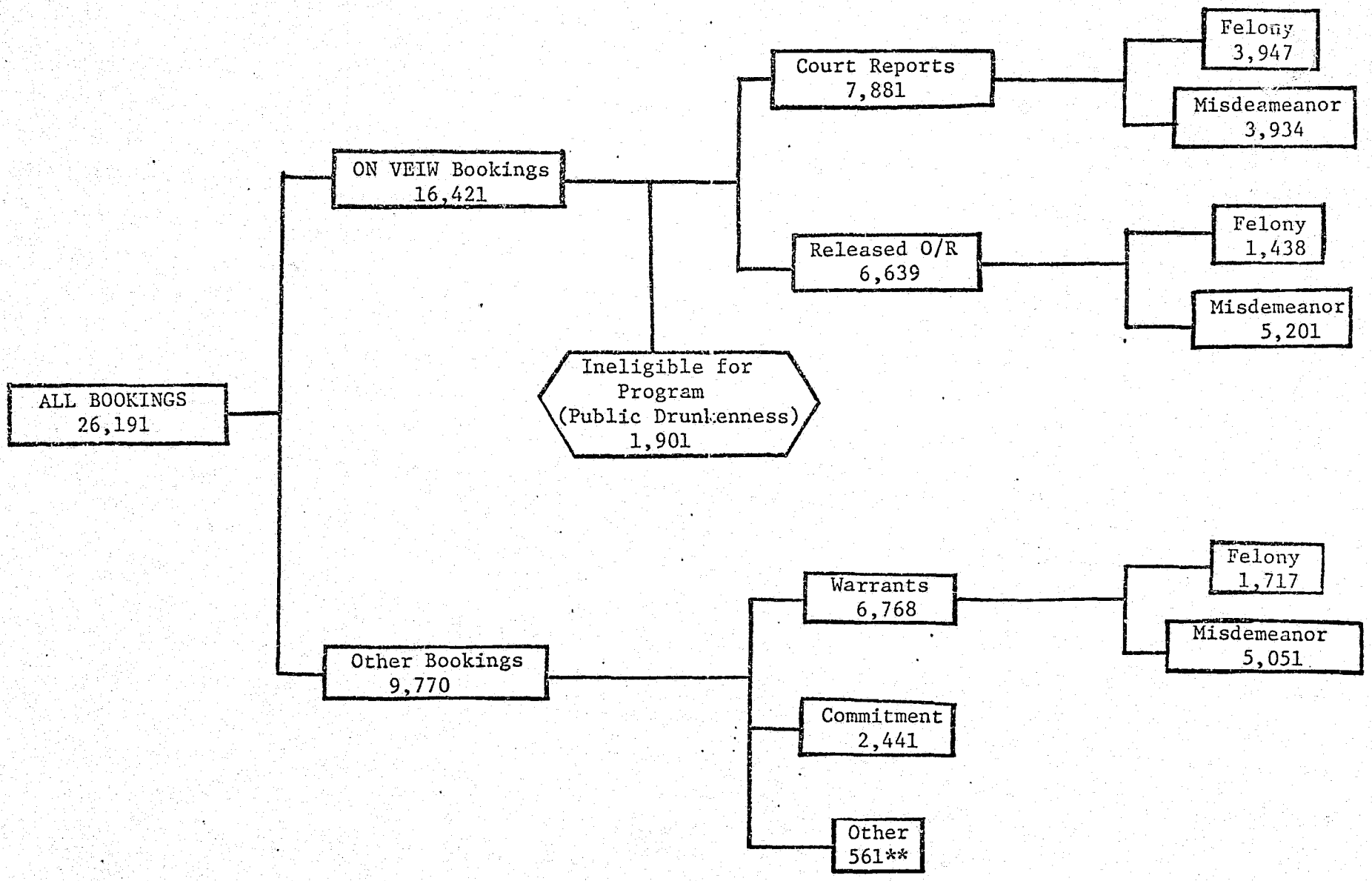
C. Project Screening (See Flow Chart)

Not all defendants booked through Main Jail are interviewed. For instance, defendants arrested on a warrant are ineligible for OR consideration (although felony warrant arrestees may be interviewed by the program anyway as a service to the court). Project statistics for the Main Jail from October 1974 through March 1975 show that 41% of all misdemeanor bookings and 30% of all felony bookings were warrant arrests. Commitment likewise excludes a defendant from an interview.

Although at present no misdemeanor defendant is formally exlcuded from an interview because of his offense, certain felony offenses will render an arrestee ineligible for a project OR. Crimes of violence, including assault, most weapons offenses, and sale of dangerous drugs are excluded and, although the defendant may be interviewed, the project staff will not call the duty judge

Main Jail Bookings
1974-1975*

Santa Clara
Flow Chart



* Projected from data of: 7/1/74 to 3/31/75.

** Includes: En-Route, Probation/Parole, Federal.

to discuss OR release for those cases. Despite the fact that they are not formally excluded, accused misdemeanants arrested and booked on a public drunk charge may or may not be interviewed depending on how busy the OR staff member is. In addition, persons arrested as a result of a family disturbance are not released from custody without first contacting the victim. If the victim does not wish the defendant to return home but is willing to have him released on the condition that he can stay with a friend or relative outside the home, the defendant may be released (given he otherwise is qualified). If the victim does not want the defendant released under any circumstances, then the project will not recommend his release.

When the project began operation, over a third of all misdemeanor defendants booked into Main Jail were ineligible because of their offense and close to 11% of all felony defendants were similarly disqualified (according to a twelve-month projection based on project statistics from August 1971 through March 1972). Project statistics for the six-month period from October 1974 through March 1975 show that these percentages have decreased by about two-thirds: Only 10% of all misdemeanor defendants and 3% of all felony defendants booked into the Main Jail were ineligible for a project OR because of the offense with which they were charged. Obviously, the misdemeanor statistics reflect the impact of the involuntary detoxification program. The reason for the change in the felony statistics is less clear, but the OR staff member has the discretion to present a defendant's case to the judge even though the offense with which he is charged would ordinarily render him ineligible. It is possible, now that the OR program is well-established and accepted in the county, that OR personnel are less reluctant today to contact the duty judge in marginal cases than they were four years ago. It is also conceivable that

the number of probable cause felony arrests for offenses in the excluded categories has decreased, although no statistics for comparable time periods are available to test this hypothesis.

Another factor which may disqualify a defendant from an OR recommendation is his place of residence. When the project began operations, a defendant had to reside within a 60-mile radius of San Jose in order to be eligible for an OR release by the project. In the first year of operations, close to 2 percent of all accused misdemeanants and 3 percent of all accused felons booked into Main Jail were nonresidents and therefore ineligible. Since that time the project policy on residency requirements has been changed so that a defendant living within a 250 mile radius is eligible. The net effect of this is evident in project statistics for the six-month period in winter 1974; less than 1 percent pf all defendants (felony and misdemeanor combined) booked into Main Jail were excluded under the residency criterion. Once again, the residency requirement is not iron-clad and the interviewer has the discretion to recommend a person for OR even though he lives outside the 250-mile radius, provided however that there is someone residing in Santa Clara County who can verify the defendant's background.

D. Project Interview

At the Main Jail, the OR Unit staff member sits on one end of a wire-mesh enclosed counter next to three uniformed sheriff's deputies. The counter runs the length of a corridor which connects the booking room with the room where the prisoner is stripped and searched. After the defendant has been booked he is escorted down the corridor to the OR station. His escort then leaves and the interview takes place with the defendant standing in the corridor and the OR interviewer sitting at the counter behind the wire-mesh screen.

The interviewer usually knows a defendant's name and the offense with which he is charged a few minutes before the defendant actually appears before him in the corrider for the interview. The Sheriff's deputies alert the interviewer that the defendant is coming and make available to him the booking card on which the charge, the defendant's vital statistics, and booking number are stated. During busy periods, however, the OR interviewer may not always have this information before the interview begins.

The pretrial interview itself takes about 10 to 15 minutes and as noted earlier the defendant stands in the corridor during this time and talks to the interviewer through the wire mesh. Although staff members are deputy sheriffs, they wear street clothes. The interview form consists of 6 sections (see Appendix A for copy) including the section filled out from the booking sheet. The defendant is questioned about his residency, family ties, employment and prior record. He is asked for his present address and previous address, how long he lived at both places, and how long he has lived in the Bay Area. He is asked whether he can be reached by telephone, who owns the telephone, and the names and relationships of persons he lives with. Inquiry is made as to his marital status and the number and ages of his children, if any, as well as his spouse's name and address. In addition, the defendant is asked to supply the names, phone number, relationship, and frequency of contact of up to three references. The defendant is asked the names of his present and previous employer, the type of work he does, and his current salary. On the form, the interviewer may indicate whether the defendant consents to having either employer contacted although the OR staff indicated that they very rarely, if ever, consider contacting a defendant's boss. If a defendant is unemployed he is asked how he is supported and whether or not he is currently enrolled in school. Finally, the

defendant is asked to give the date, place, charge and disposition of any prior arrests, and whether or not he is presently on parole or probation or has any other charges pending (as the interviewer asks this last question, he is punching the defendant's booking number into the CJIC terminal in plain sight of the defendant; interviewers report that this procedure tends to jog the defendant's memory in some cases).

The Santa Clara County Criminal Justice System has been on the computer since 1972. By keying the correct number, the OR staff member can obtain descriptive information on the defendant, his California Identification and Investigation number (assigned to a defendant upon first adult arrest in the state) and his FBI number, and whether or not he is presently on probation. In addition, the interviewer can determine the defendant's arrest history in Santa Clara County and whether or not any charge is still active; he can key into arrest reports on prior arrests; and he can determine any prior failures-to-appear both in Municipal and Superior Court. There is a place on the interview form for the interviewer to fill out the defendant's prior arrest history and state whether there are any pending cases or past bench warrants. In addition there is space for the interviewer to make any comments as to the defendant's prior record that he may feel are pertinent.

E. Release Criteria

The defendant must make 5 verified points in order to qualify for an OR recommendation by the project. Three points are earned if the defendant has lived at his present address for a year or longer and he can earn a point for having lived at this present address for 4 months or for a total of 6 months at this present and prior address. An additional point is earned if he has lived in the Bay area for 5 years or more. A defendant who lives with family and has weekly contact with other family members earns the full three points possible for

family ties. If the defendant has been at his present jor for a year or longer or if he is a full-time student, he gets the maximum 3 points possible for employment. If he currently has a job but has been at it for less than 4 months or if he is receiving some sort of financial assistance, he gets one point. Having no prior convictions earns the defendant 2 points, but three or more misdemeanor convictions or 2 or more felony convictions means that the defendant loses a point. In addition a defendant may earn a point at the discretion of the interviewer for pregnancy, old age or medical problems, although OR interviewers report that this is rarely used.

F. Verification

The information obtained during the interview must be verified. The verification is conducted by telephoning the reference, whose name, address and telephone number were supplied by the defendant. In cases where the defendant is on probation or parole, the probation or parole officer is to be contacted to authorize a release. During the telephone verification, the reference is asked to arrange transportation from the Sheriff's Office to home for the defendant.

G. Release Procedure

1. Misdemeanor

For those defendants who qualify for OR release, the recommendation is made to the Control Officer at the jail. By order of the Sheriff, the release of defendants given a positive recommendation by the program is made in all but extremely unusual situations.

2. Felony

In addition to the information obtained from the booking desk, the interviewer also knows the circumstances concerning the defendant's arrest in felony cases. This information is contained in the felony bail affidavit, a rather unique document, which must be filled out by the arresting officer before the defendant can be booked. This document (see Appendix A for copy) was developed at the urging of the OR project in 1971. It was drafted by the District Attorney with the cooperation of the Sheriff and each Police Chief in the county. Prior to the felony bail affidavit, the judiciary was reluctant in felony cases to order an immediate release when the facts concerning the alleged offense were not readily available. Since a waiting period of six to twenty hours was necessary to obtain a copy of the police report, the felony bail affidavit was devised so that the OR unit could initiate an OR release at the booking stage.

The bail affidavit lists the charges on which the defendant has been booked and, in a few sentences, the circumstances surrounding the arrest. In addition, the affidavit shows whether the defendant was armed during the alleged commission of the crime and whether he was armed when apprehended. In both cases there are spaces to indicate the type of weapon. The affidavit further describes any resistance to arrest, and states, to the best of the officer's knowledge, if the defendant is a habitual user of narcotics. In addition, the affidavit provides space for information relevant to determining the relative seriousness of the offense (e.g., in cases of theft or assault) and whether or not the defendant may pose a danger to others if released.

For those defendants held on a felony charge who qualify for OR release, a judge must be contacted to authorize the release. The recommendation may be presented in person to a judge in chambers or at court, or the appropriate duty judge may be contacted by telephone.

3. Court Reports

For all of those defendants who have not been released, a court report is prepared. In addition to other pertinent information, the court report includes the reason(s) why the defendant was not considered eligible for OR release at the time of booking. This report accompanies the arrestee to court for his first court appearance to provide the judge with factual information pertinent to the setting of reasonable bail or the consideration of supervised nonfinancial release. These reports remain in the court files and may be used by a judge when information about the defendant's background or prior arrest record is needed.

APPENDIX

Forms Used by the Pretrial Release Program

Item #1

-2A-

Interviewer

Date

COUNTY OF SANTA CLARA

PRETRIAL RELEASE PROGRAM

	CRT. RPT.	YES	NO
		NEEDS	DONE
	INTERVIEW:		
	VERIF:		
	REC. CHK:		
	P.O. CHK:		
	JUDGES O.R.		
	CODE:		

SECTION 1 - IDENTIFICATION

Booking #	Booking Date

Name	Age	DOB	SS #

Charge	Agency	Ct of App	Sex M F	W MA N I Other

SECTION 2 - RESIDENCE

Street address	City & State	How Long

Can be reached by phone	Telephone owned by	Time/Bay Area	Time/SC Co.

Previous Address	City & State	How Long

INTERVIEW SCORE	Pres.res. 1 yr or more 3 pts.	Pres.res. 6 mos OR pres & prior 1 year 2 pts.	Pres.res. 4 mos OR pres & prior 6 months 1 pt.	5 yrs OR more 1 pt	VERIFIED SCORE

SECTION 3 - FAMILY TIES

Client resides with (relationship & name)	Marital Status No Yes L M T LS S

Spouse's Name & Address	Children Number___ Ages___ With △ ___ Other___

Relatives & References that △ keeps in close contact with:

NAME	ADDRESS	PHONE	RELATIONSHIP	HOW OFTEN SEEN

INTERVIEW SCORE	Lives w/fam AND wkly cont 3 pts.	Lives w/fam OR wkly cont 2 pts.	Lives w/ nonfamily 1 pt.	VERIFIED SCORE

SECTION 4 - EMPLOYMENT (If housewife, refers to spouse)

Present Employer	How Long FT PT	___May Contact ___Do Not Contact

Type of Work	Phone	Wages/month

Previous Employer	How Long FT PT	___May Contact ___Do Not Contact

If unemployed How long_____	How Supported Welfare_____ UIB_____ Other_____

Currently enrolled in school or training

___No ___Yes _____

INTERVIEW SCORE	Pres. job 1 yr OR more OR FT Student 3 pts.	Pres. job 4 mos OR pres/prior 6 mos 2 pts.	Current job UIB/W/F-S 1 pt.	VERIFIED SCORE

SECTION 5 - DISCRETIONARY

INTERVIEW SCORE	___Pregnancy ___Old Age ___Medical Problems 1 pt.	VERIFIED SCORE

SECTION 6 - PRIOR RECORD

Number of convictions:

DATE	PLACE	CHARGE (F/M)	DISPOSITION

INTERVIEW SCORE	No conv 2 pts.	1M/conv 1 pt.	2M/conv OR 1 felony conv 0 pt.	3 or more M/ conv OR 2 or more F/conv -1 pt.	VERIFIED SCORE

TOTAL INTERVIEW SCORE		TOTAL VERIFIED SCORE

Other Charges Pending ☐ No ☐ _____

Holds ☐ No ☐ _____

ON PROBATION/PAROLE ☐ No ☐ Yes To _____ Officer's Name _____

(NAME OF AGENCY)

I voluntarily authorize the Pretrial Release Project to contact the people named above and to make any and all inquiries and investigation for obtaining information useful to the court in establishing my eligibility for being released on my own recognizance.

_____ _____

Signature Date

* * * * *

PRIOR RECORD VERIFICATION

DATE	OFFENSE	DISPOSITION	FEL/MISD

PENDING CASES ☐ None ☐ _____

PAST B/W ☐ None ☐ _____

COMMENTS: _____

BACKGROUND VERIFICATION

Name _____ Relationship _____

Address _____ Phone _____

Has known △ for how long? _____ Sees △ how often? _____

Item #2

-3A-

COMPLETE THIS SIDE FOR ALL BOOKINGS.

COMPLETE REVERSE SIDE WHERE APPROPRIATE.

AFFIDAVIT RE SETTING OF BAIL

Your affiant is a: ___Police Officer for the City of_____

___Deputy Sheriff for the County of Santa Clara

___Officer of the California Highway Patrol

___Other (specity agency)_____

and is informed and believes and therefore states that: on_____, 1972___,

_____ was arrested and booked at the Santa Clara County
(defendant's name)

Jail on charges as follows:

FELONIES: _____ _____ _____ _____ _____ _____ _____

MISDEMEANORS: _____ _____ _____ _____ _____ _____ _____

that the circumstances of the above offense(s) (case #_____) were as follows:

_____

_____

_____

_____

_____

_____

* * * * * * * * * * * *

I. Was the suspect ARMED during the commission of this offense? ____(Yes/NO). If yes, the suspect was armed with a: ___club ___knife ___handgun ___rifle ___shotgun ___other (describe)_____

II. Was the suspect armed when apprehended? ____(Yes/No). If yes, the suspect was armed with a: ___club ___knife ___handgun ___rifle ___shotgun ___other (describe)_____

III. Did the suspect RESIST ARREST? ____(Yes/No). If yes, describe the resistance:

_____

_____

_____

IV. Is the suspect, to the best of your knowledge, a habitual user of narcotics? ____(Yes/No). If yes, how has this been determined?_____

_____

_____

(over)

V. IF AN ASSAULT IS INVOLVED, (complete the following):

A. Type of assault: (Describe)_____

B. Reason for assault (if known):_____

C. Victim(s) (age/sex/relationship to suspect):_____

_____

D. Injuries sustained by victim(s): ___none ___minor ___moderate ___major

E. Weapon(s) involved: _____(Yes/No). If yes, the weapon was a: ___club ___knife ___handgun ___rifle ___shotgun ___other (describe)_____

_____

If a firearm is involved, was it discharged by the defendant during either the alledged crime or during this apprehension?_____(Yes/No).

VI. IF A THEFT OR STOLEN PROPERTY IS INVOLVED, (complete the following):

A. Type of theft: (describe)_____

B. Victim(s): ___Person ___Residence ___Commercial Establishment ___Other (describe)_____

C. Property taken or in possession and the approximate value:_____

_____

D. Property recovered: ___none ___partial ___full recovery

* * * * * * * * * * * *

VII. If "Controlled Substances" are involved, (complete the following):

A. Description and amount (s) of "Controlled Substances" involved:_____

_____

B. Are "sales" of the previously described "controlled substances" suspected in the case of this suspect? ____(Yes/No). If yes, is the level of sales activity best described as:

___MINOR (Small quantities sold on an irregular basis. No production or manufacture of "controlled substances" involved.)

___MODERATE (Small to medium amounts of "controlled substances sold on a regular basis. Not involved in the production of manufacture of "controlled substances".)

___MAJOR (Involved in the sales, production or manufacture of large quantities of "controlled substances".)

C. Approximate number of co-defendants involved in this case:_____. Have they, at this time, been apprehended? ____(Yes/No).

I DECLARE, UNDER PENALTY OF PERJURY, THAT THE FOREGOING IS TRUE AND CORRECT.

_____ _____

Signature of Affiant Date

CEN: Item #3

-4A-

RELEASE UNDER SECTION 853.6 P.C.

The following person, arrested for a misdemeanor without a Warrant, is hereby released after having agreed to appear in court.

NAME ADDRESS

OFFENSE CHARGED

ARRESTING OFFICER & AGENCY DATE & TIME

I, the undersigned defendant, do hereby agree to appear in the Municipal Court, County of Santa Clara, State of California, _____ Judicial District, _____ (ADDRESS) on _____ (DATE) _____ (DAY OF THE WEEK) at _____ ____.M. to answer the above charge.

NOTE: Failure to appear in court, as agreed, will result in your being charged with a misdemeanor violation of 853.7 P.C. and a warrant issued for your arrest.

Dated: _____

DEFENDANT: _____
Signature

RELEASED BY DEPUTY SHERIFF DATE & TIME

PRE-TRIAL RELEASE SPECIALIST

RELEASE TYPE

O/R-P

RELEASE TO: _____
(NAME)

3017 REV 9/72

IN THE MUNICIPAL COURT FOR THE __________________ JUDICIAL DISTRICT

COUNTY OF SANTA CLARA, STATE OF CALIFORNIA

THE PEOPLE OF THE STATE OF CALIFORNIA, Plaintiff,	CEN No.__________
	Docket No.__________
vs.	Release on Own Recognizance
__________ Defendant,	Sections 1318-1319.6 Penal Code

CHARGE(S): (1)________ (2)________ (3)________ (4)________
(5)________ (6)________ (7)________ (8)________

I, the defendant in the above entitled matter, do agree that I will appear in the above entitled Court on __________________ 19____ at __________ o'clock _____.M. and at all times and places as ordered by the Court or magistrate releasing me and as ordered by any Court in which, or any magistrate before whom, the charge is subsequently pending, and I further agree that if I fail to so appear and am apprehended outside the State of California, I waive extradition. Executed by me on ______________________ San Jose, California.

____
DEFENDANT

- -

Good cause appearing therefor, and the defendant having signed the above agreement that he will appear, it is by the Court ordered that defendant be released from custody on his own recognizance.

Dated:____________________

____
Judge of the Superior Court
(Municipal)

DATE OF ARREST:______/______/19__

RELEASE TYPE

O/R-P

3014 REV 9/72

Item #5

COUNTY of SANTA CLARA
PRETRIAL SERVICES
COURT REPORT

Court_____
Department_____
Docket #_____
Court Date_____

Defendant's Name_____ DOB_____ Age_____
Charge(s)_____ Date of Arrest_____
Prior Record Booking #_____
Local CJIC history attached: ☐ *yes* ☐ *no*; Comment_____
CII attached: ☐ *yes* ☐ *no*; Comment_____
Currently on Probation: ☐ *yes* ☐ *no*; Parole: ☐ *yes* ☐ *no*; Drug Diversion: ☐ *yes* ☐ *no*
*Officer's Name*_____

Residence & Family Verified: ☐ *yes* ☐ *no* Source of verification_____
Address_____ Telephone_____
Length of time at this address_____ Time in County_____
Previous address_____ How long?_____
Marital status_____ Number of children_____
Resides with_____ Relationship to defendant_____
*If appropriate, parent's names, address, and telephone*_____

Employment or Support Verified: ☐ *yes* ☐ *no* Source of verification_____
Employer_____ How long?_____
In what capacity?_____ Full-Time ☐ Part-Time ☐
Previous employer_____ How long?_____
Source of support if not employed_____
*If student, name of school*_____
Supplemental Information (Holds, pending matters, etc.)

*If applicable, the reason defendant failed to qualify for an O.R. release at the time of booking is*_____

Recommendation:

☐ It is recommended the defendant NOT BE RELEASED pursuant to Section 1318 of the Penal Code.

☐ It is recommended the defendant BE RELEASED pursuant to Section 1318 of the Penal Code.

☐ It is recommended the defendant BE RELEASED pursuant to Section 1318 of the Penal Code WITH the following special conditions:

Submitted by_____
Pretrial Release Specialist

8/74

PHASE I EVALUATION OF PRETRIAL RELEASE PROGRAMS

Project Narrative

SAN DIEGO BAIL PROJECT

SAN DIEGO, CALIFORNIA

July 1975

PHASE I SITE VISIT STAFF:

Janet Gayton

Ann L. Williams

This report was prepared under Grant Number 75 NI-99-0071 from the National Institute of Law Enforcement and Criminal Justice, Law Enforcement Assistance Administration, U. S. Department of Justice. Points of view or opinions stated in this document are those of the authors and do not necessarily represent the official position or policies of the U. S. Department of Justice.

TABLE OF CONTENTS

I. CASE PROCESSING IN SAN DIEGO

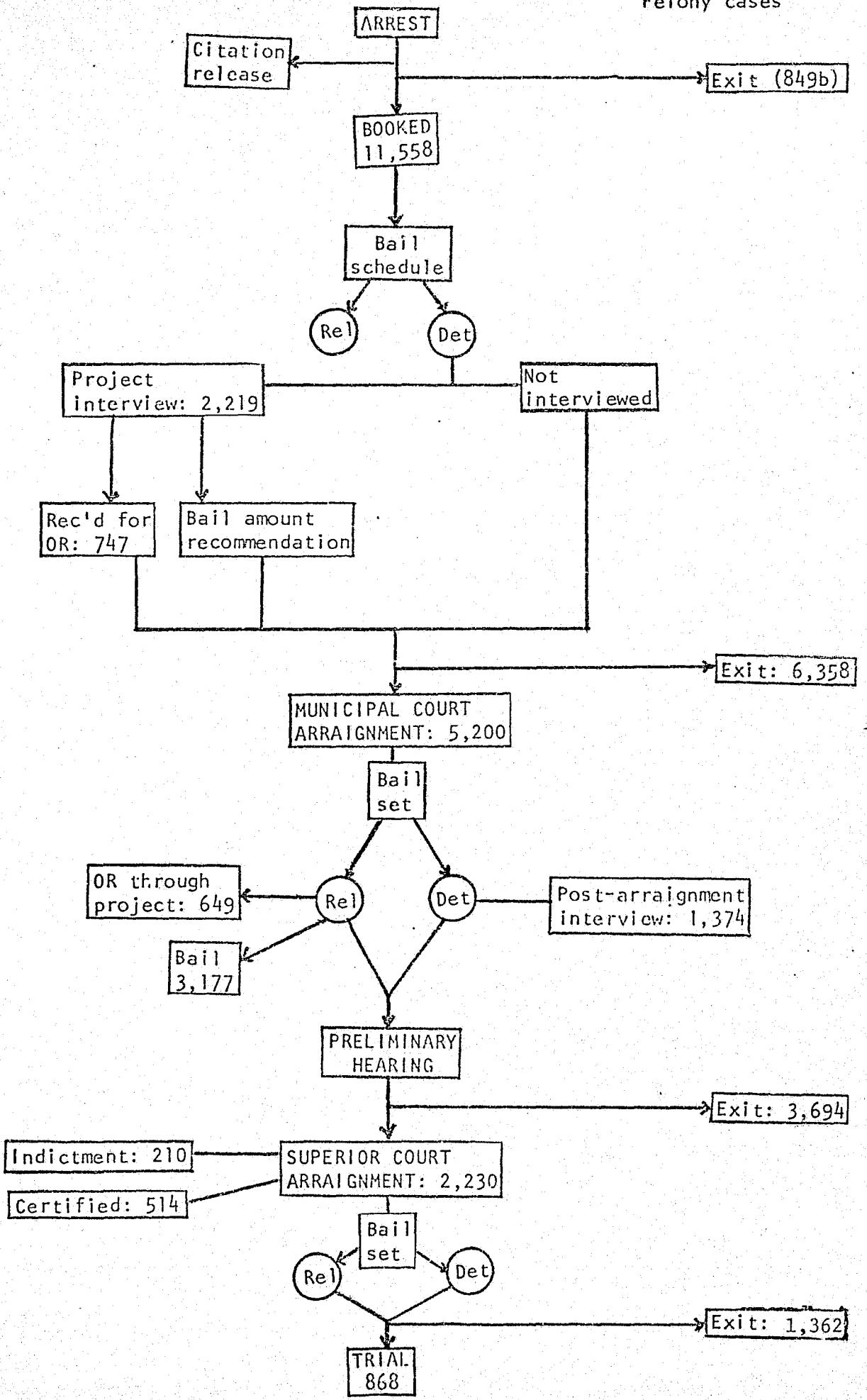
A. Processing of Felony Cases (Flow Chart #1)

As in other California jurisdictions, persons may be arrested for a felony in San Diego either on a warrant or on probable cause. Once arrested, the arrestee may be held in one of six different police facilities (either the main facility in San Diego or one of the suburban stations). At the station, the arrestee has the option of posting bail on the felony bail schedule (although apparently few felony arrestees are able to come up with that amount of money in such short order). Furthermore, California Penal Code Section 849b states that unless an arrestee is to be charged or prosecution is to follow, he must be immediately released. Unfortunately, there are no statistics on the number of felony arrestees who are either released on the bail schedule prior to booking at the main facility or who exit from the system under Section 849b.

Within a day or two, all felony arrestees still in detention are transported to the main jail facility in San Diego (adjacent to the courthouse). For the first six months of 1975, it is estimated that about 11,500 arrestees were booked for felony charges. At the main facility, a bail schedule is again available, and the probability of obtaining release is higher since the bondsmen's offices are nearby. The main jail facility houses unsentenced defendants (persons awaiting trial), persons sentenced to serve jail sentences, and federal prisoners.

Although data are not available on the number of persons who obtain release through the bail schedule prior to arraignment in

FLOW CHART #1
Felony cases



Municipal Court, it is known that of the felony arrestees booked, 55% have their charges dropped or are reduced to misdemeanors prior to their first court appearance. Thus, of the original 11,500, about 45% reach Municipal Court arraignment on felony charges.

At arraignment, the charges against the defendant are read and bail is reviewed (most felony charges are represented on the bail schedule; however, the court may raise or lower the amount of bail at the defendant's first appearance). Data are not available on the number of felony defendants who are released at each stage of case processing (although overall figures--misdemeanor and felony combined--are available on the types of released from the jail; see page 5). Of the 5,200 defendants arraigned in Municipal Court during the six-month study period, the OR project obtained non-financial release for 649 (12.5%) and another 1,374 (26%) were assigned to the project for post-arraignment reports, indicating that they were not able to obtain release at that time. On the flow chart, the remaining defendants (61.5%) were presumed to have obtained release through bail, although it is likely that the actual percentage of felony defendants released is slightly lower.

From Municipal Court arraignment, the case proceeds to Preliminary Hearing in the Municipal Court. The main purpose of the hearing is to determine whether there is a sufficient basis for continuing the case on to Superior Court. Although this hearing may be waived by the defendant, this is rarely done. At each court hearing, bail review is possible, and, if a defendant is in detention for over five days, a bail review is automatic. In some cases, the OR project supplies the court with information about the defendant to aid in its decision; however, according to OR program personnel, the information

is used for reduction of bail, not for non-financial release. Between Municipal Court arraignment and Superior Court arraignment, an additional 32% of the population exits from the system by either reduction of charges or pleading guilty. Thus, of the 11,500 arrestees, roughly 13% actually reached Superior Court.

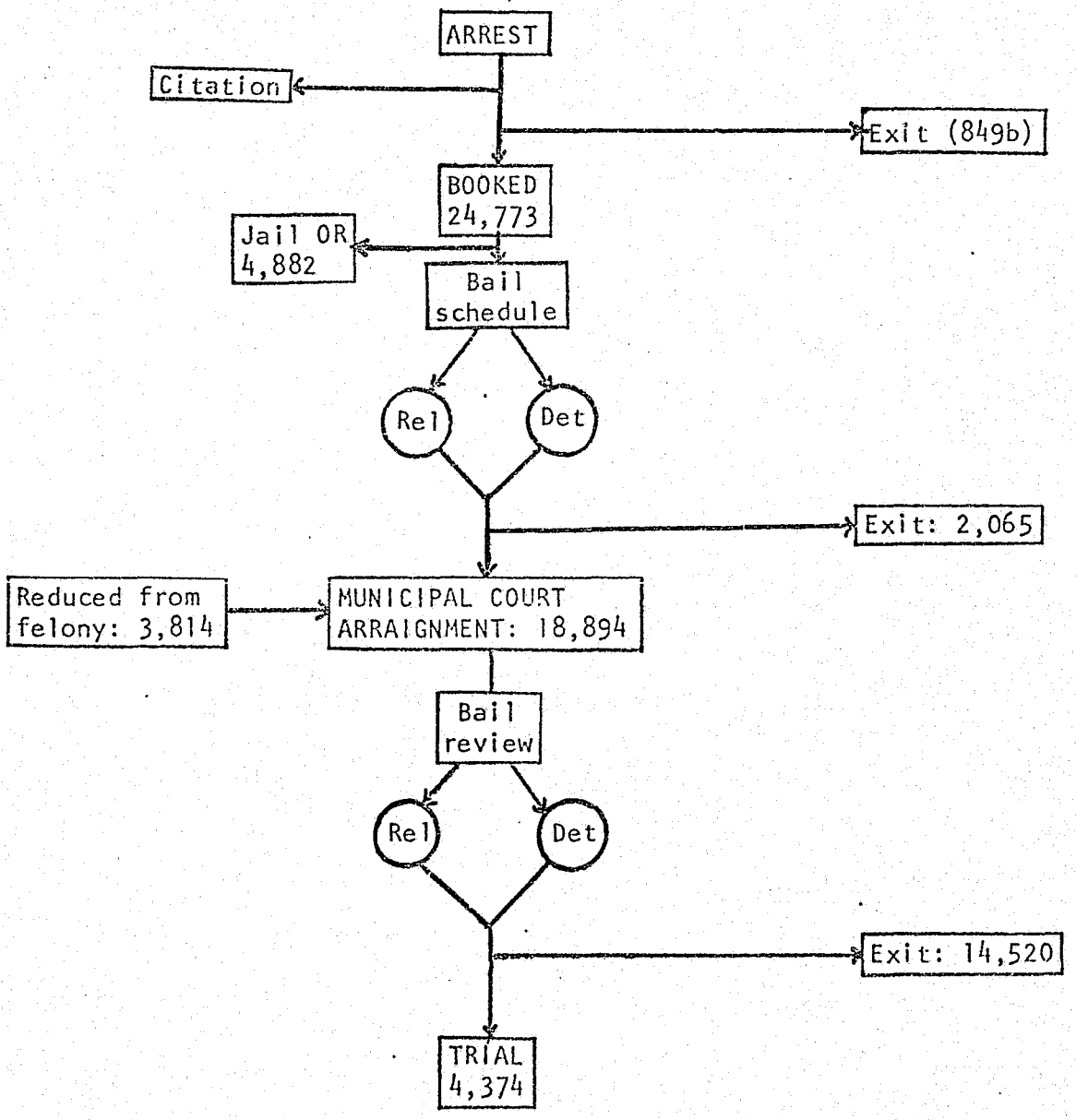
While most cases are processed by information, there are two other ways in which cases get to Superior Court: through Grand Jury indictment, and through certification from Municipal Court. During the six-month period, 210 of the 2,230 cases going to Superior Court were by indictments (9%). Certified cases--situations in which the defendants entered guilty pleas to felony charges in Municipal Court, and were sent to Superior Court for sentencing--accounted for 514 of of the 2,230 cases.

In Superior Court, the defendant's bail may be reviewed. Since there are no data available, however, on the number of defendants detained following Superior Court arraignment or on the distribution of bail settings, it is not possible to determine the total number of felony defendants who remain in detention through trial. Very few cases actually go to trial in Superior Court: of the 2,230 cases, 1,362 (61%) were disposed prior to trial (through guilty pleas and dismissals), while the remaining 868 (39%) went to trial. Data were not available on the types of trials or dispositions of cases in Superior Court.

B. Processing of Misdemeanor Cases (Flow Chart #2)

There was little information available on the numbers and handling of misdemeanor cases in San Diego. The use of field citation releases in misdemeanor arrest situations is reportedly quite common in

FLOW CHART #2
Misdemeanor cases



San Diego. The first statistics available, however, were on the number of misdemeanor cases booked into the main jail facility--as a result we do not know how many additional arrests occurred which resulted in either citation release or dropping the charges against the arrestee under Section 849b. During the first six months of 1975, there were 24,773 misdemeanor cases booked into the jail. Again, as with felony arrestees, a bail schedule is available for misdemeanor cases, and some arrestees are released on own recognizance through the Misdemeanor Citation Program at the county jail (operated by the sheriff who supervises the jail facility). There were 4,882 jail citation releases during the first half of 1975. In addition, 2,065 of the 24,773 (8%) misdemeanor arrestees had their charges dropped prior to arraignment.

Adding in the 3,814 defendants whose charges were reduced from a felony to a misdemeanor, the total number of misdemeanor cases arraigned in Municipal Court during the six months was 18,894. Again, release data are not available. Between arraignment and trial, 14,520 (77%) of the cases were disposed through guilty pleas or dismissals, leaving only 4,374 misdemeanor cases which actually went to trial in Municipal Court (23%).

C. Release From the Jail

While data are not available on the numbers and types of pretrial release at various stages of case processing, it was possible to obtain information on the distribution of releases from the main jail facility during the first six months of 1975. Table 1 shows this distribution.

Table I

Release from the main jail: San Diego, California (January-June, 1975)

Type of release	Percent of all releases
Jail OR	10%
Bail (cash)	11%
Bail (bondsman)	15%
Court OR (includes Project OR's)	14%
	50%
Charges dropped	13%
Honor camp (long-term detention)	3%
Other agency custody	4%
	20%
Time served	10%
Probation	1%
Fine paid	0.2%
Suspended sentence	2%
	13%
Other	17%

According to the first section of the table, half of the persons released from the jail were defendants who had managed to secure pretrial release. Of those persons granted pretrial release, 52% obtained release through bail (either cash bail or with a bondsman), 20% were released on OR at the jail (the vast majority of these were misdemeanor cases), and 28% were released on recognizance by the court (which includes Project OR's). Thus, of all defendants released (misdemeanor and felony combined), close to one-half were granted non-financial release.

Though data were not available on the length of time spent by defendants in pretrial detention, the average number of days spent in jail by unsentenced prisoners during the six month period was six days.

II. THE SAN DIEGO PRETRIAL RELEASE PROGRAM

A. Program Background

The Pre-Arraignment Bail Project in San Diego began operation in April of 1971 after a number of previous short-term experiments in release on recognizance. Implemented in response to an order issued by the combined judicial benches of San Diego County, the purpose of the project is to gather and compile information useful to the court in making pretrial release decisions.

The program was established within the San Diego Adult Probation Department and is supported by that organization's budget. The staff of the program-- all probation officers--consists of two supervisors (positions that are rotated about every four months), five Deputy Probation Officers and eight Probation Assistants. In addition, the project employs four clerical personnel and has the use of Probation Department computer terminals.

B. Program Operations

Each morning (including weekends), two members of the project staff obtain copies of the previous day's booking sheets for all felony arrests (the program does not handle misdemeanor cases). The sheets are reviewed for eligible defendants (the program automatically excludes persons charged with probation or parole violations, murder, welfare fraud, failure to appear in court, defendants with a hold from other jurisdictions, with other pending charges, or who are charged with contempt).

The interview sheets for eligible arrestees are prepared from the booking sheet (name, age, address, etc.) and the defendants are called to the interview area (since women are not allowed in the jail

itself, interviews occur in a separate designated part of the facility). The interview itself takes about fifteen minutes per arrestee, and covers information including the defendant's family ties, residence, and employment status (see Appendix A: Forms, "Bail Project Questionnaire"). In addition, the Project interview includes information needed for preliminary screening for T.A.S.C. eligibility.

After the day's interviews are complete, the staff return to the Project offices (located in the offices of the Probation Department) to telephone references for verification of the information received and to check defendant rap sheets to verify any prior record information. The information is then compiled to determine eligibility for ROR. The areas for consideration in determining eligibility for OR release include the nature of the offense (serious and/or violent charges are generally not recommended for OR), the extent of the defendant's community ties, his financial status and employment, prior record (particularly if a defendant has previous failures to appear, was charged with contempt, or is wanted by other agencies, the project tends not to recommend for OR), information from other sources in the defendant's locale (for instance, social service agencies, churches, etc.), and the comments of the references given by the defendant (i.e., if a relative states that the defendant is dangerous, the project is not inclined to recommend OR). The decision to recommend or not to recommend ROR is subjective on the part of the interviewer, but the authorization of one of the supervisors is also required. To be recommended, the defendant must meet basic eligibility criteria (non-violent offense, have ties to the community, etc., all of which must be verified) as well as appear to be a "safe" risk to the interviewer.

For defendants who do not qualify for ROR, a bail amount is recommended by the program. The basis for recommending a particular amount is quite similar to that used to determine OR eligibility. For instance, if a defendant is charged with a serious offense, it is likely that a bail amount will be recommended rather than nonfinancial release. In interviews with the staff, judges, prosecutor, and public defender, the consensus was that the project's bail amount recommendations were usually well in line with what the court would have set (as an example, in a recent project description--written by the program--it states that "high bail" is usually recommended in cases of risk to the community, to self, or, as an example, for a heavy drug dealer who has ample resources at his disposal).

Once the information is compiled, a copy of the project report (see Appendix B: Sample Project Reports) is given to the court, the defense attorney, and the prosecutor. A representative of the project is in court at arraignments to answer questions the court may have, but does not make any formal presentation of the project's recommendation.

The project's involvement with the defendants ends once he is released on his recognizance. There is no follow-up or notification service provided by the program other than the notification procedures used by the court (which apply equally to all defendants and consist of short form letters mailed before a court date).

Finally, the project provides a service to bail re-evaluation hearings by compiling reports on felony defendants still in detention upon the request of the court or defense. This service (known as "post-arraignment reports") is used by the defense to appeal for a lower bail amount, and rarely results in release of the defendant on his recognizance.

C. Statistical Description of Program Operations (see Flow Chart #1)

During the first six months of 1975, the bail project interviewed 2,219 felony defendants (an average of about 370 per month) for pre-arraignment reports and an additional 1,374 for post-arraignment reports (making a total average of about 600 interviewees per month). Of the persons interviewed for pre-arraignment reports, 747 (34%) were recommended for ROR--the remaining 66% were given bail amount recommendations. Of the 747 recommended, 649 were granted OR by the court (87%). Thus, of the 5,200 felony defendants arraigned in Municipal Court during the time period, the program recommended 14% for OR and obtained OR release for about 12.5%. No data were available for the number of felony defendants whose bail amount was lowered as a result of project reports ("post-arraignment" reports).

In 1975, the project compiled some interesting statistics on the failure to appear rates of project releasees (ROR). Comparing defendants OR'd through a project recommendation and those who were given OR release by the court against the project's recommendation (a bail amount had been recommended by the program) the study found that 15.5% of the recommended OR's failed to appear while 23.5% of the not-recommended OR's failed to appear. Further investigation into the type of FTA (those which resulted from hospitalization, death, etc., in which the bench warrants were vacated as opposed to FTA's which resulted in a bench warrant that was still outstanding at the time of the study) showed that a larger proportion of the recommended OR's had outstanding bench warrants (42% of the FTA's were still outstanding while only 31% of the not-recommended OR's had outstanding bench warrants). This comparison, however, was made

between two very different groups in terms of size (535 in the recommended OR's group versus 55 in the not-recommended OR's group) and therefore cannot be taken as conclusive. The overall FTA rate for OR'd felony defendants was 17%; there were no data available on the FTA rate for bailed defendants.

D. The Program in its Environment

The bail project in San Diego views its primary purpose as providing information to the court rather than increasing the rate of non-financial release. Thus, the project has a strong orientation to serving the court as opposed to serving the defense or prosecution. The types of reports compiled by the program, as well as the substantial number of bail amount recommendations (which are, in effect, a recommendation against ROR) are evidence of this perspective.

Strong support for the program's activities was articulated in interviews with the Municipal Court judges. The judges felt that the program provided them with crucial information, and in so doing, increased the appropriateness of their bail decisions. The program's recommendation, however, was viewed as only one component of the bail decision; one judge noted that among other factors, he was far more inclined to release defendants who had family members present at arraignment. This same judge noted that he was inclined to either use ROR or set a fairly high bail rather than setting low bails, and that therefore, the project recommendations were sometimes out of line with his own feelings (although he noted that the actual bail amount was of less use to him than the information contained in the report itself).

Predictably, the public defender's office felt that the project was overly conservative and should act more as an advocate for the defendant (particularly in respect to the court representative, the pub-

lic defender thought it would be helpful if the project made active recommendations for ROR in court rather than simply being there to answer questions). Interestingly, the prosecutor's office, while considering the program fairly neutral (in contrast to the public defender), did not feel the program to be overly liberal in its recommendations--in fact, the prosecutor stated that his own bail suggestions were frequently lower than those of the program. All parties interviewed felt that the information obtained by the project was essential and unique, particularly in the area of verification of community ties and family status (though both the public defender and the judge noted that the program sometimes had difficulty in obtaining verification because the references were hesitant to speak with a probation officer). As with the judge, both the public defender and the prosecutor felt that the actual amounts of bail recommended were the least useful component of the program's report, the content being the most useful.

The project itself feels fairly satisfied with its performance to date, and appears to have the comfortable support of the rest of the criminal justice system. In the future, the program hopes to expand its operations to outlying suburban areas to provide more immediate and greater service to bail setting and review hearings in those locales.

APPENDIX A

BAIL PROJECT FORMS

SAN DIEGO COUNTY PROBATION DEPARTMENT -- ADULT SERVICES

BAIL PROJECT QUESTIONNAIRE

Cell Block .....
BP/OR No. .....

BOOKING INFO: ..... (Arresting Agency) ..... (Booking No.) ..... (Social Security No.)

DEFENDANT: ..... (Last Name) (First Name) (Middle Name)

AKA'S ..... Codefendants .....

CHARGES: .....

PERSONAL INFO:

A. ..... (Sex) ..... (Race) ..... (DOB) ..... (Age) ..... (Height) ..... (Weight) ..... (Birthplace)

B. ..... (Local Address) ..... (Phone Number) ..... (How Long?)

C. ..... (With Whom do you live?) ..... (Address when released)

D. Time in Calif? ..... SD: ..... Prior Address: .....

.....

E. Cash? ..... Bank Account? ..... (Name of Bank & Branch) Bonds .....

F. ..... (Cash on jail books) ..... (Other assets) ..... (Vehicles (owned? Mortgaged?)

G. Residence ..... (Rent, buying, equity, etc.) Personal Property ..... (Value, bal. owed & to whom)

FAMILY INFO:

A. Marital Status S M Sep D Mer W Length of marriage .....

B. Spouse's name .....

..... (Address) (phone) (wk phone)

C. Children ..... (ages, sex) (live with whom?) (how supported?)

D. Father ..... (Name) ..... (Address) ..... (phone) ..... (wk phone)

E. Mother ..... (Name) ..... (Address) ..... (phone) ..... (wk phone)

F. When did you last see your parents? ..... Do they know you are in jail? .....

G. Do any other members of your family know you are in jail? ..... Who? .....
Where and when can they best be contacted by phone? .....

Names	Phone

H. Level of education ..... Now in school? ..... Where .....

I. Military Service ..... (Unit) (Military Address) (Phone)

Date of Service ..... Type Discharge .....

Name of Commanding Officer/Supervisor ..... Phone No. .....

EMPLOYMENT INFO:

A. Current/last Employer ..... (Co. name) (address) (city) Date left .....

Position held ..... how long ..... hours/wk .....

Salary ..... Immediate Supervisor ..... Phone No. .....

B. Prior Employment .....

C. If Unemployed, how long? ..... Unemployment Benefits? ..... Workman's Compensation? .....

D. Other source of income ..... (GI Bill, AFDC, Gen. Relief, etc.) Amount? .....

COMMUNITY:

A. Union/Organization ..... Health Claims .....

B. Known to DPW? ..... Other Welfare Agency? ..... County Hospital? ..... County Vet? .....

C. References:

1. ..... Phone .....
2. ..... Phone .....
3. ..... Phone .....
4. ..... Phone .....
5. ..... Phone .....

NOTE: DEFENDANT APPROVES OF CONTACT W/LISTED EMPLOYERS & REFERENCES, EXCEPT FOR: .....

PRIOR RECORD:

A. When was your most recent arrest? .....

	Date	Place	Offense	Disposition
1.				
2.				
3.				

B. Any pending cases? ..... Where ..... Charge .....

C. Are you currently on parole/probation? ..... Name of PO? .....

D. Is any of your immediate family on parole/probation? ..... Name of PO? .....

E. Will you retain your own att.? ..... Name ..... Phone No. .....

F. Future Plans (Work/residence?) .....

COMMENTS:

Interviewer ..... Date of Interview .....

Item #2

San Diego County Probation Department

RECORD OF INTERVIEW

ate _____ Time _____ ☐ Phone ☐ Office ☐ Work

ase Name _____ ☐ Home ☐ Other _____

erson Interviewed _____ Relationship _____

robationer's Address _____

lace of Employment _____

hone: Home _____ Emp. _____ Other _____

ontent & Evaluation (Family Status, Payts., Violations, Attitude & Progress)

xt Appointment _____ Interviewed By _____

ULT 415 (REV. 7/63)

Item #3

MUNICIPAL COURT OF CALIFORNIA, COUNTY OF SAN DIEGO

San Diego Judicial District

The People of the State of California

Plaintiff,

vs.

Defendant.

ORDER SETTING BAIL FOR RELEASE OF PRISONER

Booking # _____

Charge _____

Arresting Agency _____

Complaint # _____

_____

(Give name and title of Court if other than San Diego)

TO THE SHERIFF OF SAN DIEGO COUNTY, SAN DIEGO, CALIFORNIA:

☐ Bail having this date been fixed in the sum of $_____ and Pen. Asst. $_____ upon the above charge,

☐ Defendant released on his own recognizance.

You are hereby authorized and directed to release the above-named defendant from custody on the above charge and hold this order as your authority for so doing.

Please direct defendant to appear in Department _____

(GIVE LOCATION OF COURT DEPARTMENT)

_____, at _____ (TIME) on _____ (DATE).

Date_____

Attorney _____

_____

Judge of the Municipal Court.

Cash Bail Receipt #_____

Bail Bond #_____

_____

Bonding Company Agent

AGREEMENT FOR O.R. RELEASE

(Sec. 1318 P.C. et seq.)

The undersigned does hereby agree, in consideration of being released upon his own recognizance, that

(a) He will appear in person at all times and places as ordered by this court and as ordered by any court in which charge is subsequently pending;

(b) If he fails to so appear in person and is apprehended outside of the State of California, he waives extradition; and

(c) Any court or magistrate of competent jurisdiction may revoke the order of release and either return him to custody or require that he give bail or other assurance of his appearance as provided in Chapter I, Title X, Part II of the Penal Code.

The undersigned defendant acknowledges that he has been informed and that he understands that he is next to APPEAR ON THE ABOVE DATE.

EVERY PERSON WHO IS CHARGED WITH THE COMMISSION OF A MISDEMEANOR who is released on his own recognizance and who willfully fails to appear as he has agreed, is guilty of a misdemeanor and, upon conviction, is punishable by imprisonment in the County Jail not exceeding six months, or by a fine not exceeding five hundred dollars, or by both. (P.C. 1319.6 and P.C. 19).

EVERY PERSON WHO IS CHARGED WITH THE COMMISSION OF A FELONY who is released on his own recognizance who willfully fails to appear as he had agreed, is guilty of a felony, and upon conviction thereof may be punished by a fine not exceeding five thousand dollars ($5,000) or by imprisonment in the state prison for not more than five years or in the County Jail for not more than one year, or by both such fine and imprisonment. (P.C. 1319.4).

Dated_____19____.

Signed _____

Defendant

Address _____

_____

FORM 357 (REV. 1/73)

White — Jail Copy
Pink — Defendant's Copy
Yellow } Court Copies
Green }

APPENDIX B

SAMPLE PROJECT REPORTS

SAN DIEGO COUNTY PROBATION DEPARTMENT
ADULT SERVICES

BAIL UNIT REPORT

Municipal Court No.............. Superior Court No. .... Date 7-23-75 .... BP/OR No.:........................

Bail Review Info.: Court.......................... Hrg. Date/Time.............................. Bail Set ....

Date of Arrest 7-21-75 .... Charge(s) 459, 496.1 ....

‡ ‡

Name .... Age/DOB.................. SS No.....................

Address .... How Long? 6 years Phone 279-4995

Time in San Diego 6 years .... Time in California 6 years ....

FAMILY AND COMMUNITY: Dft. is a 20 year old single male who claims a 6 year residence at his parents' current address. His mother stated that he has lived in San Diego since 1969 and that he had lived at her address until 2 weeks prior to his arrest. Dft.'s mother was confident that dft. would appear in Court as ordered, and added that he could return to her home upon release from custody. Dft. was released from Honor Camp in March, 1975 following a 7 month confinement. Dft.'s PO, Mr. Horne, stated dft. has been fairly responsible in keeping his probation appointments but indicated that he has been arrested 3 times since his release in March.

EMPLOYMENT: Dft. has worked as an electronic assembler at Serv-Vendors Corporation since 1973, which his mother owns. Dft. earns $2.10 per hour, although his booking sheet indicates that he is an unemployed auto mechanic.

FINANCIAL: Dft. claims a 1966 Ford as his only asset.

PRIOR RECORD:

SDSO	9-30-73	1) poss marij. 2) poss switchblade	11116 (J) PC PG misd; 36 mos probation
"	6-30-74	att/burg	dism on chg of PC 664 and 459 fine $100 prob 12 on chgs of PC 664-484
"	7-28-74	1) vehicle theft 2) misd hit and run	9-19-74 3 years probation 60 days custody and $800 restitution
"	9-1-74	auto theft	10-24-74 3 years probation 7 months custody, rel Honor Camp 3-22-75

Dft.'s PO reports one arrest for drunk, and one for reckless driving since dft.'s release from Honor Camp.

ANALYSIS: Dft.'s ties to the area through long time residence and family appear substantial enough to support an OR release in light of dft.'s minimal assets.

RECOMMENDATION: OR Ct. appt.atty

Respectfully Submitted:
KENNETH F. FARE
Chief Probation Officer

Reviewed By:..
Supervising Probation Officer

BY:..
J. J. REES

COURT DISPOSITION:.. Date:..........................

ADULT 11 (Rev. 12-74)

SAN DIEGO COUNTY PROBATION DEPARTMENT
ADULT SERVICES

BAIL UNIT REPORT

Municipal Court No.. ..... Superior Court No. ..... Date 7-23-75 .... BP/OR No. SP 24674

Bail Review Info.: Court ..... Hrg. Date/Time ..... Bail Set .....

Date of Arrest 7-25-75 ..... Charge(s) 11352, 11351, 11350 H&S, 182.1 PC .....

* *

Name ..... Age/DOB 21/11-18-53 SS No. [redacted]

Address ..... How Long? 5 mos. Phone 464-1971

Time in San Diego 12 Years ..... Time in California Life .....

FAMILY & COMMUNITY TIES: The dft. was born in Los Angeles where he lived until 12 years ago, when his family came to San Diego. He has been living with his brother at the above address for the past 5 months. His parents also live in San Diego. He has an 11th. grade education, and no dependents. All of the above information was confirmed by the dft's. brother, Marco Gonzaba, who stated he feels the dft. would return for court appearances if released from custody.

FINANCIAL: The dft. claims no financial assets.

EMPLOYMENT: The dft. is unemployed.

PRIOR RECORD: (From local and CII records)
1-29-74 - SDSO - Poss marij. - No dispo. given; dft. said found not guilty.
5-21-74 - SDSO - In narc. place; destro. evidence - No dispo. given; dft. said found not guilty.

ANALYSIS: The dft. has long time ties to San Diego through family and residence. His reference is supportive. However, because of the seriousness of the charges, bail is recommended. It is felt that a reduction in bail is warranted due to the dft's. ties and lack of assets.

RECOMMENDATION: Bail $5,000. Court Apptd. Atty.

Respectfully Submitted:
KENNETH P. FAIR
Chief Probation Officer

By: .....
HANNE OLSON pb

Reviewed By: .....
Supervising Probation Officer

COURT DISPOSITION: ..... Date: .....

SAN DIEGO COUNTY PROBATION DEPARTMENT
ADULT SERVICES

BAIL UNIT REPORT

Municipal Court No. ..... Superior Court No. ..... Date 7-28-75 BP/OR No. BP 24694

Bail Review Info.: Court ..... Hrg. Date/Time ..... Bail Set .....

Date of Arrest 7-27-75 Charge(s) 496.1 PC

* *

Name ..... Age/DOB 20 8-7-54 SS No. .....

Address ..... How Long? 2 mos Phone 445 3431

Time in San Diego 14 years Time in California 14 years

FAMILY AND COMMUNITY: Dft. says he lives with his mother and stepfather as above and helps operate the family worm farm. They confirm residence, say dft. lives in a trailer behind their home. Except for brief visits to his maternal grandparents in Arkansas and to his natural father in Hawaii, he has always lived here with the mother, Mrs. Hall. She was supportive.

EMPLOYMENT AND FINANCIAL: Dft. denies assets, collects $114 bi-weekly unemployment benefits.

PRIOR RECORD: SDSO records show one contact for 415 PC on 11-9-72; dft. says he paid a $25 fine.

ADDITIONAL INFORMATION: There is a hold bail of $71 from SDMC-A in D 119731.

ANALYSIS: Dft. has family support, no significant prior record, and ties to this area. Although there is a suggestion of irresponsibility based on the traffic hold bail, it is difficult to visualize dft. fleeing on this instant property charge. Therefore, an OR release is recommended.

RECOMMENDATION: OR Ct. oppt. aty.

Respectfully Submitted:
KENNETH F. FARE
Chief Probation Officer

Reviewed By: .....
Supervising Probation Officer

BY: .....
D. LINDBERG

COURT DISPOSITION: ..... Date: .....

ADULT 11 (Rev. 12-74)

SAN DIEGO COUNTY PROBATION DEPARTMENT
ADULT SERVICES

BAIL UNIT REPORT

Municipal Court No. ..... Superior Court No. ..... Date 7-24-75 BP/OR No. BP 24652

Bail Review Info.: Court ..... Hrg. Date/Time ..... Bail Set .....

Date of Arrest 7-22-75 Charge(s) 211 1st (2x)

++

Name ..... Age/DOB 21 8-25-53 SS No. .....

Address ..... How Long? 21 yrs Phone 477-2019

Time in San Diego 21 years Time in California 21 years

FAMILY AND COMMUNITY: Dft. was in the custody of Federal authorities at the time of this investigation and could not be interviewed. Dft.'s mother stated that dft. has lived in the San Diego area for 21 years but has not lived with his parents for 2 years. Dft.'s mother was confident that dft. would appear as ordered if released but added that she would be concerned for his safety if he were released. Dft.'s mother stated that dft. has a drug problem and that he needs treatment. Dft.'s booking sheet indicates that dft. is addicted to heroin.

PRIOR RECORD:

10-2-71	PD National City	1) poss marij 2) minor in poss alc 3) open cont in veh	10-15-71 conv of 11530 H&S $125 fine 24 mos prob imp ss PG "A" dism on: 23122 VC FOJ
10-4-71 1	SDSO	1) 11530 H&S 2) 23123 VC	disp unknown
11-10-71	"	11531 H&S	2-17-72 11530.5 H&S Ct. 1 3-10-72 [illegible] proc ss 24 mos form prob 90 days jail
7-20-72	PD National City	poss marij (misd)	
2-24-73	SDSO	1) 11530 H&S 2) 25662 B&P	
5-14-73	"	11357 H&S	

ANALYSIS: Despite dft.'s long time local residence, the statement of his mother which indicates that dft. has a severe drug problem and the serious nature of the instant charges indicate that bail is necessary.

RECOMMENDATION: $7500 Ct. appt. Atty

Respectfully Submitted:
KENNETH F. FARE
Chief Probation Officer

Reviewed By: .....
Supervising Probation Officer

BY: .....
J. J. REES

COURT DISPOSITION: ..... Date: .....

ADULT 11 (Rev. 12-74)

PHASE I EVALUATION OF PRETRIAL RELEASE PROGRAMS

Project Narrative

POLK COUNTY PRETRIAL RELEASE PROJECT
POLK COUNTY PRETRIAL SERVICES PROJECT

DES MOINES, IOWA

July 1975

PHASE I SITE VISIT STAFF:

Roger Hanson

Bruce Harvey

This report was prepared under Grant Number 75 NI-99-0071 from the National Institute of Law Enforcement and Criminal Justice, Law Enforcement Assistance Administration, U. S. Department of Justice. Points of view or opinions stated in this document are those of the authors and do not necessarily represent the official position or policies of the U. S. Department of Justice.

TABLE OF CONTENTS

I. JURISDICTION

Polk County is the population center of Iowa. According to the 1970 census figures, 286,101 persons live in the County and 70 percent (200,587) of the county's residents live in Des Moines.

A striking characteristic of the county is the relatively small proportion of non-white residents. The overwhelming proportion (94%) of the residents are white and only a small percentage (5.9%) are black. The remaining segment of the population (.1%) is composed of all other non-whites.

Despite the fact that non-residents view Des Moines as a placid community, statistical data indicate the local crime rate is increasing. The latest available figures on crime in Polk County are for the period of 1972 to 1973. During that year, there was a 20% increase in serious crimes such as, murder manslaughter, rape, robbery, aggravated assault, burglary, larceny, and auto theft. The percentage increase in these crimes, moreover, was greater in the suburban areas of Polk County than in Des Moines. As might be expected, however, serious crimes against persons tend to be concentrated in Des Moines. For example, during 1973, 70 percent of all rapes and 91 percent of all robbery crimes in Polk County were committed in Des Moines.

II. POLK COUNTY'S CRIMINAL JUSTICE SYSTEM

There are three levels of offenses in Iowa - non-indictable misdemeanors, indictable misdemeanors, and felonies. Non-indictable misdemeanors include all criminal offenses in which the maximum penalty does not exceed thirty days of incarceration. In Polk County, which is one of the twelve Central Iowa counties constituting the Fifth Judicial District, all non-indictable misdemeanors are prosecuted in the Associate District Court. This court is conducted by six judicial magistrates, who, in addition to having jurisdiction over non-indictable misdemeanors, act as committing magistrates on both felony and indictable misdemeanor offenses. As a result, the judicial magistrates in the Associate District Court handle felony and indictable misdemeanor offenses through the preliminary hearing. Trial jurisdictions for felony and indictable misdemeanor offenses rests with the District Court judges.

The principal prosecutorial agency in Polk County is the Polk County Attorney. Unlike the other counties in the Fifth Judicial District which employ only part time county attorneys, there are sixteen full time prosecutors and one lay administrator in the Polk County Attorney's Office. In fiscal year 1973, $403,000 was allocated to finance the activities of the County Attorney.

Polk County also finances legal defense of indigents through the use of an appointed-counsel system. Private attorneys are paid out of county court funds on an hourly basis to represent indigents. In addition to the court-appointed counsel method of legal defense, there is the Offender Advocate's Office. This program consists of five full time attorneys.

Information on law enforcement activities was somewhat difficult to locate. However, the two primary law enforcement agencies are the Des Moines

Police Department and the Polk County Sheriff's Office. The former includes 388 sworn officers and the latter includes 110 sworn officers.

The major pretrial detention facility for men is the Polk County Jail. Generally, male prisoners are held overnight or temporarily at the Des Moines Jail and then transported to Associate Court for their initial appearances. If they are detained after bail has been set, they are transported to the Polk County Jail. Women prisoners are held in custody while awaiting trial at the Des Moines Jail.

The final institutional component of the Polk County Criminal Justice System is the Department of Court Services. In the Fifth Judicial District, the Department of Court Services is divided into five central agencies. They are: (1) Probation; (2) Men's Residential Corrections; (3) Women's Residential Corrections; (4) Pretrial Release Project; and (5) Pretrial Services Project, sometimes called Community Corrections.

In the past, the Pretrial Release Project and the Pretrial Services Project served primarily the Polk County area. However, recently the Pretrial Release Project has been interviewing defendants in other counties in the Fifth Judicial District on a systematic basis. Since the Pretrial Release Project refers defendants to the Pretrial Services Project, the latter's scope of operations has also been expanded.

III. PRETRIAL RELEASE IN POLK COUNTY

In Polk County, three alternative methods for pretrial release exist. First there are the traditional financial bond arrangements. These consist of surety bonds, cash bonds, and a ten percent deposit system. The ten percent deposit system is available at the discretion of the judge but is seldom employed. Second, there is release on personal recognizance, and finally, there is a method of conditional release with services. This method of release consists of a judge releasing a defendant to the Pretrial Services Project, which

enrolls the defendant in one of many social welfare, educational, or rehabilitative programs operated by public and private agencies in the county.

The manner in which defendants are released on one of the alternative methods is described below. For the purposes of clarity, separate descriptions are provided for persons charged with felony offenses and those charged with misdemeanor offenses. Finally, a flow chart of the criminal process accompanies each description.

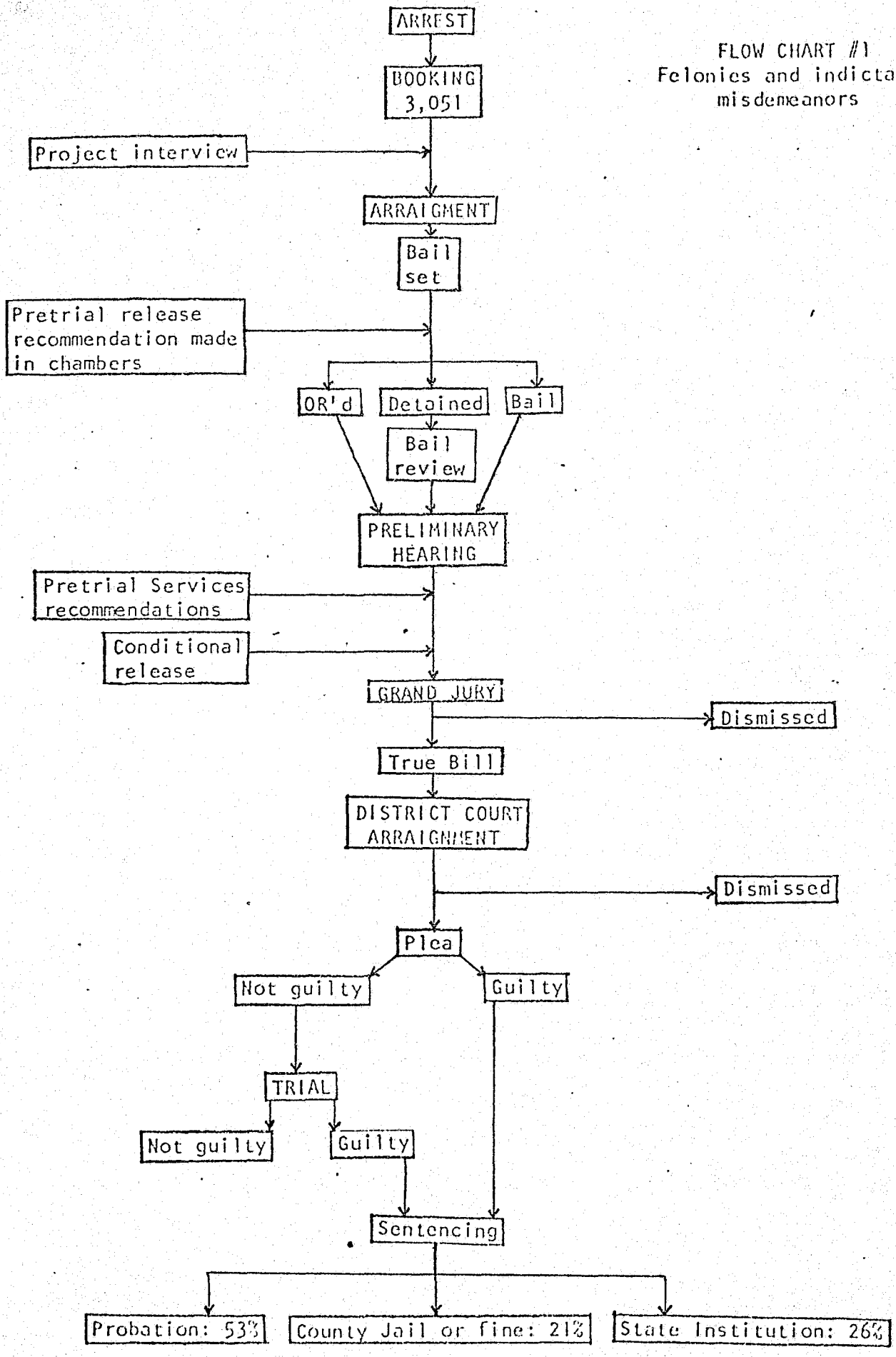
A. Felony Case Processing (Flow Chart #1)

A person arrested in the city of Des Moines is initially transported to the lockup at the Des Moines Police Department. Prior to being formally booked and charged there is to be a review of the charge by a representative of the County Attorney's Office. Although this review is discussed as a standard procedure by the County Attorney's office, in reality, there is little, if any, screening of cases prior to formal booking.

During 1974, an estimated 3,051 defendants were formally booked by the Des Moines Police Department for a felony or an indictable misdemeanor. It is not possible to ascertain the number of persons arrested and subsequently released by the police prior to formal booking. The arrested individual can not effect his release until his arraignment before a judge at the Associate District Court.

Defendants are transported to the Associate District Court for arraignment and bail setting at two different times, depending on the time of arrest -- 8:00 a.m. and 3:00 p.m. If an individual is arrested in the late afternoon or evening he will go to arraignment at 8:00 the next morning. If for some reason booking is not completed by the 8:00 a.m. arraignment, the accused will appear at the 3:00 p.m. arraignment.

FLOW CHART #1
Felonies and indictable misdemeanors



Prior to the arraignment, defendants are interviewed by the Pretrial Release Project. The program interviews from 8 a.m. until midnight to determine eligibility for personal recognizance release. However, project recommendations are not made in open court and do not influence the bail setting procedure at the arraignment.

At the arraignment proceeding, defendants are advised of the charges filed against them and bail is set or personal recognizance release granted by the Associate District Judge. The defendant has the right to post the full cash amount of the bond or he can have his bond posted by a bail bondsman. The arraignment proceeding will also set a date for the defendant's preliminary hearing for the determination of probable cause. Usually, the preliminary hearing is scheduled for two weeks after the defendant's arrest date.

After the arraignment, the Pretrial Release Project will meet with the judge in chambers to make recommendations for personal recognizance release. If a defendant has scored more than five points on the project's release scale, a positive recommendation will be made to the judge. In most cases the recommendation will be followed and the defendant will be released on his own recognizance. Individuals who scored less than five points are referred to the Polk County Pretrial Service Project for possible supervised, conditional releases. A more thorough description of the two projects' activities and intervention is included at a later point in this report. All defendants who have not been released on personal recognizance, cash bond or surety bond are transported to the Polk County Jail.

If a defendant has not been released within 24 hours of his arraignment, a bail re-evaluation hearing is held in Associate District Court. It is at this stage that Offender Advocate (Public Defender) eligibility is usually determined. Bail may be reduced at this stage based on argument by defense counsel and information provided by the Pretrial Release Project. An individual may also be assigned to some form of supervised release through Polk County Pretrial Services.

The defendant's next court appearance is the preliminary hearing approximately two weeks after his arrest. This hearing, held in Associate District Court, determines if there is probable cause to bind the defendant over to the District Court. There are three possible outcomes of the preliminary hearing: (1) an information request can be filed by the County Attorney; (2) the case may be transferred to the Grand Jury; and (3) the case may be dismissed.

If an information request is filed by the county attorney, the defendant's next appearance will be at arraignment at the District Court. If the case is transferred to the Grand Jury for consideration the case is usually delayed an additional two weeks. Hence, cases reach the Grand Jury usually four weeks after arrest. The Grand Jury may either issue a true bill in the case or it may dismiss the case.

At District Court arraignment the defendant may either plead guilty to the charge, plead not guilty or the case may be dismissed. If a plea of guilty is entered, the accused will be sentenced at a later date. If the defendant pleads not guilty to the charge, a bench trial or jury trial is scheduled. Prior to the trial, a pretrial conference is held with all involved parties. It is usually at this stage that all plea-bargaining takes place and charges are reduced or dropped.

There are virtually no data compiled on the number of defendants appearing at the different stages of court proceedings in Polk County. As a result, it is not possible to provide a numerical description of the case flow of criminal defendants. Because of the non-availability of compiled data, a sample was drawn from District Court records.

The data extracted from the court records has several limitations which should be indicated. First, the data were drawn only from filings received in District Court, as opposed to total filings in Polk County. Second, the data only cover the period from July 1, 1974 to December 23, 1974 and are limited to defendants charged with murder, manslaughter, rape, robbery, assault and burglary.

The data are shown in Tables 1 through 5. The tables provide information on the pretrial status of defendants in Polk County with respect to release statistics, offense charged, disposition of the cases and sentencing.

TABLE 1

RELEASE RATES

Non-Financial Release	Financial Release	Detained	
60.09%	17.78%	22.11%	N=208

Table 1 indicates that the majority of defendants are being released on their own recognizance or release with services (60%). It also indicates that the majority of defendants (78%) are being released as opposed to being detained. While the overall release rates indicate clearly that non-financial bonds are used frequently in felony cases, these figures do not indicate the relative importance of non-financial release across different types of charges. For this reason, Table 2 presents information on the release status of defendants across five basic types of charges.

TABLE 2

RELEASE RATES
ACCORDING TO TYPE OF CHARGE

PRETRIAL STATUS

(7-1-74 to 12-23-74)

CHARGE	OWN RECOGNIZANCE	SUPERVISED RELEASE	BOND	DETAINED	TOTALS	
Murder/Manslaughter	66.6%	16.6%	0%	16.6%	100%	N = 6
	4.59%	2.6%	0%	2.17%		
Rape	33.3%	40%	0%	26.6%	100%	N = 15
	2.4%	15.7%	27%	8.69%		
Robbery	24.4%	22.2%	22.2%	31.1%	100%	N = 45
	12.6%	26.3%	35.1%	30.1%		
Assault	45.3%	15.6%	20.3%	18.75%	100%	N = 64
	33.3%	26.3%	35.1%	26%		
Burglary/ Breaking & Entering	48.7%	14.1%	17.9%	19.2%	100%	N = 78
	43.6%	28.9%	37.8%	32.6%		
TOTALS	100% N = 87	100% N = 38	100% N = 37	100% N = 46		N = 208

From Table 3 it is interesting to note that a larger percentage of all defendants who are detained have their cases dismissed (62.5%) than those defendants who are released on non-financial bond (35%). Additionally, the proportion of defendants who plead guilty is higher for those who are released either on financial bond (43%) or non-financial bond (40%) than those who are detained (21%). Table 4 reflects only those defendants charged with burglary and breaking and entering. The findings in this table are somewhat different than those reflected in Table 3. Individuals who have been released on own recognizance are more likely to have their cases dismissed than those who are detained or released on bond. But, those defendants who plead guilty to the charges are more likely to have been released on a non-financial bond than either being detained or released on financial bond.

The final bit of information to consider deals with the nature of sentences handed down to convicted defendants. A long standing question of bail reform has been the impact of pretrial detention on the likelihood of institutional incarceration. Table 5 contains some data which speaks to that question. The data displayed in Table 5 indicate that a larger proportion of persons who are detained receive a sentence of institutional incarceration than those persons who are released. In fact, the majority of detainees (61.5%) are sentenced to a state prison or reformatory. In contrast, nearly half (42.6%) of the defendants who are released on non-financial bonds and over a third (37.5%) of those persons who are released on monetary bonds are given probationary sentences.

It must be pointed out that there are several limitations to the data presented in the preceding tables. First, the data are not for all of 1974. Second, the data do not include all types of charges processed in the District Court. For example, narcotic and drug charges were exlcuded which may or

TABLE 4

DISPOSITION BY PRETRIAL STATUS
Breaking & Entering and Burglary Defendants

(DISPOSITION OUTCOMES)

PRETRIAL STATUS	CASE DISMISSED	ACQUITTED	PLEA OF GUILTY	FOUND GUILTY	TOTALS
Non-financial Release	23.8%	0%	66.6%	9.5%	100% N = 42
	45.45%	0%	71.79%	80%	
Bond	45.4%	0%	54.5%	0%	100% N = 11
	22.7%	0%	15.38%	0%	
Detained	53.8%	0%	38.46%	7.69%	100% N = 13
	31.8%	0%	12.8%	20%	
Status Unknown	-	-	-	-	N = 12
TOTALS	100% N = 22	100% N = 0	100% N = 39	100% N = 5	100% N = 78

TABLE 3

DISPOSITION BY PRETRIAL STATUS
Murder/Manslaughter, Rape, Robbery, Assault Defendants

(DISPOSITION OUTCOMES)

PRETRIAL STATUS	CASE DISMISSED	ACQUITTED	PLEA OF GUILTY	FOUND GUILTY	TOTALS
Non-Financial Release	35.38% 48.9%	9.23% 66.6%	40% 65%	15.38% 71.4%	100% N = 65
Bond	42.8% 19.1%	9.5% 22.2%	42.8% 22.5%	4.76% 7.1%	100% N = 21
Detained	62.5% 31.9%	4.16% 11.1%	20.8% 12.5%	12.5% 21.4%	100% N = 24
Status Unknown	-	-	-	-	N = 20
TOTALS	100% N = 47	100% N = 9	100% N = 40	100% N = 14	100% N = 130

TABLE 5

SENTENCING OUTCOMES BY PRETRIAL STATUS

(SENTENCING OUTCOMES)

PRETRIAL STATUS	SUSPENDED SENTENCE	FINE	PROBATION	POLK COUNTY JAIL	STATE INSTITUTION	TOTALS	
Non-financial	14.7%	7.35%	42.6%	17.6%	17.6%	100%	N = 68
	71.4%	83.3%	76.3%	85.7%	48%		
Bond	18.75%	6.25%	37.5%	6.25%	31.25%	100%	N = 16
	21.4%	16.66%	15.78%	7.14%	20%		
Detained	7.69%	0%	23.07%	7.69%	61.5%	100%	N = 13
	7.14%	0%	7.89%	7.14%	32%		
Status unknown	-	-	-	-	-		N = 1
TOTALS	100%	100%	100%	100%	100%	100%	N = 98
	N = 14	N = 6	N = 38	N = 14	N = 25		

may not have higher conviction rates. Third, by excluding certain charges there may or may not have been a greater number of dismissals. For example, certain indictable misdemeanors may have been dismissed or reduced.

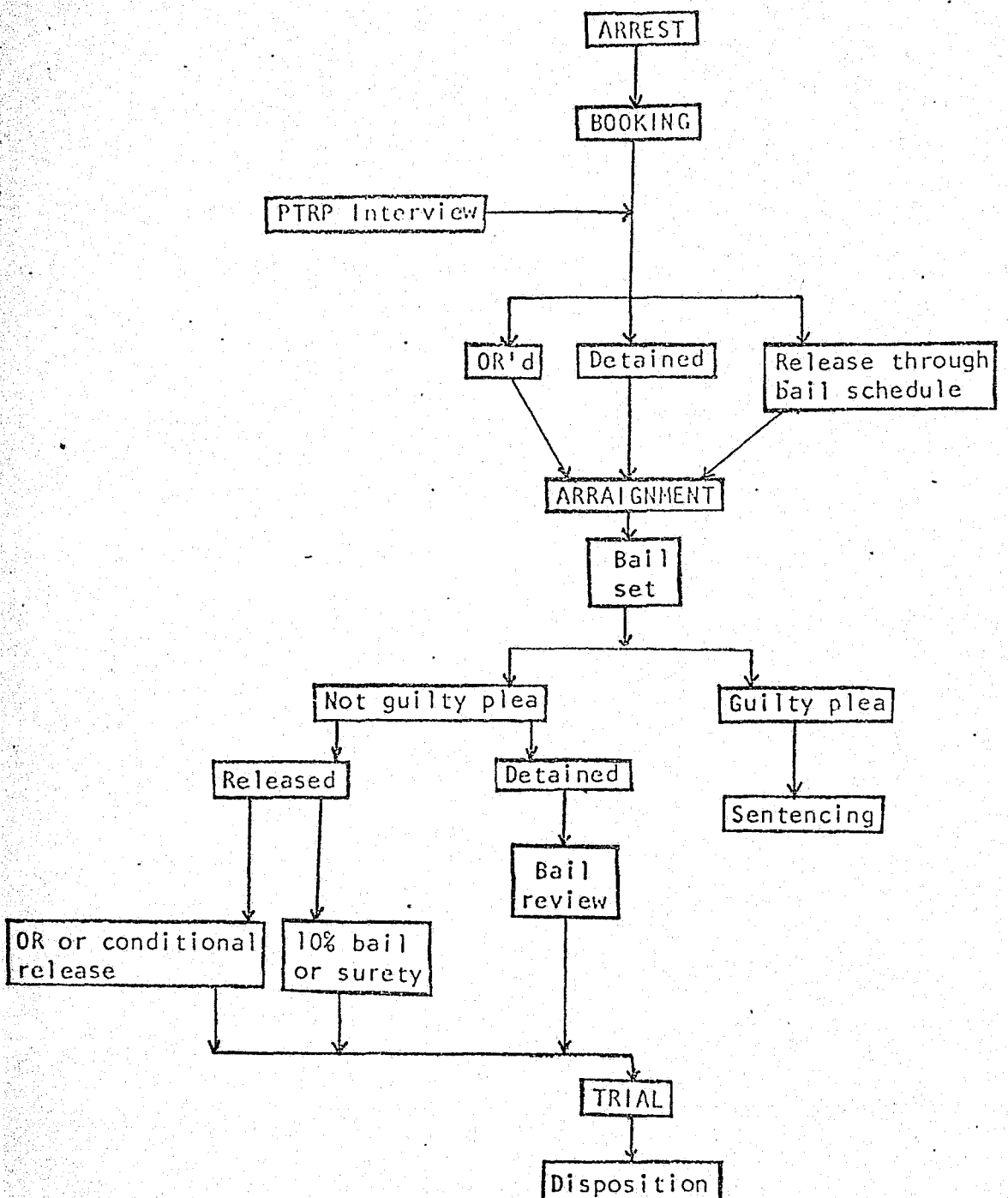
B. Misdemeanor Case Processing (Flow Chart #2)

A person arrested on a misdemeanor offense in Des Moines is initially transported to the lockup at the Des Moines Police Department. After being formally charged with the offense, the defendant may post bond in accordance with a bail schedule established by judicial order. The defendant may post the full amount of the bail required in his case or the amount may be posted by a bail bondsman. In either case the defendant will appear in court the next morning for arraignment. All individuals charged with a misdemeanor will appear at the Associate District Court for trial and disposition.

At the Associate District Court the accused is asked to plead to the charges filed by the Police Department. If the individual pleads guilty to the charges, the defendant is sentenced by the presiding judge. If the defendant pleads not guilty to the charges, a trial date is set by the judge. A defendant charged with a misdemeanor is entitled to a 6-member jury trial if he files a jury demand at least ten days prior to the time set for trial. Failure to make such a demand constitutes a waiver of jury trial. For those defendants pleading not guilty, a bail amount will be set by the judge. Defendants who are not released are transported to the Polk County jail.

As in felony cases, misdemeanor defendants who have not been released are interviewed by the Pretrial Release Project at the City Jail for possible personal recognizance release. Recommendations are made to the judge in chambers after the arraignment but prior to transporting the defendant to County Jail. Defendants who are not eligible for release on recognizance

FLOW CHART #2
Misdemeanor cases



may be referred to the Pretrial Services Project. This Project may effect the defendant's release at a later stage on some form of conditional or supervised release.

It is not possible to ascertain the number of misdemeanor defendants who are released at the stationhouse by way of the bail schedule. Additionally, the number of defendants who appear at the Associate District Court is difficult to determine. A review of the court records indicates that the greatest proportion of cases disposed of by the Associate District Court are those defendants charged with public intoxication. Inasmuch as these defendants are appearing more than once in court, aggregate figures on the total numbers of cases being processed would be misleading even if the figures were available.

At the sentencing stage for misdemeanants the accused may be fined, placed on some type of probation, incarcerated at the County Jail for up to thirty days or have the sentence suspended. Of course, it is also possible that the charges against the defendant could be dropped or the case dismissed. Data are not available on the disposition of cases at the Associate District Court on misdemeanor defendants.

IV. POLK COUNTY PRETRIAL RELEASE PROJECT AND PRETRIAL SERVICES PROJECT

The Pretrial Release Project was established in 1964 through local initiative and private funding sources. Although the Project retained the support of the key citizens, in 1967 Polk County assumed responsibility for financing the Project's operations. The latest available budgetary figures are for the fiscal year of 1973. During that period, the Project's operations involved an outlay of $58,377.

In 1970, another pretrial intervention program was created. The Pretrial Services Project (Community Corrections) was designed to handle those defendants who were deemed "High Risks" by the Pretrial Release Project. Since the Pretrial Release Project provided virtually no supervision for the defendants that it recommended for release on personal recognizance, defendants who failed to satisfy the Project's release scale were frequently detained. As a means of releasing these high risk cases, i.e., persons who failed to qualify under the Pretrial Release Project's point scale, the Pretrial Services Project was inaugurated to provide the necessary supervision and support services. During fiscal year 1973, the Pretrial Services Project cost $152,911 to operate.

The efforts of these two projects have been acclaimed by pretrial release specialists. In fact, the combination of both personal recognizance releases and supervised releases in Polk County has become a model for other jurisdictions. Currently, LEAA is funding projects in five other jurisdictions that are intended to replicate the two programs in Des Moines.

A. Pretrial Release Program

After a person is arrested, he is transported to the Des Moines Jail for booking. For persons arrested on a warrant, the Pretrial Release Project interviews the arrestee immediately after booking. For the individuals arrested on probable cause, contact with the Pretrial Release Project comes after the Des Moines Police Detectives have completed their investigations. The interviewers at the Des Moines jail are paid law students from Drake University. These students cover the jail from 8 a.m. to midnight.

According to the Project's records during fiscal year 1974, 4,734 Polk County defendants were interviewed. This number reflects persons charged with both felony and misdemeanor offenses. In addition, the Project inter-

viewed 609 defendants in other counties of the Fifth Judicial District.

The information obtained during the interview revolves around questions concerning the defendant's social and criminal background. The interviewer takes this information and applies it to a point system that measures the defendant's community ties (A copy of the point system is available in Appendix I). In order for a defendant to be recommended for release on recognizance, he must have an address in the Fifth Judicial District where he can be reached and score a total of five or more verified points. The minimum level of five points applies to persons charged with felony or misdemeanor offenses.

After having completed an interview, the Pretrial Release Project interviewer verifies the information supplied by the defendant. Given the fact that the interviewer attempts to verify information about the arrestee's prior criminal record, he is generally not in a position to present a recommendation at arraignment the next morning. The reason is that the criminal justice agency which maintains information on criminal records is open from 8:00 a.m. to 4:30 p.m. Since the time of the first arraignment is at 8:00 a.m., it is virtually impossible for the Pretrial Release Project to verify information on persons arrested after 4:30 p.m. before the morning arraignment begins at 8:00. As a result, the Pretrial Release Project seeks to present its recommendations to the judge after arraignment.

Generally, a Pretrial Release Project staff member meets informally with a judge in his chambers after the arraignment proceedings are completed. Because defendants who fail to post cash bonds at arraignment are transported to the pretrial detention facilities at Polk County Jail at 11:00 a.m., the Project seeks to have its recommendations for release prepared before that time.

At the present time, the Pretrial Release Project does not compile information on either its rate of positive recommendations or its judicial acceptance rate. That is, the project reports do not reveal how many of the defendants interviewed are recommended for release on recognizance, nor do they indicate what proportion of the defendants recommended for release are ultimately released by a judge. Project staff members claim that the judges almost always accept their recommendations. However, the lack of statistical information prevents us from determining the accuracy of this claim.

Despite the lack of information on the Project's judicial acceptance rate, the number of program releases is known. During fiscal year 1974, 2,639 defendants who were recommended for release on recognizance were released by a judge. Unfortunately, there is no indication of the proportion of these defendants who were charged with felony offenses and the proportion who were charged with misdemeanor offenses. The failure to appear rate for the Project's releases is low. Less than one per cent (0.79%) of the 2,403 defendants whose cases had been disposed of failed to make their court appearances. In addition to the very small number of defendants who failed to show up, another group had their personal recognizance bond revoked. This proportion, however, is also very small -- less than two percent (1.74%). There are no data that specify the reasons for the bond revocations. While Project staff members claimed that some of the revocations occurred because District Court judges sometimes reverse bail deicisions made by Associate Judges, bonds are also revoked by the Pretrial Release Project. That is, the Project decides, after a defendant is released on its recommendation, that the defendant is a "bad risk". In this event, the Project requests the judge to revoke the personal recognizance bond.

B. Pretrial Services Program

In addition to recommending persons for release on recognizance, the Pretrial Release Project refers defendants to the Pretrial Services Project. Basically, there are three categories of defendants who are referred to Pretrial Services. They include the following: (1) Defendants who score less than five points on the release scale and/or do not maintain an address in the Fifth Judicial District; (2) Defendants who score five or more points on the release scale, but who are subjectively deemed a bad risk for release on recognizance; and (3) defendants who score five or more points on the release scale, but who appear to have an alcohol problem. For all three categories, a Pretrial Release Project staff member has to consider the defendant to be acceptable for consideration by the Pretrial Services Project before a referral is made. With every referral, the Pretrial Release Project turns over the results of its interviews to the Pretrial Services Project.

After a defendant is referred to the Pretrial Services Project, the Pretrial Services Project conducts its own separate interview. Unlike the Pretrial Release Project, however, the Pretrial Services Project does not apply a point scale in determining the defendant's qualifications for release with services. Instead, a Pretrial Service Project staff member uses his own judgment in assessing the defendant's qualifications. If the defendant is judged to be qualified for release with services, a Pretrial Services Project staff member presents his recommendation in a judge's chambers. In both felony and misdemeanor offenses, the Project would be making its recommendation in the post-arraignment period.

The Pretrial Services Project does not compile statistics on either the total number of persons that it interviews or the total number of persons that it recommends for release with services. While these numbers are unavailable, we do know how many persons are actually released with services. In fiscal year 1974, 476 defendants were released on the condition that they enter into some type of service program recommended by the Pretrial Services Project.

The failure-to-appear rate for the Pretrial Services Project's releases is considerably higher than it is for the Pretrial Release Project. Of the 431 Pretrial Services Project's releases whose cases were closed, five and a half percent (24/431) failed to appear in court as scheduled. In addition, nearly sixteen percent (68/431) had their release with services bond revoked.

CONFIDENTIAL: FOR STAFF ONLY

FIFTH JUDICIAL DISTRICT PRE-TRIAL RELEASE PROJECT

POINT SCHEDULE

To be recommended for release on his own bond, a defendant needs:

1. Address in Fifth Judicial District where can be reached, AND,
2. A total of five (5) points from the following categories:

INT	VER	RESIDENCE
3	3	Present residence one year or more
2	2	Present residence 6 months..OR..present and prior 1 year
1	1	Present residence 4 months..OR..present and prior 6 months
		FAMILY TIES
3	3	Lives with wife* AND had contact** with other family members
2	2	Lives with wife or parents
1	1	Lives with family person whom he gives as reference

Note - Wife* (If common-law, must have been living together for two years to qualify as "wife")
Contact** (Must see the person at least once a week)

		TIME IN FIFTH JUDICIAL DISTRICT
2	2	Five years or more
		EMPLOYMENT
4*	4*	Present job one year or more
3*	3*	Present job four months..OR..present and prior 6 months
2*	2*	Present job one month
1*	1*	Current job OR unemployed 3 months or less with 9 months or more on prior job OR receiving unemployment compensation or welfare OR supported by family

*Deduct one point from first three categories if job is not steady, or if not salaried, if defendant has no investment in it.

		PRIOR CRIMINAL RECORD
3	3	No convictions
2	2	No convictions in last year
1	1	Misdemeanor conviction(s) in last year
0	0	One felony conviction
-1	-1	Two or more felony convictions
___	___	TOTAL POINTS TOWARDS RECOMMENDATION

PHASE I EVALUATION OF PRETRIAL RELEASE PROGRAMS

Project Narrative

HENNEPIN COUNTY PRETRIAL COURT SERVICES

MINNEAPOLIS, MINNESOTA

July 1975

PHASE I SITE VISIT STAFF:

Roger Hanson

Bruce Harvey

This report was prepared under Grant Number 75 NI-99-0071 from the National Institute of Law Enforcement and Criminal Justice, Law Enforcement Assistance Administration, U. S. Department of Justice. Points of view or opinions stated in this document are those of the authors and do not necessarily represent the official position or policies of the U. S. Department of Justice.

PHASE I EVALUATION OF PRETRIAL RELEASE PROGRAMS

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I. THE JURISDICTION

Hennepin County is generally regarded as being a leading center of progressive and innovative public service programs. According to leading authorities on state and local politics, a combination of social conditions and public attitudes have contributed to the development of efficient and effective governmental institutions, including those involved in problems of criminal justice. The criminal justice agencies that deal with the specific issue of pretrial release are influenced by the social environment of Hennepin County and, for this reason, we consider briefly the basic contours of the social situation in Hennepin County that have an impact on the administration of justice.

The largest industries in Hennepin County are in the technological sector. For example, computer firms, such as Control Data, Univac, and IBM maintain central offices in the Hennepin County area. In addition, other major firms in Hennepin County such as 3-M, Minneapolis Honeywell, and Northern Pump, are producers of technical products. Finally, the largest employer in the state, the University of Minnesota, is located in Minneapolis. With the numerous additional state and private colleges in the area, Hennepin County contains one of the nation's largest educational establishments.

The nature of the local economy, which employs an unusually large number of professionals, is reflected in two important characteristics of the population. First, the level of education among the county's residents is relatively high. According to the 1970 census data, 51 percent of the residents over the age of twenty-five had a high school diploma and 16 percent had completed four or more years of college. Second, the income level of the

adult population is strikingly high. For example, in 1970, the average family income was $13,501. More importantly, the proportion of families at the poverty level of the income spectrum was very low. Only 7.1 percent of the families were found to have incomes below $3,000 according to 1970 census data.

Another demographic characteristic that sets Hennepin County apart from most major metropolitan areas is its racial composition. In contrast to the other 25 largest American population centers, Hennepin County contains only a small proportion of non-white residents. According to 1970 census figures, only three percent of the county's population was non-white. In Minneapolis, the percentage of minority residents was only seven percent. As a consequence, Hennepin County's arrest population is also predominately white. Racial minorities are, however, overrepresented in the arrest population. Fourteen percent of the persons arrested in the county for crimes of personal violence in 1973 were non-white and six percent were Indians, who comprise only 0.7 percent of the county's population.

Fifty-seven percent of Hennepin County's nearly one million residents (997,011 in 1974) live in the city of Minneapolis. The distribution of crime between Minneapolis and the suburban areas in Hennepin County is similar to that of many large metropolitan areas. In 1973, 88 percent of all reported crimes of personal violence (homicide, rape, robbery and assault) in Hennepin County occurred in the city of Minneapolis.[1] In contrast, incidents of property crimes such as burglary, larceny, and auto theft closely paralleled the population distribution with just sixty percent of these offenses occurring in Minneapolis. For the size of its population, however, Hennepin County has a remarkably low number of serious crimes. In 1973, for example, there were approximately 35 arrests for murder, 100 arrests for rape and 636 arrests for robbery.[2]

On the basis of this brief statistical profile, Hennepin County can be characterized as a relatively homogeneous community of fairly well-educated individuals and moderately affluent families. It is also a jurisdiction in which the level of serious crimes is still relatively low in comparison to other jurisdictions of its size.

II. HENNEPIN COUNTY'S CRIMINAL JUSTICE SYSTEM

There are three levels of criminal offenses in Minnesota -- misdemeanors, gross misdemeanors and felonies. Misdemeanor offenses, which cover all crimes in which the maximum sentence does not exceed 90 days, are prosecuted in Hennepin County Municipal Court. The Hennepin County Municipal Court has five divisions, with Division 1 encompassing the city of Minneapolis. In addition to having complete jurisdiction over all misdemeanor offenses, the Municipal Court also handles gross misdemeanors and felonies through preliminary hearing. Regardless of where the offense occurred in the county, all preliminary hearings are held in Division 1 of the Municipal Court. Trial jurisdiction for gross misdemeanor and felony offenses rests with the Hennepin County District Court. In addition to those cases which reach the District Court through the preliminary hearing process, some cases are brought to the District Court level through Grand Jury indictments.

The two principal prosecutorial agencies in Hennepin County are the Hennepin County Attorney and the Minneapolis City Attorney. The County Attorney's office prosecutes all gross misdemeanor and felony offenses and, in addition, represents the county in all civil matters. All misdemeanor cases in Division 1 of the Municipal Court are prosecuted by the City Attorney. Suburban communities in Hennepin County employ part-time legal staff to prosecute misdemeanants in their respective divisions.

Hennepin County also finances a Public Defender's office to represent indigent defendants, both adult and juvenile, charged with any level of criminal

offense. The public defender's office is generally held in high esteem by other actors in the criminal justice system. Both a Deputy City Attorney and the Director of Hennepin County Pretrial Court Services Agency expressed a belief that the representation provided by the public defender was superior to that provided by many private attornies.

The principal law enforcement agencies in the county are the Minneapolis Police Department, which has jurisdiction within the city limits, and the Hennepin County Sheriff's Department which has county-wide jurisdiction and exclusive jurisdiction in much of the county's outlying areas. In addition, the Sheriff's Department administers the Hennepin County Jail, the county's principal pretrial detention facility. All persons arrested by the Minneapolis Police Department are housed here, as are all persons arrested anywhere in the county and charged with gross misdemeanors and felonies.

The pretrial release program in Hennepin County is administered by the Hennepin County Pre-Trial Services Agency, which is a separate unit within the county's Department of Court Services. The Department of Court Services is essentially the county's probation department, preparing pre-sentence investigations, supervising persons on probation and operating a juvenile detention facility and several residential treatment centers.

The major correctional institution in Hennepin County is the Minneapolis Workhouse. Although the Workhouse is intended to house only convicted misdemeanants, over the past two years an increasing number of convicted felons have been sentenced to serve time at this facility. The reason given for this recent development is a desire on the part of some District Court judges to maintain greater control over the convicted defendants. If a convicted felon is sentenced to a state institution such as Stillwater Prison or the St. Cloud Reformatory, the judge surrenders jurisdiction over the defendant to the State Department of Corrections.

Finally, a number of community based correctional programs also exist in Hennepin County. These include: Amicus, Inc.; H.I.R.E., Inc.; Operation de Novo; Neighborhood Probation Services; and Women Helping Offenders. While these programs work primarily with convicted offenders, Operation de Novo does include a pretrial diversion program for criminal defendants. Many of the participants in de Novo's diversion program are referred to de Novo by the Hennepin County Pretrial Court Services Agency.

III. PRETRIAL RELEASE IN HENNEPIN COUNTY

On July 1, 1975, the state of Minnesota implemented a new set of court rules designed specifically to facilitate the pretrial release of criminal defendants and to reduce the amount of time spent in pretrial detention. A discussion of these new court rules is presented in Appendix I to this report, but since the new rules had been in effect for less than a month at the time of our site visit, the following narrative describes the Hennepin County criminal justice system prior to enactment of these rules.

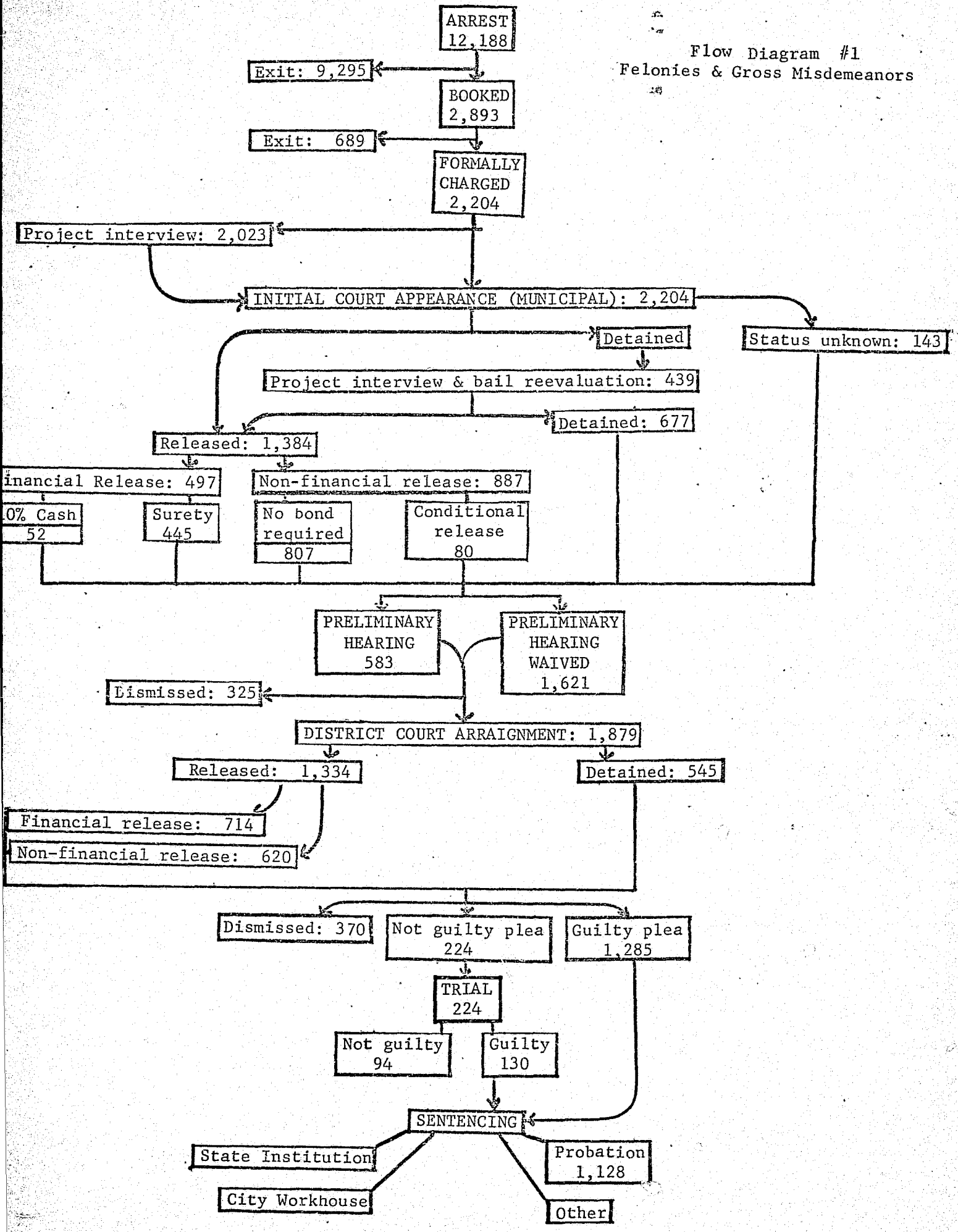
The 1974 Hennepin County criminal defendants generally secured pretrial release through one of five methods. Two of the methods were financial -- the defendant either posting the full bond amount in cash or paying a professional bail bondsman to post a surety bond for him. At the option of the judge, three methods of nonfinancial release were also available. These included personal recognizance; personal recognizance with supervision by a third party, which in most cases meant supervision by a privately retained counsel; and personal recognizance but with conditions imposed on the defendant. When the latter type of release was employed, the duty of supervising the defendant to see that the conditions imposed were observed was generally delegated to the Hennepin County Pretrial Court Services Agency.

Since both the timing of a defendant's release and the frequency with which the various pretrial release alternatives are used varies considerably depending upon whether the defendant is charged with a simple misdemeanor or with the more serious gross misdemeanor and felony offenses, we consider the flow of gross misdemeanor and felony defendants through the criminal justice system separately from that of simple misdemeanor defendants. Accompanying our description of the pretrial release process are flow diagrams tracing defendants from arrest to disposition. In each flow diagram, we have estimated the number of defendants who are released, detained, or who exit from the criminal process at each stage. The numerical values are based on the most readily available data that we could obtain during our site visit. In every instance, the numbers represent the criminal process during calendar year 1974.

A. Felony and Gross Misdemeanor Defendants (Flow Diagram #1)

A striking feature of the Hennepin County criminal justice process is the fact that fully two-thirds of the persons arrested on gross misdemeanor and felony charges are either released outright or have their charges reduced to misdemeanors prior to being booked in the Hennepin County Jail. Officials in Hennepin County speculated that a large proportion of the persons dropping out of the felony/gross misdemeanor system prior to booking were arrested in suburban areas of the county and held a brief period of time before being released or charged with misdemeanors. There exists a one to two day delay between the time of a suburban arrest and booking at the County Jail and it is during this period that it is believed most of the decisions not to

Flow Diagram #1
Felonies & Gross Misdemeanors



prosecute a defendant for felony or gross misdemeanor offenses are made. In any case, the total felony and gross misdemeanor arrest population of 12,188 in 1974 was reduced to less than 3,000 by the time of booking.

In addition to the screening activities performed by the law enforcement agencies, the Hennepin County Attorney's office reviews the cases of persons who have been booked to determine whether formal charges should be filed. By subtracting the number of defendants who appeared in Municipal Court for a bail hearing from those who were booked, we estimate that an additional 5 percent of the arrest population exits on the County Attorney's decision not to prosecute. Hence, from an arrest population of 12,188 persons, 2204 were formally charged with a felony or a gross misdemeanor[3].

After formal charges have been filed by the County Attorney's office, the arrestee may be interviewed by Hennepin County Pretrial Serivces. The interview coverage of Pretrial Services is extensive. In 1974, 91 percent of all persons formally charged with felony or gross misdemeanor offenses were interviewed.[4] When an interview is completed, the Pretrial Court Services' interviewer can give a preliminary indication as to whether or not an arrestee is able to hire an attorney. If the defendant is considered unable to retain private counsel, Pretrial Court Services determines whether or not the arrestee qualifies for the services of the public defender. Additionally, the Pretrial Services' personnel ascertain whether or not the arrestee is eligible for admission into a pretrial diversion program such as Operation de Novo. Finally, Pretrial Services will notify the court of those arrestees apparently suffering from alcoholism, drug addiction, or psychiatric problems. If Pretrial Court Services considers the arrestee to be suffering from some acute problems, they can request that the arrestee be transferred to the Crisis Center at Hennepin County General Hospital before his first court appearance. (For a detailed

discussion of how Pretrial Services uses the interview information in effecting the arrestee's release, see the next section of this narrative.)

A defendant's first court appearance is arraignment in the Municipal Court. At this hearing, which usually occurs within 24 hours of arrest, the defendant is informed of the charges filed against him and a bail decision is made. In reaching a bail decision the judge may rely on four sources of information. First a bail schedule is available which shows the recommended bail amount for each offense. Second, a Deputy County Attorney is present to make bail recommendations based primarily on the defendant's prior record and information concerning the circumstances of the present alleged offense. Third, if the defendant is represented by private counsel, the attorney may request that his client be released to his custody and present favorable information on the defendant's ties to the community to support this request. Fourth, Pretrial Court Services provides the judge with a copy of its pretrial release recommendation which includes information on the defendant's ties to the local community.

If the defendant is not released at his first court appearance, his attorney may petition the court for a bail re-evaluation hearing. In addition, a bail re-evaluation hearing is required for all defendants who were favorably recommended by Pretrial Court Services but remain detained because of a failure to post financial bonds. For these defendants the bail re-evaluation hearing is held within three days of initial appearance. During 1974 there were a total of 439 bail re-evaluation hearings held.[5]

Information provided by the Municipal Court shows that 63 percent of the felony and gross misdemeanor defendants secure pretrial release, 40 percent on personal recognizance and 23 percent on financial bonds. Approximately 31 percent of the defendants are detained and the release or detention status of six percent of the defendants could not be determined. Included in the 887

personal recognizance releases are 80 defendants granted supervised release and a few defendants released on conditions. The 497 financial releases included 445 surety bonds and just 52 full cash bonds.[6]

While his case is in the Municipal Court, each defendant has the right to a preliminary hearing. At the preliminary hearing the prosecution must present evidence against the defendant and the judge will make a decision as to whether probable cause exists to bind the defendant over for trial in the District Court. If a defendant is in custody, the hearing will be within seven days of arrest; otherwise, it is scheduled between seven and fourteen days after arrest. The preliminary hearing, however, may be and frequently is waived by the defendant. In addition, some cases may be dismissed or reduced to misdemeanors prior to the preliminary hearing. From available data we know only that preliminary hearings are actually held in only about one-quarter of the cases and that 15 percent of the cases are dismissed or reduced to misdemeanors in the Municipal Court.

Of the 2,044 defendants who entered the Municipal Court, 1879 reached the District Court.[7] Also entering the District Court are those defendants indicted by the Grand Jury. The number of defendants processed through the Grand Jury is unknown but presumed to be quite small. At District Court arraignment a bail decision is made, the defendant is informed of the charges against him, and a plea is entered. According to the Director of Pretrial Court Services and several judges we interviewed, the District Court judiciary seldom changes bail decisions made at the Municipal Court level. For example, District Court judges will only rarely set a financial bond in cases where the defendant is already out on his own recognizance, or increase the amount of a financial bond set by a Municipal Court judge.

Since information was not available on the pretrial release or detention status of defendants in the District Court for 1974, the release and detention percentages contained in the flow diagram were derived from a sample drawn of all cases filed in the District Court in July 1974. For this reason, it is difficult to know how much significance should be given to changes in the release percentages from Municipal and District Court. The increase in the percentage of defendants on financial bonds from 22.5 percent of the defendants in Municipal Court to 37.2 percent in District Court indicates, however, that District Court judges may in some cases be lowering the amount of bond required. On the other hand, the decrease in the percentage of defendants on nonfinancial releases could be the result of a substantial number of Municipal Court dismissals in cases involving defendants on nonfinancial release.

From the July 1974 sample of District Court cases, it is also possible to determine pretrial release rates by the sex and race of defendants. Because of the small sample size it is possible only to calculate the release percentages in each category. It is not possible to introduce all of the factors which might affect pretrial release status nor to control variables, both of which would be necessary to fully measure the impact sex and race have on pretrial release status.

TABLE 1

Release Rates According to Sex

Sex	Non-Financial Release	Financial Release	Detained	
Male	27%	38%	35%	N=141
Female	70%	30%	0%	N= 23

TABLE 2

Release Rates According to Race

Pretrial Status

Race	Non-Financial Release	Financial Release	Detained	
White	37%	38%	25%	N=118
Black	21%	38%	41%	N= 39
Indian	29%	14%	57%	N= 7

Table I shows that the majority of female defendants are released on a nonfinancial basis, and none is detained, while less than 1/3 of the male defendants are released on nonfinancial bonds and 35% are detained. Table II indicates that proportionately more white defendants are released on nonfinancial bonds than non-whites and that more non-whites are detained than white defendants. Because of the small sample size, however, these figures are merely indications of a trend, and no conclusions can be drawn from them.

The July 1974 sample also indicates that substantial differences in release status exist among defendants charged with different types of offenses. Illustrative of this difference are the release and detention rates for defendants charged with robbery and burglary. In neither offense category did the use of personal recognizance approach the 33 percent rate found in the sample as a whole. In burglary and robbery cases the respective rates of non-financial release were 20 and 18 percent. However, because fifty percent of the burglary defendants were able to post financial bonds, the overall detention rate for these defendants was 30 percent, the same as the sample as a whole. Robbery defendants, on the other hand, exhibited a much higher detention rate of 52 percent.

From the July 1974 sample, it is possible to relate the pretrial status of defendants to the final disposition of their cases. Here we are interested in knowing whether or not defendants who are released are more (or less) likely to be convicted than those who are detained. The results are listed in Table 3.

TABLE 3

Case Disposition
According to Pretrial Status

	Pretrial Status		
	Non-Financial Release	Financial Release	Detained
Case Disposition			
Plead Guilty/ Found Guilty	86%	75%	86%
Case Dismissed/ Acquitted	14%	25%	14%
TOTALS	100%	100%	100%
	N = 43	N = 57	N = 43

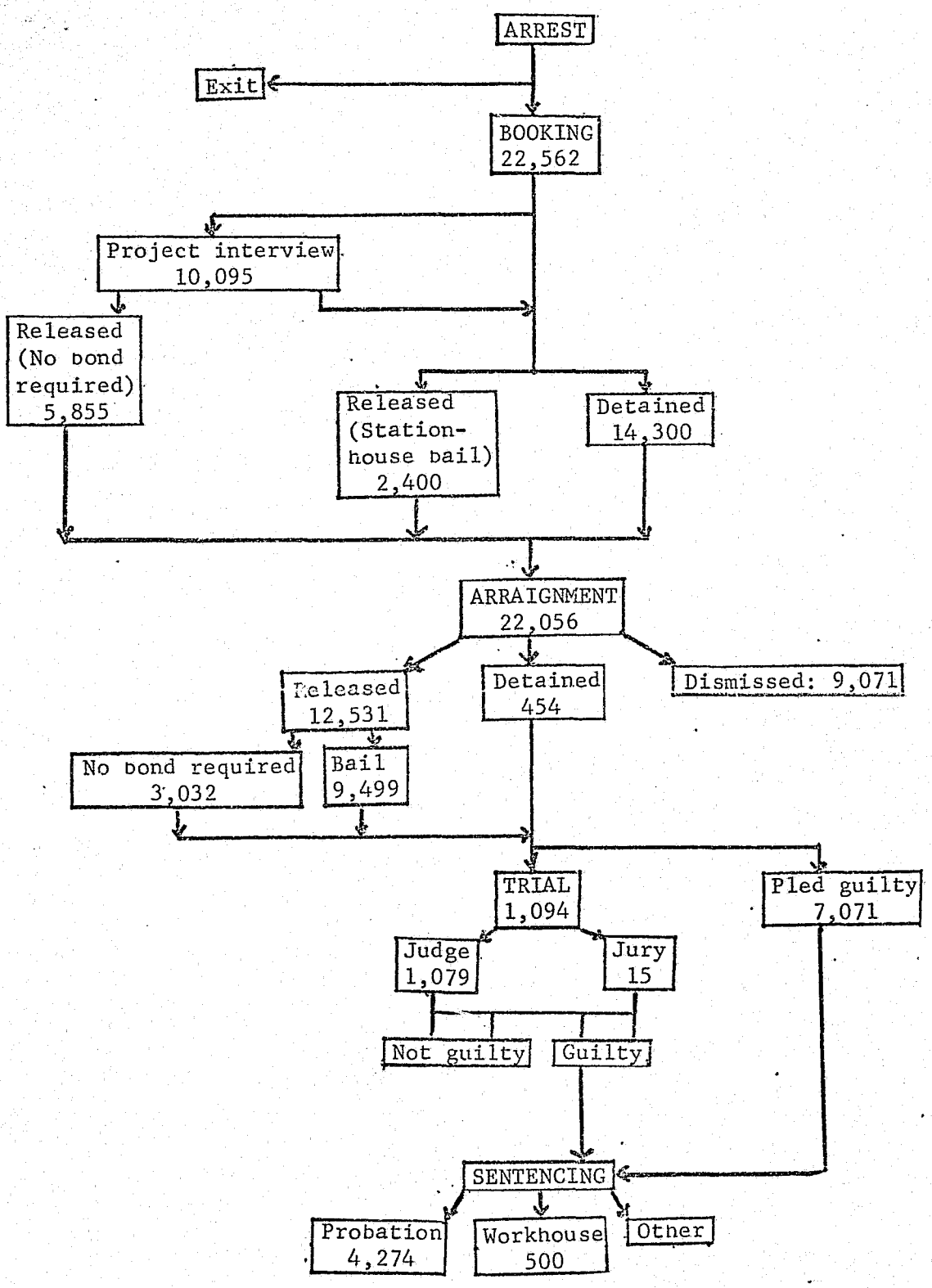
Interestingly, the conviction rate for the defendants who were released on PR is identical to that of those who were detained. In contrast to basic assumptions about the consequences of pretrial detention, these data indicate that detainees in Hennepin County are no more likley to be convicted than those who are out on bail. This finding should be treated with caution, however, because it deals with cases during a single month which might not be representative of the overall disposition pattern.

Finally, in 1974, just 12 percent of the District Court defendants went to trial before a judge or jury. The vast majority of the cases (69%) terminated upon a plea of guilty by the defendant and approximately 20 percent of the defendants had their charges dismissed in District Court. Of those defendants whose cases did go to trial, 58 percent were convicted and 42 percent acquitted.[8] When the defendants convicted at trial are added to the number who plead guilty the overall conviction rate in District Court is approximately 75 percent. Approximately 80 percent of the convicted defendants are sentenced to a term of probation.

B. Misdemeanor Defendants (Flow Diagram #2)

Unlike felony and gross misdemeanor defendants, persons arrested for misdemeanor offenses are detained in several lock-ups spread throughout Hennepin County. Since we were able to obtain data on only those defendants booked in the Hennepin County Jail and processed through the First District of the Municipal Court, the misdemeanor flow diagram represents only those misdemeanor defendants arrested in the city of Minneapolis, plus a small number arrested elsewhere but prosecuted in the First District Municipal Court. The flow diagram presents pretrial release practices in 1974. Because of the new court

Flow Diagram #2
Misdemeanors



rules effective July 1, 1975, it is very likely that a 1975 flow diagram would look considerably different. In 1974 the use of citation releases was discretionary with the police and were infrequently used. The new rules now make the issuance of a citation mandatory in many misdemeanor cases (See Appendix I).

Despite the lack of police citations in 1974, many misdemeanor defendants were able to secure release prior to court. Approximately 25 percent of the defendants secured release through the services of the Pretrial Service program. The court has delegated authority to the program to release qualified misdemeanants on personal recognizance at the jail without seeking prior judicial approval. During 1974 the program interviewed approximately 10,000 misdemeanor defendants and released nearly 6,000 under this authority. In addition to the personal recognizance releases, 2,400 defendants secured release by posting cash or surety bonds.[9] Misdemeanor bond amounts are set according to a misdemeanor bail schedule adopted by the Hennepin County Judiciary. Despite these pre-court release procedures, however, about two-thirds of the defendants do not secure release prior to their first court appearance.

Following arraignment the detention population drops dramatically, from 14,000 to less than 500. The reduction in the detention population results from a substantial number of the cases being dismissed or otherwise disposed of at first appearance and a substantial number of defendants securing financial bond releases. In contrast to the 2,400 defendants posting stationhouse bonds, approximately 9,000 defendants are on bail after arraignment.[10] Interestingly the number of defendants on personal recognizance is cut nearly in half after arraignment. Apparently, about half the defendants granted personal recognizance at the jail by Pretrial Services have their cases dismissed or plead guilty at arraignment.

The limited data available on misdemeanor defendants does not permit us to fully depict disposition and sentencing outcomes. All that we do know at this time is that 1,094 misdemeanor trials were held in 1974.[11]

IV. HENNEPIN COUNTY PRETRIAL COURT SERVICES

Hennepin County's first pretrial release program was an experimental one started in 1969. Although the initiative to start this program came from the Public Defender's office, the project was operated by the county probation department. During the formative years, no funding was allocated to cover the program's operation, however, a probation officer was granted a leave of absence to direct the program's activities. During this time the program handled only those defendants referred by the Public Defender. Once the program had been operating for a short period of time, it was felt that there should be more court involvement and, as a result, two pretrial release programs were established to serve the individual needs of the Municipal and District Courts.

In March of 1972, these two pretrial release programs were unified under the auspices of the Hennepin County Pre-Court Screening Unit, a separate unit established within the county probation department. In 1972 the pretrial release program was awarded a three year LEAA grant but the federal money was terminated six months early when the program received county funding through the probation department on January 1, 1975. Unlike the experience in many jurisdictions, the transition to local government funding went smoothly in Hennepin County. Since the program's expenses are included in the probation department's budget, it is impossible to give an exact annual budget figure. During the period of LEAA funding, however, the program's budget was $153,000 a year.

Currently, the pretrial release program has an intake staff consisting of three probation officers who staff the Hennepin County Jail 16 hours a day, seven days a week. A fourth probation officer supervises the intake unit and acts as a liaison between this unit and the courts. The intake unit seeks to interview every person booked into the jail in order to obtain information bearing on his ties to the Hennepin County area. During the interview, the defendant is requested to give information on his family ties, employment status, residence and the length of time he has been in the area. In addition, he is asked to provide informaton on his past criminal history.

Based upon the information obtained in the interview, the defendant's eligibility for nonfinancial pretrial release is determined on the basis of a predetermined point scale which weighs the ties the defendant has to the Hennepin County area. The point scale is flexible, however, allowing the interviewer to add or subtract points depending upon the defendant's age, sex and charged offense. (The program's point scale is included in Appendix II.)

The release process is, however, considerably different for defendants charged with misdemeanors from those charged with the more serious gross misdemeanors and felonies. First, a misdemeanor defendant needs only three points on the scale to qualify for release while other defendants must accumulate five. Second, the courts have delegated to the program the authority to release qualified misdemeanants on personal recognizance (a No Bond Required release, as this procedure is called in Hennepin County) from the jail without obtaining prior judicial approval. In felony and gross misdemeanor cases, the program is required to verify the information provided by the defendant and to submit its release recommendation to the court. The verification process consists of contacting references supplied by the defendant who can attest to the veracity of the information he gave and also checking the defendant's prior criminal history through police and County Attorney records.

When Pretrial Services releases a misdemeanant at the jail, the intake officer signs the release order and advises the defendant of the time and place of his first court appearance. For defendants released by the court, Pretrial Services assumes no responsibility for advising defendants of future court appearances. Except for defendants on conditional releases, as discussed in the next paragraph, the program has no follow-up procedures for released defendants. According to the program's director Richard Scherman, follow-up procedures have proven unnecessary as the percentage of defendants failing to appear is only about one percent.

In January 1973, Pretrial Services saw a need for an expanded program which would permit the release of more defendants. As a result, a conditional release program to provide an alternative to incarceration for those defendants who had not secured enough points for personal recognizance and who could not post a financial bond was implemented. Under this release procedure the defendant must sign a contract stating that he will observe certain conditions or constraints placed upon his release. The defendant is further required to report to an assigned probation officer at least once a week and to appear personally at the Pretrial Services office before and after each court appearance. Primarily because of a shortage of supervision staff, conditional releases have thus far been used quite sparingly. It is expected that the new court rules may result in more conditional releases.

In addition to its pretrial release functions, the program also provides other services. In both felony and misdemeanor cases, the program's intake officers attempt to determine the defendants' eligibility for the services of a public defender. In addition the program can recommend that defendants with serious medical problems be referred for treatment. Finally, the program screens defendants to determine possible eligibility for diversion programs such as Operation de Novo and ASAP.

V. HENNEPIN COUNTY PRETRIAL COURT SERVICES AND ITS ENVIRONMENT

The ability of a pretrial release program to achieve its goals depends in part on the nature of its relationships with other institutions in the criminal justice system. That is, if representatives of the other programs and agencies are predisposed toward experimenting with alternative methods for improving the efficiency and effectiveness of the criminal justice system, they will be inclined to agree to proposed changes in methods of pretrial release. Hence, in an environment in which criminal justice agencies are committed to considering alternative ways of dealing with defendants, a pretrial release program that seeks to replace traditional bail practices with a potentially more equitable and effective system will encounter much less resistance than one in which the agencies are committed to the status quo.

For pretrial release programs like Hennepin County Pretrial Court Services, this environmental factor is especially relevant because the criminal justice system is generally a segmented set of institutions. Consequently, the unwillingness of key institutions can spell disaster for pretrial release programs. First, even if a pretrial release program is funded by LEAA or another federal agency, the absence of cooperation by local agencies makes it difficult for the program to achieve its goals. Second, when federal monies are no longer available, the absence of a record of cooperation between a pretrial release program and the established criminal justice agencies makes it difficult for the program to become "integrated" into the system and receive the financial support of local funding sources. Thus in describing the environmental surroundings of Hennepin County Pretrial Services, we shall seek to identify the conditions which have permitted it to become an ongoing part of the Hennepin County Criminal Justice System.

A major environmental factor in Pretrial Court Services' success is the attitudes of key judges at both the Municipal and District Court levels. At the Municipal level, the current Presiding Judge, Neil A. Riley, is insistent on basing release policies on systematic evidence rather than simply impressions of reality. Moreover, he is willing to experiment with pretrial release practices in order to determine which practice is the best. As an illustration, Judge Riley is working with Pretrial Court Services in determining the effects of lowering the minimum number of points necessary for the release of persons charged with misdemeanors. In the past, the minimum level was three points. For the purpose of the study, Judge Riley has agreed to lower the minimum points necessary for a defendant to be released by Pretrial Court Services to zero. Judge Riley wants to observe the consequences of this change on the failure to appear rate. If the reduction in the minimum level is not associated with significant increases in FTA rates, Judge Riley would seek to have the minimum set at zero points.

At the District Court level, Pretrial Court Services has the opportunity to work with Judge David R. Leslie, Chairman of the Court's Committee on Criminal Cases. One indication of Judge Leslie's attitude toward pretrial release is his concern for the possible negative consequences of the court rules that became effective on July 1. Under the new rules, judges are encouraged to release defendants on conditional release when Pretrial Court Services makes this type of recommendation. Heretofore, the use of conditional release was not explicitly listed as a method of release in the court rules. One possible outcome of this new emphasis on conditional release is that increases in the frequency of conditional releases will probably come at the expense of release on strictly personal recognizance. That is, rather than increasing the overall release rate, conditional releases may be granted to defendants who previously would have been released on their own recognizance. Judges may be inclined to favor conditional release because it is a "safe" midway

point between strict personal recognizance and cash bail. Judge Leslie expressed the viewpoint that such a negative consequence was certainly possible at this time in the District Court. However, he indicated that he would be willing to work with Pretrial Court Services in monitoring bail decisions to determine trends toward unnecessary use of conditional release. Judge Leslie said that he would respond positively to pressure by Pretrial Court Services to prevent any negative outcomes of the intended reforms in pretrial release.

Another important method by which Pretrial Court Services has managed to become an integrated component of the local criminal justice system is through performing tasks for other agencies. Alan Billey, currently head of the Misdemeanant Division in the Public Defenders office, stated that Pretrial Court Services performs an invaluable function by screening defendants for Public Defender eligibility. Billey believes that these screening activities need not and should not be performed by lawyers. Given the limited resources made available to the Public Defenders Office, it is essential that the attorneys devote all of their scarce time and energy to actual legal defense. For this reason, Billey has a positive view towards Hennepin County Pretrial Court Services.

FOOTNOTES

[1]Hennepin County, Minnesota, Hennepin County Criminal Justice Council, 1975 Hennepin County Criminal Justice Plan, August 1974, p. III-2.

[2]Ibid. p. III-5.

[3]Data obtained from Hennepin County Criminal Justice Council and the Office of the Hennepin County District Attorney.

[4]Data obtained from interview with Richard Scherman, Director of Hennepin County Pretrial Court Services, July 18, 1975.

[5]Ibid.

[6]Data obtained from Hennepin County Municipal Court Records.

[7]Data obtained from Hennepin County Municipal Court Records.

[8]Data obtained from the Office of the Hennepin County District Court Administrator.

[9]Data obtained from Hennepin County Municipal Court Records.

[10]Ibid.

[11]Ibid.

Appendix I

1975 Rules of Criminal Procedure

On July 1, 1975, new state-wide Rules of Criminal Procedure went into effect in Minnesota. Included in these Rules were a number pertaining to the pretrial release of criminal defendants.

First, the new Rules provide that when a complaint is issued charging a person with a criminal offense, a summons to appear may be issued by a judge, judicial officer, or justice of the peace in lieu of an arrest warrant. A summons may be issued in any case in which it appears to the issuing officer that a warrant is not necessary to secure the defendant's appearance in court.

Second, the Rules authorize the use of police citations in lieu of arrest for all criminal defendants. In misdemeanor cases, the issuance of a citation by the arresting officer is mandatory unless it reasonably appears that physical custody is necessary to prevent bodily harm to the accused or to prevent further criminal conduct or there exists a substantial likelihood that the accused will fail to respond to the citation. If a misdemeanant is not released on a citation, the officer must submit to the court his reasons for failing to cite. Furthermore, a misdemeanor defendant not released by the officer in the field is to be granted a stationhouse citation release subject to the same exceptions that detention is necessary to prevent bodily harm to the accused, the commission of additional crimes or to ensure his appearance in court. Again, if the person is not cited at the jail, the reasons for failing to use the citation must be submitted to the court.

In felony cases, the Rules do not provide for field citation releases but authorize the discretionary use of jail citation releases. The criteria for stationhouse release is the same for felony and misdemeanor defendants, however, there is no requirement that the reasons for failing to cite a felon be submitted to the court.

Third, the new Rules authorize the imposition of conditions upon a defendant's release. Prior to this time, the few conditional releases which were granted were done without explicit statutory authorization. The following conditions are enumerated in the Rules:

1. Place the person under the supervision of a third party or organization.

2. Place restrictions upon travel, association or place of abode.

3. Require execution of an appearance or deposit of cash or other sufficient security.

4. Require any other conditions reasonably necessary to assure appearance.[1]

Fourth, the Rules specify factors which are to be considered in passing on a defendant's release eligibility. These factors include the charged offense, the weight of the evidence, the defendant's family ties, employment status, mental condition, length of residence, prior failures to appear and the risk posed to the safety of the community. To gather this information a pre-release investigation is to be conducted by the court's probation service or by a qualified agency designated by the court.

In addition to the pretrial release provisions, the Rules drastically reduce the role of the Municipal Court in the processing of gross misdemeanor and felony cases. No longer do felony cases remain in the Municipal Court for preliminary hearings. Now felony defendants make a single appearance in Municipal Court for a bail setting hearing and the setting of an appearance date in District Court for arraignment. The Rules provide that the date for District Court arraignment shall be set within seven days of a defendant's initial appearance. However, the District Court may continue the arraignment for good cause.

---

[1]Minnesota Uniform Rules of Criminal Procedure, 6.21(a), (b), (c), and (d), July 1, 1975.

Extensive data or information is not yet available about the effects of the new Rule changes. The only information compiled on defendants released by citation is for the period July 1, 1975 to July 10, 1975.

The report stated in its initial conclusions, with respect to field release, that:

1. Minneapolis police are releasing defendants under citation in numbers that are higher than expected.

2. Defendant's released under citation have not, to date, been reporting to the Violations Bureau as expected.

3. The suburban police departments do not appear, to this date, to be in compliance to the new Rules of Criminal Procedure, relating to the citation program.

4. Defendants arrested on warrants are being brought to the jail rather than being considered for release.[2]

The report stated in its' initial conclusions, with respect to stationhouse release that:

1. Jail personnel are releasing defendants in greater numbers than expected.

2. Those defendants released by jail personnel are coming back to court as ordered.

3. There was no data to indicate that charge was a factor in determining FTA on the court date.[3]

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[2]Report prepared by Richard Scherman for Judge Neil A. Riley, Presiding Judge, Hennepin County Municipal Court.

[3]Ibid.

APPENDIX II

Forms Used by Pretrial Court Services

C 3282
8/72

Item #1

HENNEPIN COUNTY DISTRICT AND MUNICIPAL COURT
PRE-COURT SCREENING EVALUATION

ATE | NAME | CASE NO.

OOKING TIME | SCREENING OFFICER | PD./PVT. ATTORNEY

FFENSE

AIL AMOUNT | NBR/RPR RECOMMENDED ☐ YES ☐ NO

OSTED ☐ YES ☐ NO | NBR/RPR GRANTED ☐ YES ☐ N | SCORE

EDUCED TO | TIME OF RELEASE FROM JAIL

DDRESS | PHONE | DOB

ENGTH OF RESIDENCE AT ABOVE ADDRESS | IN METRO AREA

ITH WHOM (NAME AND RELATION)

RIOR ADDRESS | HOW LONG

DUCATION | RACE

RELATIVES OR FRIENDS SEEN OFTEN

NAME	ADDRESS	PHONE

ARITAL STATUS ☐ single ☐ married ☐ divorced ☐ separated ☐ widowed | SPOUSE NAME

POUSE ADDRESS | PHONE | SPOUSE EMPLOYER

HILDREN (Name, Ages & Residence)

MPLOYER | CITY/STREET | PHONE

ENGTH OF EMPLOYMENT | NET OR HOURLY WAGE | HOW LONG UNEMPLOYED

WN HOME-RENTING ☐ YES ☐ NO | VALUE | MORTGAGE | PREVIOUS EMPLOYER

WN AUTO ☐ YES ☐ NO | YEAR & MAKE | VALUE | HOW LONG AT PREVIOUS JOB

EBTS (INCLUDING CAR MORTGAGE) | OTHER ASSETS

OW SUPPORTED ☐ unemployment compensation ☐ Welfare ☐ Social Security ☐ Pension ☐ Amount

THER

HECKING OR SAVINGS ACCOUNTS ☐ YES ☐ NO | AMOUNTS

NYONE WILLING TO PROVIDE A PRIVATE ATTORNEY ☐ YES ☐ NO | MILITARY SERVICE ☐ YES ☐ NO | BRANCH | TYPE OF DISCHARGE

UNDER DOCTOR OR PSYCHIATRIC CARE? ☐YES NO	DOCTOR	HOSP. OR CLINIC

COMMENTS
Last evaluation or hospitalization -

DO YOU USE DRUGS OR A GREAT AMOUNT OF ALCOHOL? ☐YES ☐NO	DIAGNOSIS

PRIOR OFFENSES

OFFENSE	DATE	LOCATION	DISPOSITION

ON PAROLE OR PROBATION NOW ☐YES ☐NO	PROBATION OFFICER	CHARGES PENDING

DE NOVO ☐YES ☐NO	ASAP ☐YES ☐NO	PROBATION OFFICE ☐YES ☐NO

SPECIAL PROBLEM FOR COURT ATTENTION:

RECOMMENDED FOLLOW UP

REFERRAL TO OTHER AGENCY

JUDGE

OFFENSE PLEAD OR FOUND GUILTY OF

PROBATION OFFICER

DID COURT ACT ON FOLLOW UP REC. ☐YES ☐NO

DEF. REAPPEARANCE ☐YES ☐NO

CASE NUMBER

ASSIGNED COURT DATE IF CONTINUED

PURPOSE OF CONTINUANCE

DISPOSITION AND DATE

COMMENTS

HC 3339 Item #2 Name: _____

VERIFIABLE RELEASE CRITERIA

Int.	Ver.	PRIOR RECORD		
2	2	No Convictions		
1	1	One Misdemeanor Conviction		
0	0	Two Misdemeanor Convictions	or	One Felony Conviction
-1	-1	Three Misdemeanor Convictions	or	Two Felony Convictions

Int.	Ver.	HEAVILY WEIGHTED OFFENSES
-3	-3	Crimes Against the Person
-3	-3	Narcotic Offense

Int.	Ver.	FAMILY TIES
3	3	Lives with Family
2	2	Lives with Relatives
1	1	Lives with Nonfamily Individual
0	0	Lives Alone

Int.	Ver.	EMPLOYMENT
3	3	Present Local Job - 1 Year +
2	2	Present Local Job - 6 Months +
2	2	Welfare - AFDC - 6 Months +
2	2	Full-Time Student Status - 6 Months +
1	1	New Job, Relief, Unemployment Compensation, Family Support
1	1	New Student Status
0	0	Unemployed - No Visible Means of Support

Int.	Ver.	RESIDENCE IN AREA
3	3	Present Residence - 1 Year + or Owns Dwelling
2	2	Present Residence - 6 Months + or Present and Prior 1 Year
1	1	Present Residence - 3 Months + or Present and Prior 6 Months
0	0	Present Residence - 3 Months or Less at Any Dwelling

Int.	Ver.	TIME IN AREA
1	1	5 Years or More (continuous)

Int.	Ver.	DISCRETION
1	1	Pregnancy, Old Age, Poor Health
-2	-2	Threat to Himself or Others
-2	-2	Bench Warrant, Escape, Chemical Dependency
-3	-3	Weapon Used in Present Offense

"No Recommendation" should be made for those persons charged, currently out on bail, bond, RPR, or NBR, that are re-arrested for similar or related charges.

To be recommended for release a defendant needs:

(1) A local address where he can be reached
(2) A total of 5 verified points for a felony
(3) A total of 3 verified points for a misdemeanor
(4) All defendants will be reviewed for the possibility of a Conditional Release recommendation.

Int.	Ver.	
		TOTAL POINTS

Date of Recommendation _____ Signed _____
Investigator

Item #3

HC 3220 A
Rev. 6/72

NBR EVALUATION

Date: _____

Judge: _____ Dist. Ct. No. _____ Co. Atty. No. _____

Name: _____ Birthdate: _____

Arraigned: _____

Offense: _____ Bail: _____

Defendant's Address: _____ Telephone: _____

Recommendation: _____

Screened for Pub. Def. _____ Appears Eligible _____ Appears Ineligible _____

Comment:

_____ _____

Court Action Probation Officer

Item #4

STATE OF MINNESOTA

COUNTY OF HENNEPIN

DISTRICT AND MUNICIPAL COURT

MINNEAPOLIS

FOURTH JUDICIAL DISTRICT

RECOGNIZANCE EVALUATION AGREEMENT

I have read and understand:

1. That the sole purpose of this interview is to determine my eligibility for release without bail.

2. That I have an absolute right to remain silent and to refuse to answer any questions without the advice of my lawyer.

3. That although my conversations with the RPR Interviewer do not constitute privileged communications, no questions will be asked of me during this interview regarding the offense with which I am charged.

I hereby agree to the above for the limited purpose of this evaluation.

Date:_____ Signed:_____
Defendant

Signed:_____
Probation Officer

HC 3294 Item #5

DISTRICT AND MUNICIPAL COURT

STATE OF MINNESOTA

MINNEAPOLIS

COUNTY OF HENNEPIN

JUDICIAL DISTRICT

AGREEMENT OF DEFENDANT TO RETURN TO COURT

I, NAME OF CLIENT, in consideration of being released on my personal recognizance on TODAY'S DATE, hereby agree to appear in Hennepin County Court as so ordered by my last Court appearance.

(1) That I will keep PRE-COURT SCREENING UNIT advised of any changes in my residence address and employment status.

(2) That I will cooperate fully with the Hennepin County Department of Court Services with respect to any requests made by that Department pending my reappearance in Court and I will maintain contacts either in person or by telephone call with NAME OF UNIT PERSON.

(3) That failure to comply with the above provisions will be deemed to be a violation of the terms and conditions of my release for which I may be arrested, detained and the release privilege revoked.

I have received a copy of this agreement.

Dated:_____ Signed:_____
Defendant

Dated:_____ Signed:_____
Probation Officer

(Over)

Item #6

Memo

DATE: April 10, 1973

TO: Pre-Court Screening Unit

FROM: Robert A. Hanson

SUBJECT: Conditional Release Format

HENNEPIN COUNTY
DEPARTMENT OF COURT SERVICE

The following format should be used on all Conditional Release files:

DEPARTMENT OF COURT SERVICES
Hennepin County (Minneapolis) Minnesota

JUDGE: CASE NO.:

P.O.: COUNTY ATTY. NO.:

DATE: (Date of dictation)

CONDITIONAL RELEASE SUMMARY

NAME: OFFENSE:

ADDRESS: PHONE:

AGE: ATTORNEY:

MARITAL STATUS: HOLDS:

NEXT COURT DATE - _____ _____ _____ _____ _____

PROBATION OFFICER'S NAME:

Plan: This is the summary statement of the goal you have set up for the defendant. An example might be:

To maintain present job, begin marital counseling, and join AA.

This plan section of the report is not a repetition of the conditions of release. They are contained in the body of this file. It is the goal you ultimately see the defendant attaining by the time he is sentenced or has completed his court appearances.

THE FOLLOWING ARE THE MINIMAL CONDITIONS REQUIRED FOR CONDITIONAL RELEASE:

1. Keep Pre-Court Screening aware of current address and any relocation within 24 hours of a move.
2. Remain in the metropolitan area unless otherwise agreed upon.
3. Call 348-4001 at least once a week at the agreed upon time.
4. Stop at Room 413 prior to going to court on each court date.
5. Report any new arrest immediately - failure to do so will result in a review of the case by the presiding judge.

ADDITIONAL REQUIREMENTS:

1.

2.

3.

4.

5.

Date:

Signed:

HC 3306 Item #7 MUNICIPAL

PSYCHOLOGICAL REFERRAL

TO: _____ Psychologist POSITION: _____

FROM: _____ ROOM: _____

PHONE: _____

Please answer all questions for which you have information and check off the documents which accompany this form: _____ arrest report; _____ social history; _____ previous evaluations; _____ other (specify).

NAME OF CLIENT: _____ AGE: _____ D.O.B.: _____

SEX: _____ MARITAL STATUS: _____ YEARS OF EDUC.: _____ OCCUPATION: _____

List the names, addresses, and phone numbers of relatives or close friends who may be familiar with this person's situation: _____

_____

OFFENSE: _____ CASE NO.: _____

Current status of the case: _____Pre-plea; _____Pre-Sentence _____ Post Sentence _____Other (specify)

If a disposition has been made, give exact details: _____

_____

Is a report requested? _____ By what date? _____

Is the client aware that the results of this interview will be available to the court?

_____

What other agencies, caseworkers, therapists, etc., are currently involved with the client (Give any specific information such as addresses and phone numbers) _____

_____

Does this person have a psychiatric history? When? Where?

_____

Reason for Referral: a) What kinds of problems and/or symptoms does this person present?

_____

b) What are your findings and impressions?

_____

c) What questions are there concerning this person?

_____ Need for immediate treatment

_____ Competency

_____ Mentally Ill

_____ Dangerous

_____ Prognosis & prospects change

_____ Appropriate on-going treatment

Please elaborate

(If necessary, please use other side for any additional pertinent information)

PHASE I EVALUATION OF PRETRIAL RELEASE PROGRAMS

Project Narrative

THE COOK COUNTY SPECIAL BAIL PROJECT
COOK COUNTY RECOGNIZANCE PROGRAM

CHICAGO, ILLINOIS

July 1975

PHASE I SITE VISIT STAFF:

Roger Hanson

Bruce Harvey

This report was prepared under Grant Number 75 NI-99-0071 from the National Institute of Law Enforcement and Criminal Justice, Law Enforcement Assistance Administration, U. S. Department of Justice. Points of view or opinions stated in this document are those of the authors and do not necessarily represent the official position or policies of the U. S. Department of Justice.

TABLE OF CONTENTS

I. COOK COUNTY'S CRIMINAL JUSTICE SYSTEM

The criminal justice system in Cook County consists of three basic processes. They include the following: (1) the adjudication of cases; (2) law enforcement; and (3) corrections. The major institutions operating in each of these areas are described briefly.

The adjudication of cases occurs within the Circuit Court of Cook County. A distinct feature of this Court is its unified nature. In contrast to other metropolitan counties which frequently contain two separate courts, e. g., a municipal court and a district court, the Circuit Court of Cook County has sole jurisdiction over all cases arising both in the City of Chicago and the suburban communities. As a result of this unification, the Circuit Court is the nation's largest trial court. While there is a single court system in Cook County, it is organized into two divisions.

The Municipal Division of the Circuit Court disposes of all cases involving criminal misdemeanor charges, quasi-criminal charges (city ordinance violations) and traffic offenses. Besides processing misdemeanants from arrest to final disposition, the Municipal Division holds both bail setting hearings and preliminary hearings for persons charged with felony offenses. Moreover, if a felony arrestee pleads guilty and waives indictment by the Grand Jury, his case is disposed of in the Municipal Division.

Because of Cook County's vast geographical size and large population, the Municipal Division is separated into six districts. The First Municipal District encompasses the City of Chicago. Each of the other five districts has jurisdiction over a particular suburban area.

Ideally, we would like to describe the pretrial release process as it operates in every Municipal District. Because of our limited resources, however, we are forced to base our description on the most readily available

data. We found that information on the First Municipal District was more accessible than that pertaining to the other five districts. Moreover, the sheer complexity of the First Municipal District made it virtually impossible to make observations beyond the boundaries of the City of Chicago. Hence, our analysis of pretrial release in Cook County is limited to the activities taking place in the City of Chicago. Nevertheless, the tremendous volume of cases within the First District indicates that it is a jurisdiction of major significance and relevance for our analysis of pretiral release.

The First Municipal District includes twenty-four criminal courts. These courts, called Branch Courts, vary along several key dimensions including the types of offenses that the process, their location in Chicago, the time that they are in session, and the nature of their courtroom hearings. For example, there are eight felony preliminary hearing courts that are is session during the weekdays. Four of these courts deal with juvenile offenders. Each of the other four courts is designed to deal with a specific type of felony offense, such as, narcotics, homicide and rape, auto theft, and all remaining felony offenses. All eight branches hold bail setting hearings as well as preliminary hearings.

During weekends and on holidays, all persons charged with felony offenses are brought to Holiday Court for the single purpose of setting bail. After a bail determination is made, each defendant's next appearance is scheduled at the appropriate felony preliminary hearing court. Finally, during the evening hours, bail is set initially at Night Court, which is located at the headquarters of the Chicago Police Department.

The remaining sixteen Branch Courts deal strictly with criminal misdemeanor cases, quasi-criminal charges, and traffic offenses. Again, however, these branches vary according to the type of offenses under their respective jurisdictions. [For example, there are separate Branch Courts for gambling offenses, for paternity cases, for shoplifting, etc., as well as a Holiday Court for misdemeanors.]

In the other five Municipal Districts, the Courts are arranged in a manner similar to those in the First Municipal District. However, since the other Districts are smaller than the City of Chicago, each one contains fewer Branch Courts. Nevertheless, the criminal process is the same for both felons and misdemeanants in the suburban areas as it is in Chicago.

In addition to the Municipal Division there is the Criminal Division of the Circuit Court. Unlike the Municipal Division, the Criminal Division is not broken down along geographic lines, types of offenses, etc. All felony charges resulting in indictment are assigned to the Criminal Division. Once a case reaches the Criminal Division, the Presiding Judge of the Criminal Division assigns it to a trial court. There are a total of seventeen felony trial courts. Twelve of them are situated at the Crimimal Courts Building in South Chicago and five are located at the downtown Chicago Civic Center. The division of labor between these two sets of courts is that the former processes defendants who are in custody while the latter deals with defendants who are out on bond.

There are three sets of judges who preside in the Circuit Court. They include the following: (1) Circuit Judges; (2) Associate Judges; and (3) Magistrates. Circuit and Associate Judges obtain their offices through

the electoral process. Magistrates are appointed by the Circuit Court judges. Circuit and Associate Judges can preside in cases involving any type of criminal offense. Magistrates are restricted, however, to handling only criminal misdemeanor and quasi-criminal offenses.

In addition to the judges of the Circuit Court, two important agencies that directly affect the adjudication of cases are the State's Attorney and the Public Defender. The State's Attorney, who is the chief prosecutor for Cook County, gains his position through the electoral process. Once in office, the State's Attorney appoints his staff, none of whom are civil servants. There are currently thirty-six State's Attorneys assigned to the First Municipal District.

The head of the public defender's office is appointed by a committee of circuit judges. A public defender is appointed by the court to represent indigents. Usually, in the case of felony charges, a public defender is appointed at the time of the preliminary hearing.

The law enforcement sector in Cook County can be divided into three units : (1) the Chicago Police Department; (2) suburban police departments; and (3) the Cook County Sheriff's Office. The Chicago Police Department is a very large organization with jurisdiction over the city of Chicago. As of June 1, 1974, there were 13,427 sworn officers on the police force. This represented a proportion of one officer for every 240 citizens. During 1973, there were approximately 2.4 million calls for service, including traffic requests. In 1974, the total police budget for Chicago was approximately $250 million. This figure represents 24.2% of the total budget for Chicago. The police budget represents an average per capita expenditure by each citizen of $75.63.[1]

The city of Chicago experienced its first increase in major crime in four years during 1973. In 1973, there was an increase of 8.6% in major crime compared to 1972. However, Chicago still ranks third lowest in the index crime rate per 1,000 population in cities of one million or more.

In regard to pretrial release, the Chicago Police Department is responsible for releasing misdemeanants who post a full cash bond or post a 10% deposit bond in accordance with an established bail schedule. If a defendant does not obtain release at the stationhouse, he is transported to bond court. The police department also has available, at one location, a picture phone system which is linked to a judicial officer. This system functions in lieu of the defendant making a personal appearance for bail setting purposes. However, the system is not functional twenty-four hours a day and the prognosis for expansion into other stations is not favorable.

The second unit is the suburban police departments in Cook County. Although these departments contribute significantly to law enforcement in Cook County, arrest and departmental structure information is not available. As a result, this paper will deal primarily with information provided by the Chicago Police Department.

The third unit in the law enforcement sector is the Cook County Sheriff's Office. Basically, the Sheriff's Office can be categorized in five departments Police, Corrections, Court Services, Custodial and Youth Services. Inasmuch as the Custodial Department deals only with building maintenance and Youth Services deals only with juveniles, we shall limit our discussion to the remaining three departments.

The police function of the Sheriff's Office is comprised of approximately 400 officers. These officers have jurisdiction over all of Cook County. However, the primary mission of this force is to serve the unincorporated areas of the county which comprise 256 square miles. The Sheriff's Office

is also called upon to assist and provide back-up for the municipal police departments in 123 areas. At times the sheriff will be requested to provide support for the Chicago Police Department, but due to limited personnel this is rarely the case.

The correctional arm of the Sheriff's Office is the Cook County Department of Corrections. This agency maintains the Chicago House of Correction and the Cook County Jail. Both of the above facilities detain pretrial defendants. The distinction between the two facilities, in regard to the detained population, is made with respect to type of charge. Generally speaking, individuals charged with more severe offenses are sent to the Cook County Jail while individuals charged with lesser offenses are detained at the House of Correction.

The Department of Corrections has a daily inmate population ranging from 3,500 to 3,800. Annually, approximately 55,000 inmates are processed through the Department. Information received from the Sheriffs' Office indicates that approximately 75% of these inmates are "unsentenced" persons awaiting trial. The Department is also charged with the responsibility of transporting prisoners to court, police stations, and to state institutions. Approximately 75,000 prisoners were transported during 1972.[2]

The Court Services Division of the Sheriffs' Office is concerned with two major activities. First, the division is charged with the maintenance of decorum in the courtrooms of the Circuit Court of Cook County. This function also involves the security of the court along with the care and custody of prisoners. The second activity of the Division is the execution of all legal documents issued by the Circuit Court.

II. PRETRIAL RELEASE IN COOK COUNTY

In 1963, state of Illinois statutes established three alternative forms

of release. They include, in addition to the deposit plan, cash bonds and personal recognizance bonds. While the law recognizes the validity of each method, the ten percent deposit system has become the most frequently used method of pretrial release in Cook County.

Under the 10% deposit arrangement, generally called a 'D' bond, a defendant is released when he makes a cash deposit that is equal to 10% of the bond set. Ninety percent of the deposit is returned to the defendant who makes all of his court appearances. Hence, the defendant's bond cost under this system is one percent of the bond's full value in contrast to the ten percent fee normally charged by most bail bondsmen. Additionally, the law stipulates that a bail bondsman could not put up the money for the deposit. The effect of this restriction was, of course, to eliminate bail bondsmen from involvement in pretrial release activities.

Besides the 'D' bond, the Illinois bail laws recognize another method of financial release -- full security. This means deposit of cash equal to the full bond amount or securing the bond with property worth twice the bond amount. In this situation, the entire deposit is returned to the defendant who makes all of his scheduled court appearances. Full cash bonds are referred to as 'C' Bonds.

Finally, the non-monetary method of release discussed in the bail laws is release on personal recognizance. Interestingly, while the Illinois statutes indicate that persons may be released on their own recognizance, the law is silent as to the criteria that should be used in evaluating the qualifications of defendants for this type of release. Moreover, despite the enactment of these bail laws over ten years ago, neither state authorities nor Cook County officials have established a pretrial release program equal

in size and scope to that of programs in other large metropolitan areas such as, Los Angeles and Philadelphia. Perhaps the lack of such an organization accounts for the relatively small number of releases on recognizance, or 'I' bonds as they are called in Cook County.

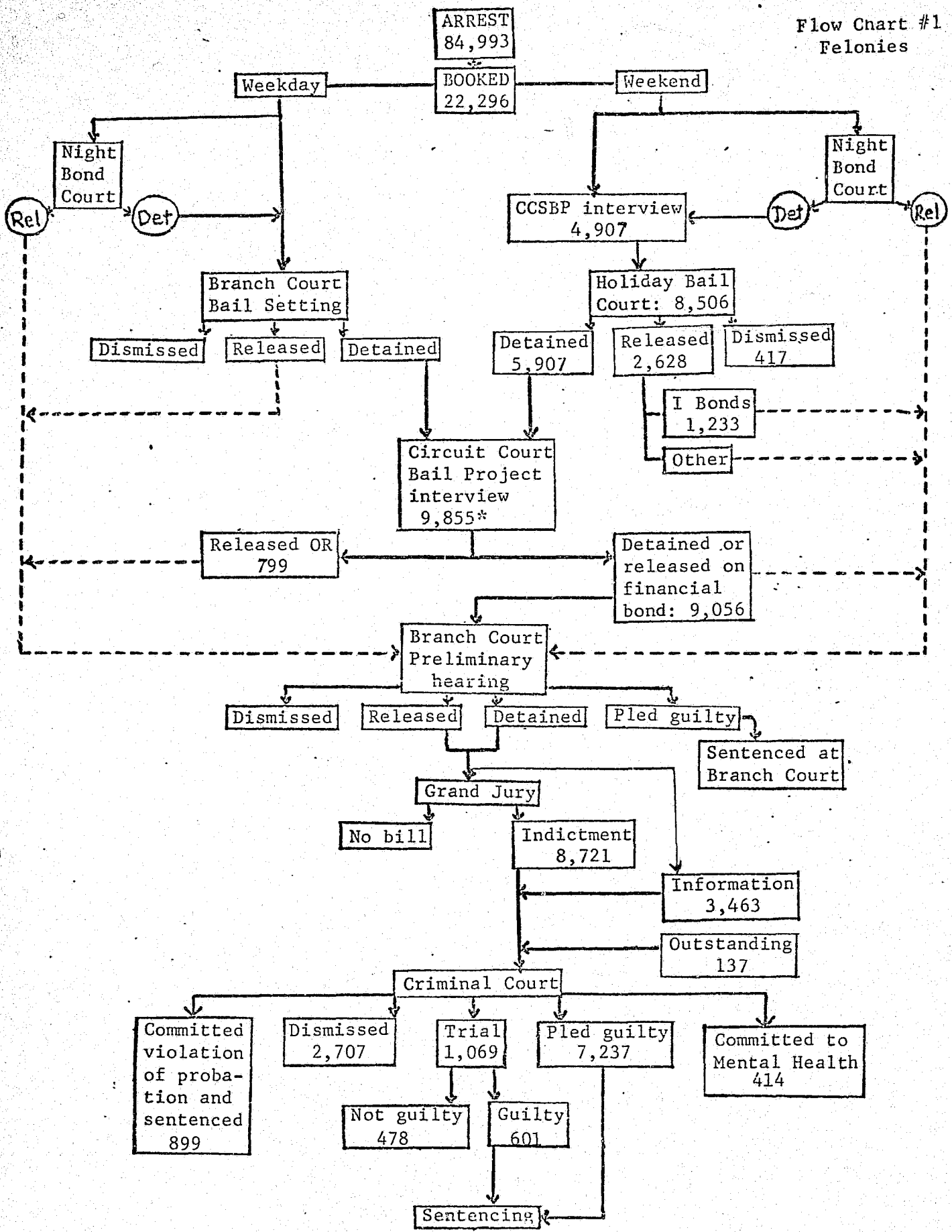
In the following paragraphs, we shall describe how these methods of release operate in cases involving felony offenses, then in cases involving misdemeanor offenses. For each description a flow diagram is provided that outlines the criminal process from arrest to final disposition. The numbers in these diagrammatic representations are based on data collected for 1974, unless otherwise stated.

A. Felony Case Processing (Flow Chart #1)

An arrested person is initially transported to one of the twenty-one police district stations. Here the arrestee is booked and interrogated. A record of the booking is filed with the Clerk's Office of the Circuit Court. The filing of the complaint is the defendant's formal introduction into the criminal justice system.

During 1973, an estimated 84,993 persons including juveniles were arrested by the Chicago Police Department for one or more felony offenses.[3] However, the number of persons formally charged with a felony offense is considerably smaller. According to court records, the police filed 22,296 complaints with the Clerk of the Court. While some of these complaints involved an unknown number of multiple defendants, there is still a considerable difference between the arrest and complaint figures. This disparity exists because the police have either decided not to file any charge against the arrestee or they have choosen to file a misdemeanor charge rather than a felony. In the past, the police would have been exercising complete control over the charging process. Recently, however, the State's Attorney has been attempting to assist the police be reviewing the arrests before charges are filed. Beginning in 1972, the prosecution began to screen

Flow Chart #1
Felonies



Probation with Sentence.

* Misdemeanors and felonies combined

all serious felony offenses on Chicago's South Side. Gradually, the scope of the reviewing process expanded to encompass the entire city and a wider range of felony offenses.

It is somewhat difficult to assess the true consequences of the screening effort. The proportion of cases screened that were either dropped or reduced to a misdemeanor went from 20% in 1972 to 30% in 1973. Yet, in 1974, the screening rate dropped back to 25%. A recent study by the Chicago Bar Association claims that this decrease is because of more vigorous prosecution of rape cases by the State Attorney. Unfortunately, we were unable to locate any data that would confirm the Bar Association's explanation. In any event, it is important to note that the screening effort by the State's Attorney is a comparatively new phenomenon in Chicago's criminal process.

For a person who is formally charged with a felony offense, his initial court appearance is at "Bond Court." Bond Court refers to bail hearings which are held three hundred sixty-five days a year. At these hearings, the arrestee is notified of the charge(s) filed against him and bail is set.

Bail hearings are scheduled at different locations throughout the day. The hours and the location of the hearings are as follows: (1) During week-days between the hours of 9a.m. and 5 p.m., hearings are held at one of the felony preliminary hearing courts in the Criminal Courts Building; (2) On weekends and holidays, hearings are held in Holiday Court. Holiday Court is in session from 9 a.m. to 5 p.m. in one of the courtrooms at the Criminal Court Building; (3) During the hours of 6 p.m. to 3 a.m. bail is set in Night Court, which is located at the central headquarters building of the Chicago Police Department.

The manner in which the bail hearing is conducted varies somewhat across the three locations. Here it is especially important to mention the bail

setting processes in Night Court. There is a rotating system of judges who preside at Night Court. A judge conducts the hearings for one week and is replaced by another judge for the subsequent week. The interesting feature of Night Court is the way in which the defendants are brought before the judge. Only if the arrestee is booked at the First Police District is he brought before the judge in person. In contrast, if the arrestee is booked at the Chicago Avenue Police District, he "appears" before the judge through the use of a picture phone. If the arrestee is booked at any of the remaining nineteen police districts, the police arrange to have bond set by the judge assigned to the Night Court after the facts of the case and the arrestee's past criminal record have been sent to the court by telecopier. The order setting bond is received in like manner.

If the defendant can post the cash necessary to make a 'D' bond or a 'C' bond, he is released immediately. If the defendant does not post either type of financial bond and is not granted an 'I' bond, he is detained overnight at one of the police district lockups. The next morning he is transported to the Criminal Courts Building for a bail hearing. If the "next" day falls on a week day, he has his hearing in one of the felony preliminary hearing courts. If the "next" day falls on a weekend or a holiday, he appears in Holiday Court for a bail hearing. A record of the amount of the bond set in Night Court is forwarded for the judge's consideration at the next day's bail hearing. However, the judge is not bound to accept the bond set at Night Court.

In addition to defendants who have had bail set in Night Court, there are other defendants who have their bail set for the first time in Holiday Court or in one of the felony preliminary hearing courts. This group of

persons has been booked after the closing of Night Court at 3 a.m. These arrestees are transported from the police district stations to the Criminal Courts Building along with the detainees who had their bail set in Night Court.

Bail hearings at Holiday Court and the felony preliminary hearing courts operate somewhat differently. At Holiday Court, while the purpose of the hearing is not to appoint counsel, both a public defender and a lawyer from the Cook County Special Bail Project are present. These two lawyers inform the judge of facts that they deem relevant to pretrial release. Specifically, they relate information provided by the Cook County Special Bail Project (CCSBP) about the defendant. They indicate what information is verified and what is unverified. In addition, they indicate to the judge the amount of money that the defendant has told a CCSBP interviewer that he can raise.

Besides the information presented by the public defender and the lawyer for CCSBP, the judge receives bail information from the prosecutor. The judge usually solicits a bail recommendation from the State's Attorney who is present at the hearing. Generally, the prosecutor justifies his recommendation on the basis of three factors: (1) the defendant's prior record (convictions); (2) the defendant's record of prior bond forfeitures; and (3) information concerning nature of the offense.

If the family or friends of the arrestee are present in the courtroom, they are directed to appear before the bench. The judge will make an inquiry as to their relationship to the defendant and ascertain whether or not the defendant resides with them.

In the felony preliminary hearing courts both a State's Attorney and a public defender are present in each of the courtrooms. However, only in Branch 44, which is temporarily combined with Branch 24, does the public defender possess systematic information about the defendant's background. Here the Cook County Special Bail Project supplies the public defender with the results of its interviews with the defendants. In the absence of this information, the public defender in all other felony preliminary courts talks to the defendant while they are both standing before the bench. The public defender asks the defendant about his background and then transmits this information to the judge. Recently, the felony preliminary hearing courts have been operating on a staggered call. That is, persons booked at certain police districts are scheduled to appear at 9:00 while others are scheduled for other time periods during the day. In the past, there was no definite time schedule to the bail hearings.

At the bond setting courts -- Night Court, felony preliminary hearing court(s), or Holiday court -- there are three basic outcomes for the defendant. He may be released, detained, or have his case dismissed. Given the nature of the most readily available data on decisions made in Bond Court, it is virtually impossible to know how many persons charged with felony offenses are associated with each of these separate outcomes.

To illustrate the complexities involved in ascertaining the different outcomes for the defendant, it is necessary to explain the nature of the data that are available. First, data are not maintained for each separate stage of the criminal court process. In other words, the numbers of defendants who are detained or released at Night Court, Holiday Court or one of the

felony preliminary hearing courts are not obtainable. Moreover, the data that are compiled on the numbers and types of bonds are of a very general nature.

During 1974, there were 35,008 Individual Bonds posted (granted) in Chicago. Initially it would appear that certain conclusions about pretrial release could be drawn from this figure when compared to the total arrest population. However, certain clarifications must be made about this total number. On June 7, 1974, General Order Number 74-5 went into effect which significantly increased the number of 'I' bonds posted. The Circuit Court of Cook County, First Municipal District ordered that when an individual is arrested and detained for one or more traffic offenses, bail for which requires a driver's license or the deposit of $25.00 cash or an Automobile Bail Bond Card, and the individual is unable to post such bail, the accused shall be released on an 'I' bond. The only restriction attached to this type of release is when the accused has an outstanding warrant, detainer or bond forfeiture.

One consequence of the new court order has been the significant increase in the total number of 'I' bonds posted in Chicago in 1974. In 1972, there were 21,431 'I' bonds posted and in 1973, there were 24,431 'I' bonds posted. It is important to note that these 'I' bonds represent 'I' bonds granted in all types of offenses (i.e., traffic, misdemeanor, and felony). Hence, the greater number of 'I' bonds granted in 1974 (35,008),[4] does not necessarily reflect a change in judicial attitudes towards the granting of 'I' bonds in cases involving misdemeanor and felony offenses. Rather, existing data suggest that the significant increase from both 1972 and 1973 to 1974 is a function of the court order, which deals only with traffic offenses.

In the first five months prior to the new court order, there was an average of 1,908 'I' bonds posted each month. After the court order, there was an average of 3,638 'I' bonds posted each month. If the average

number of 'I bonds posted for the first five months had remained relatively constant for the remaining seven months, the total number of 'I' bonds posted in 1974 would have been less than those posted in 1973. Hence, it would appear that the court order accounts for the increase in 'I' bonds posted from 1973 to 1974. Inasmuch as the court order deals only with traffice offenses, it might be assumed that the number of 'I' bonds posted for misdemeanor and felony offenses has remained relatively constant from 1973 to 1974.

The records of the Circuit Court Clerk's office list each 'I' bond by type of charge. However, no aggregate figures are maintained on the total number of 'I' bonds posted by charge category. In order to determine aggregate figures by type of charge it would be necessary to review each individual case. Presently, an attempt to accomplish this goal is being considered in the First Municipal District.

Data maintained on the number of 'D' bonds and cash bonds are similar to data maintained on'I' bonds. A distinction is not made as to whether or not the bond is posted for a misdemeanor charge or felony charge. While it was possible to determine the number of 'I' bonds posted in Chicago, it is not possible to determine the combined total of Cash bonds or deposit bonds. The statis-cal report prepared by the office of the Clerk of the Circuit Court only provides bond information for Districts 2 thru 6. Information on the First Municipal District (Chicago) is not included in the report. While Judge Peter Bakakos, Supervising Judge of the Surety Section of the Circuit Court, indicates that there was a total of 24,309 'D' bond forfeitures and 13,117 bond forfeiture judgments in 1974, his report does not reveal the total number of 'D' bonds posted.

The most relevant and available set of data on bond decisions are contained in a study that was completed by the Cook County Special Bail Project. It provides some insight into the released versus detained status of defendants. The study covered the time period from May 1972 to May 1973. Defendants

appearing in either felony or misdemeanor Holiday Court are the basis for the analysis. The data indicate that in Holiday Court 11.2% of the sample population (2,796) were granted an 'I' bond. In misdemeanor court, 23.9% of the population (2,715) were granted an 'I' bond.

It is difficult to draw conclusions in regard to pretrial release from the above data as they have several limitations. First, all dismissals are excluded from the estimated defendant populations. Dismissals would account for approximately a 20% increase in the population. Second, the data are drawn only from those defendants who have their bail hearings in Holiday Court as opposed to one of the felony preliminary hearing courts.

To augment the project's study, we examined the records that have been compiled by the Cook County Special Project. Our analysis was limited to those felony defendants making appearances in Holiday Court during November 1974. First, we attempt to relate the nature of the court's decisions to the racial characteristics of the defendants. The following table has been compiled from that data:

TABLE 1

Court Actions Taken at Holiday Court

Disposition	Black	White	Spanish
I - Bond granted	9%	18%	5%
D - Bond posted	80%	78%	70%
Bail denied	3%	.6%	5%
Case dismissed	7%	3%	19%
TOTALS	99%	99.6%	99%

According to Table 1, 'D' bonds are the most frequent type of release across all three racial groups. It is interesting to note, however, that the proportion of 'I' bonds granted is significantly greater for the white defendants than for the black or the Spanish. This pattern remains when comparing the proportion of defendants denied bail across the three racial categories. There are fewer white defendants denied bail than either of the other two groups. Also of interest is the fact that blacks and Spanish have a greater proportion of cases dismissed than whites. Dismissal rates in Holiday Court will be discussed later in this report in the section on the Cook County Special Bail Project. It is generally believed that dismissals at this stage are directly related to charges of disorderly conduct or gambling.

Finally, some idea about the relationship between the granting of 'I' bonds and the nature of offenses is obtained from data collected by CCSBP. The CCSBP collected data on two key variables. They are (1) the distribution of 'I' bonds across different charges; and (2) the proportion of all defendants appearing in Holiday Court charged with a given offense. The following table was taken from that report:

Table 2

The Distribution of I-Bonds Across Charge Types

Percentage Distribution

	I-Bonds	Defendants
Charge Type	%	%
Marijuana	45	16
Burglary	20	16
Auto-Related	14	12
Robbery	5	8
Controlled Substance	4	7
Theft	3	4
Battery	2	8

	I-Bonds %	Defendants %
Heroin	3	3
Hypo (implements)	2	2
Armed Robbery	1	12
Sex	1	3
Unlawful use of weapon	1	4
Murder		3
Other		2
	100	100

It appears from the above table that those defendants charged with more serious charges, are less likely to receive an 'I' bond than those charged with less serious offenses. Those charged with possession of marijuana account for only 16% of the total defendant population but account for 45% of all 'I' bonds. In comparison, those defendants charged with armed robbery and battery account for 20% of the total defendant population but only account for 3% of the 'I' bonds.

At the time of the bail hearing, the defendant's next regular court appearance, which is the preliminary hearing, is scheduled. The exact time of the preliminary hearing depends on the defendant's pretrial release status. In a felony preliminary hearing court, if a defendant is detained, his preliminary hearing is scheduled for some day during the next week. For persons detained at Holiday Court, the preliminary hearing is set for the next Monday. Persons who are released at either a felony preliminary court or Holiday Court are scheduled for a preliminary hearing within approximately three weeks of the date of the bail hearing. Continuances, however, push the actual hearing back considerably.

According to Cook County Circuit Court Rule 161, the preliminary hearing is to be held within thirty days of arrest unless there are unusual circumstances. Despite this institutional regulation, the time span from arrest to the preliminary

hearing is considerably longer than thirty days. As an illustration, from a random sample of persons who were indicted in 1974, it was observed that the time span from arrest to the preliminary hearing was sixty-nine days.

One explanation for the somewhat lengthy average time until the preliminary hearing is the granting of continuances by judges in felony preliminary hearing courts. When a defendant appears in court following his bail hearing, either his attorney or the State Attorney will request that the preliminary hearing be postponed until a later date. Although the reasons why the attorneys request continuances vary, the effects are the same. Since the granting of a continuance extends the preliminary hearing by another three to four weeks, this means that it is very possible that a hearing will not be held until six to seven weeks after the date of arrest. Obviously the granting of one continuance requested by the prosecutor and one requested by the defense attorney will prolong the time span to nearly ten weeks.

When a defendant appears in court after his bail hearing, counsel is appointed in cases where the defendant cannot afford private counsel. There is no special hearing or set of formal procedures actually used to determine whether or not the defendant is eligible for the services of a public defender. A staff member of the Cook County Special Bail Project, however, claims that Judge Marvin Olsen, who presides in the court for which the Project provides information, uses an informal guideline in determining public defender eligibility. According to the staff member, if the defendant posts a ten percent deposit of $500 or more, Judge Olsen will not appoint a public defender to the case. Unfortunately, we were unable to locate information on the criteria used by other judges.

Given the fact that the function of the preliminary hearing is to determine if there is probable cause to warrant further prosecution one would expect some cases to be dismissed at this point. The dismissal rate at this

hearing is of a considerable magnitude. The Clerk of the Circuit Court reports that 22,296 complaints reached the preliminary hearing stage. Yet, only 7,702 complaints were bound over to the Criminal Division of the Circuit Court. Certainly not all of the 14,594 complaints were dismissed. Many of the cases terminated on pleas of guilty by the defendant. The data that are currently available, however, do not allow us to determine exactly how many defendants plead quilty at the Municipal Division level. Nevertheless, there are reasonable grounds for believing that the majority of defendants who reach the preliminary hearing stage have their cases dismissed. Other studies of the criminal process in Chicago claim that the preliminary hearing is a screening mechanism for the State's Attorney. They conclude that the likelihood of a defendant's case being dismissed is the greatest at the preliminary hearing.

Despite the reduction in the number of complaints that are prosecuted beyond the preliminary hearing stage, it is impossible to assess the impact that the case dismissals have on the detained population. The reason is that there are no readily available data on the dismissal rates among defendants who were released at their bail hearings compared with those who were detained at their bail hearings. As a result, we do not know the effects that bond releases and case dismissals have on the size of the detained population.

In the cases where probable cause is found, the case next goes to the Grand Jury. Illinois State Statutes stipulate that all felony prosecutions must be by a Grand Jury indictment, unless the defendant waives his right to the Grand Jury proceedings. The existing Circuit Court rules that implement the state laws in regard to the Grand Jury sepcify that a Grand Jury is to be appointed for an initial thirty day period. It can be extended by thirty day increments up to a total of eighteen months.

According to a recent study by the Chicago Cook County Crime Commission, it takes about four weeks for an indictment to be rendered by the Grand Jury after the presentation by the State's Attorney. If a Grand Jury renders an indictment, the case is transferred over to the Criminal Division of Circuit Court for final disposition.

It is difficult to specify the number of defendants who enter the Criminal Division from the First Municipal District. The reason is that the Criminal Division receives cases from all six Municipal Districts. As a result, all figures on the disposition of cases in the Criminal Division apply to all of Cook County, not just Chicago. The record keeping section of the Criminal Division does not report case dispositions on matters arising from each of the individual Municipal Districts. Hence, in the accompanying flow chart the numbers represent defendants whose cases originated in the First Municipal District as well as those whose cases began in one of the other five Districts. Nevertheless, if we can assume that the cases from all six Districts are somewhat similar, the observed flow of defendants may still provide some insight on how cases from the First Municipal District are likely to be disposed.

One of the important features associated with cases that reach the Criminal Division is the amount of time from arrest to final disposition. On the basis of a random sample of 784 cases drawn from 1974, the Chicago Crime Commission estimated the time span for three basic types of defendants. For those defendants who plead guilty, the average length of time is nearly one year (355 days). The time span is somewhat longer for those who plead not guilty and have a jury trial. Here the time frame is 404 days. Finally the longest amount of time elapses for those persons who plead not guilty and have a bench trial. The average length

of time in these cases is about fourteen months (427 days).[5] Unfortunately, no data exist which indicate how the length of time varies between persons out on bond compared with those who were detained.

B. Misdemeanor Case Processing (Flow Chart #2)

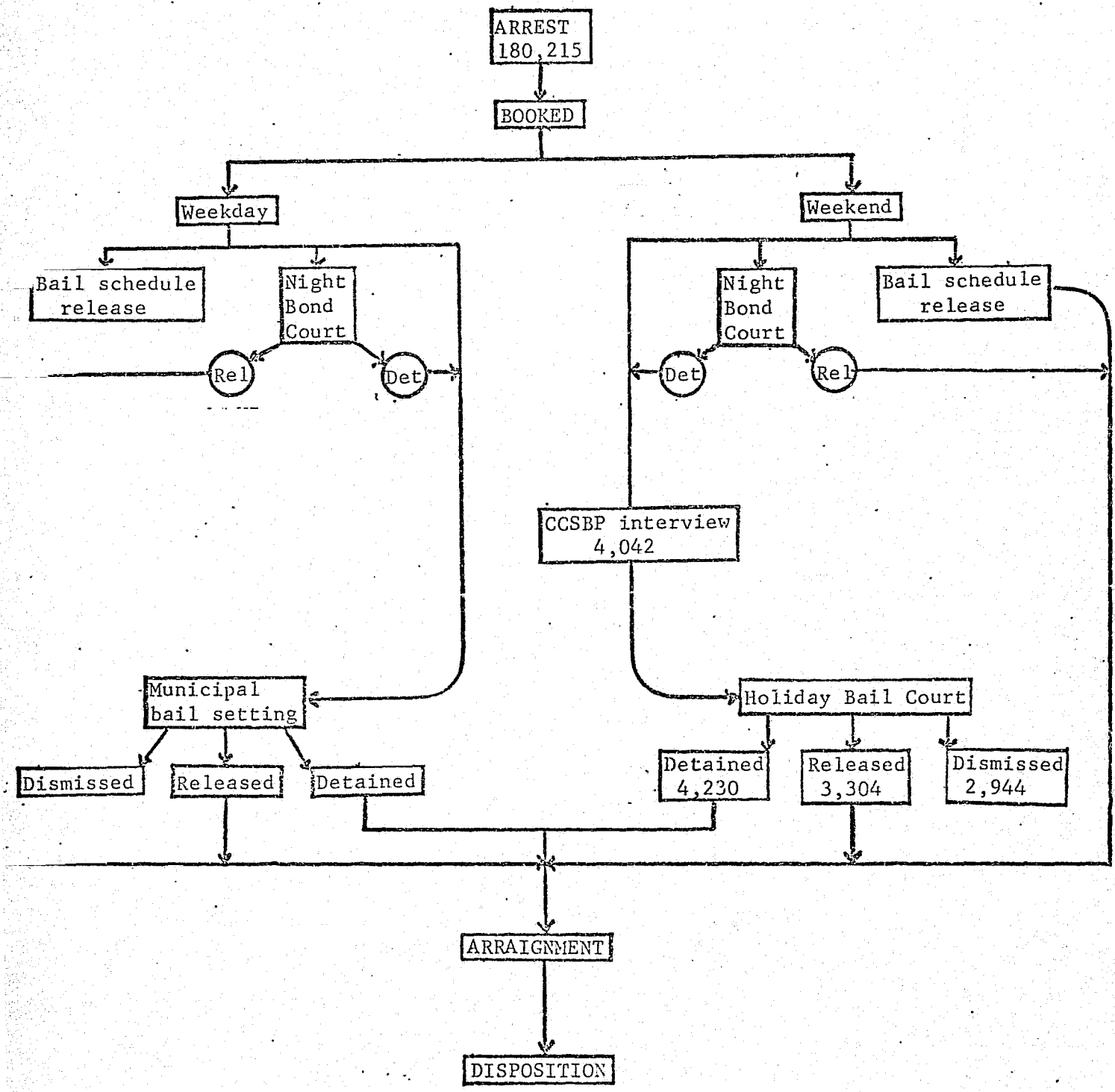
An arrested person is transported initially to one of twenty-one police district stations for booking. A record of the booking is filed as a complaint with the Clerk's office of the Circuit Court. The filing of the complaint is the arrestee's formal introduction into the criminal justice system.

For 1973, the Chicago Police Department reports that 180,215 persons were arrested for misdemeanor offenses.[6] This figure underestimates the actual number of misdemeanor arrests because the Police Department does not include all quasi-criminal (ordinance violations) in compiling its arrest statistics. Hence, in addition to the reported arrested data, there is an unknown number of arrests made on other misdemeanor charges.

The unknown number of arrests is of considerable magnitude because during the period of December 1, 1972 to November 30, 1973, there was a total of 280,567 misdemeanor complaints filed with the Clerk of the Court. This figure includes 51,564 complaints filed on criminal misdemeanor offenses and 229,003 complaints based on quasi-criminal offenses.

The Chicago Police Department has the initial responsibility for releasing misdemeanants. If a person charged with a misdemeanor can post either a cash bond or a ten percent deposit bond in accordance with an established bail schedule he is to be released. If a defendant does not obtain release at the station, he is taken to bond court. Because bond court operates in an identical manner for misdemeanor and felony offenses it is

Flow Chart #2
Misdemeanors



unnecessary to describe bond court processes which are outlined in the preceding section.

At the present there are no available statistics concerning the number of persons charged with misdemeanor offenses who are released at the various stationhouses throughout Chicago. The Clerk of the Circuit Court did make available to the Cook County Special Bail Project information on all releases at every police district station and court in Cook County for January, 1974. According to these data, 14,106 persons were released on 'C' and 'D' bonds at the twenty-one police district stations.[7]

The limitation of these data is that they include both traffic and misdemeanor offenses. Since our concern is primarily with non-traffic offenses, the reported information is of limited utility for our analysis of pretrial release. Hence, given the nature of the readily available data, the number of persons arrested on misdemeanor offenses, who are released at the station house remains unknown.

Persons detained on misdemeanor charges are transported to bond court. Bond court for misdemeanor offenses refers to three courts. They are: (1) Night Court; (2) Holiday Court; and (3) One of the sixteen misdemeanor Branch Courts in the First Municipal District. As in the case of felony offenses, if a defendant does not post the bond that is set at night, he appears in either Holiday Court or in one of sixteen Branch Courts for a bail hearing before a judge.

The Clerk's Office of the Circuit Court does not maintain any records on either the financial bonds set and posted or the non-financial releases granted in the First Municipal District. The Clerk's Annual Report provides bond information only for the suburban areas of Cook County or Municipal Districts 2 - 6. Hence, it is impossible to know how many people remain in detention after an appearance either at Night Court or at a subsequent bail hearing.

After bail has been set, the defendant's next court appearance is arraignment at one of the sixteen misdemeanor Branch Courts. Here the defendant is informed once again of the charges filed against him and he enters a plea. Despite our attempts to locate data on how many persons are arraigned, no such data were found to be available. It is reasonable to believe, however, that the number of persons arraigned is somewhat smaller than the number of persons who are formally charged with a misdemeanor offense. The reason is that a considerable number of persons have their cases dismissed at the bail hearings. Hence, the number of defendants arraigned is less than the number represented by the 280,567 misdemeanor complaints.

It is extremely difficult to identify the flow of defendants from arraignment to final disposition. That is, no data exist on the number of defendants who plead either guilty or not guilty at arraignment. Nor is there any information currently available on the number of defendants pleading not guilty who have a bench trial as opposed to a jury trial.

Despite the lack of systematic information on the number of defendants who follow specific pathways to final disposition, we can make some general statements about case dispositions. For the period of December 1, 1972 to November 30, 1973, a total of 231,665 cases were dismissed.[8] This figure appears extremely large, this may be in part explained by the fact that a large number of cases that were filed were on quasi-criminal offenses. It is impossible to identify at what point in the criminal process these cases were dismissed. In addition to the case dismissals, there were 30,571 cases which resulted in either a guilty plea or a guilty verdict. Presumably, the number of guilty pleas exceeded the guilty verdicts, but the lack of data prevent us from specifying the exact ratio of guilty pleas to convictions.

The remaining 18,331 cases resulted in acquittals either through a bench trial or a jury trial. Because we do not know how many cases

go to trial, it is impossible to estimate the conviction rate among trial cases. However, the combined number of guilty pleas and guilty verdicts (30,571 cases) is approximately sixty-three percent of all cases that are dismissed (48,902) and the ratio of all guilty case dispositions (30,571) is eleven percent of all cases on which complaints were filed.

Finally, the sentences that were rendered in the 30,571 cases involving guilty outcomes are interesting. Sixty-three percent involved the levying of a fine and seventeen percent resulted in institutional incarceration. Unfortunately, the impact of pretrial release on disposition outcomes and sentencing outcomes is not known because of the absence of bond information. Thus we do not know how defendants who are released compared with those who were detained in terms of sentence imposed.

III. THE COOK COUNTY SPECIAL BAIL PROJECT

A. Project Background and Organization

The Cook County Special Bail Project (hereafter CCSBP), began in the Spring of 1970. The project was established by the Alliance to End Repression, a coalition of community groups in the Chicago area formed to reduce overcrowding in the Cook County Jail and to keep indigent individuals from imprisonment prior to trial.

The CCSBP became an independent organization in August 1970. At that time a determination was made to impact the detained population at the Holiday Court in the First Municipal District. Prior to the intervention of CCSBP only 0.6% of the bonds set in the Misdemeanor Branch were personal recognizance or 'I' bonds.[9] The decision was made to provide judges with verified information on defendants in order to facilitate lower bail or effect more 'I' bonds. Within a short period of time, the project expanded to the Felony Branch of Holiday Court. The project became fully operational in February 1971. The project has recently started to intervene in one of the felony preliminary hearing courts on a limited scale.

The project from its' inception has extensively used volunteers. Presently there are only four full time staff members and two part-time members. These figures compare to approximately 50-60 volunteers each week. Attorneys who represent defendants at the bail setting are provided by CCSBP and are paid a nominal fee.

In July 1974, $38,297 was received from the Illinois Law Enforcement Commission. CCSBP received additional funds in 1974 from various foundations, funds and individual contributions. The project indicates that the budget for 1974 is approximately $60,000. This figure does not include a valuation of volunteer services.[10]

B. Project Operations

When a person is arrested on a holiday or a weekend and does not post bail at the stationhouse, he is transported to the Criminal Courts Building for bail setting the next morning. Misdemeanor and felony defendants are separated and placed in separate lockups at the Criminal Courts Building.

Volunteers and the project staff arrive at 7:30 a.m. and proceed to the different lockups. After signing a release stating that the sheriff will not be held responsible for any harm done, interviewers enter the lockup area. The defendants are told that the purpose of the project is to gather information which may help in bail reductions or the granting of 'I' bonds. Individuals charged with disorderly conduct, gambling, or curfew violations are not interviewed as these charges are routinely dismissed by the judges. Records maintained by CCSBP seem to bear out this statement in regard to dismissals. An analysis of CCSBP records indicates that individuals charged with disorderly conduct and gambling account for approixmately 80% of all dismissals in Misdemeanor Holiday Court. It appears that the only time individuals arrested on these charges are not dismissed is when there is an outstanding warrant for another charge or more than one charge has been filed.

The interviewer first asks if there is anyone that can be called to verify the given information. If a phone number cannot be given and there is no other way to verify the information, the interview does not continue. Information is gathered on the person's residence, employment, time in area, family ties, community ties and prior arrest record.

The interviewers remain in the lockup until all interviews are completed or until the judge arrives to start bail hearings. Periodically the interview sheets are collected by the Deputy Sheriffs and turned over to the verifiers. The verifiers attempt to verify all information on the interview sheets by telephone prior to 9 a.m. The judge who will preside usually arrives at 9 a.m. and court is convened before 9:30 a.m.

The interview sheets are returned to the courtroom when the court convenes. The information is made available to the CCSBP attorney, who will attempt to secure 'I' bonds or bail reductions for the defendants. A State's Attorney is also present to provide information on the defendant's past criminal record and prior failure-to-appear record. After considering the information provided by both sides in the case, the judge will set bail and assign the defendant to the appropriate Branch Court. The procedure is basically the same for misdemeanor defendants and felony defendants in regard to bail setting and interviewing. However, in felony cases, CCSBP has interviewing priorities. The project attempts to interview those defendants who do not have prior records and those who have been arrested on a drug (marijuana) charge first. The project feels that it can be most helpful to these defendants. Usually, little attempt is made to interview defendants charged with homicide or rape. These defendants are usually given high bonds and transferred to another felony preliminary hearing court.

The CCSBP also services women defendants. The procedure for Women's Holiday Court is similar in all respects except that the Project does not usually have a lawyer present to argue for 'I' bonds or bail reductions. Inasmuch as the caseload is lower in this court than in the others, CCSBP has directed its efforts toward male misdemeanor and felony cases. However, volunteers still interview, verify and provide information to the Women's Holiday Court.

In 1974, CCSBP started to intervene during the weekday court. This intervention resulted from a study of defendant releases in Branch 44, which is a weekday felony court. It was felt that the number of 'I' bond releases could be increased and the amount of bail in other cases could be reduced. The goals of this part of CCSBP have not been fully realized as there has been problems with funding and a shortage of staff.

In 1974, according to the project, CCSBP interviewed 9,048 defendants--8,608 when dismissals are excluded--from a total call of 19,389 defendants. The project worked on 52 weekends and 15 court holidays with a total of 1,662 volunteer appearances or an average of 14 per day. Of those defendants interviewed, 4,358 (56%) were verified prior to their court appearance. This information pertains only to the CCSBP's activities in felony and misdemeanor Holiday Courts.

A study was conducted by CCSBP on the disposition of cases at the Municipal Division level, CCSBP based its analysis on defendants that it had interviewed for the first six months in 1974. The following table reflects the findings of their study:[11]

Table 3

Case Disposition By Type of Bond

	Type of Bond Set			
	Individual Recognizance		Monetary	
Disposition	No.	%	No.	%
Cases dropped	453	73	1,495	65
Cases to Grand Jury	27	4	340	15
Cases found guilty	140	23	454	20
Other	1		5	
TOTALS	621	100%	2,294	100%

The study indicates that the majority of cases are being dismissed (i.e., 66.8% of all cases for both types of release). The table shows that a greater percentage of cases are dismissed for those defendants released on 'I' bonds (73%) than for those released on monetary bond (65%). Nevertheless, the proportion of cases found guilty is relatively similar for both types of releases (i.e., 23% for 'I' bonds and 20% for monetary bonds). The "found guilty" category reflects those defendants who plead guilty.

The study also gathered information on the disposition of cases in which a finding of guilty was made in the Municipal Divisiion. The following table represents the finding of that study:[12]

Table 4

Sentence by Type of Bond

	Type of Bond			
	Individual Recognizance		Monetary	
Sentence	No.	%	No.	%
Jail sentence	12	8	115	25
Non-jail (supervision, fine, probation)	128	92	339	75
TOTAL CASES FOUND GUILTY	140	100%	454	100%

Of those defendants who were released on an 'I' bond, only 8% of the cases received a jail sentence. This figure compares with 25% of the bond cases. CCSBP indicated that the study did not control for prior criminal record or other correlative factors.

IV. COOK COUNTY RECOGNIZANCE PROGRAM

The Cook County Recognizance Program (ROR) was initiated in the early 1960's. In 1968, the program was reorganized and came under the direction of the Chief Judge of the Circuit Court. The program, which is administered from the Criminal Courts Building interviews those defendants who have been refused an 'I' bond at their initial appearances and who have not been able to post the 10% deposit required on the monetary bond. Defendants are interviewed primarily at the House of Corrections, but upon request, interviews may be accomplished at the Cook County Jail. The interview process is completed prior to the defendants preliminary hearing.

In addition to defendants released on 'I' bonds, the project helped defendants secure 10% bonds. It is necessary to point out that the project is not involved in bond reductions. However, the staff does advise families about the posting of the 10% bond and, as a result, defendants are subsequently released.

The program is funded by Cook County and has five full time staff members. The interviewing process is conducted primarily by law students in the evening hours. In 1974, the project was funded for $80,000 which was appropriated under the direction of the Circuit Court of Cook County.

During 1974, the program conducted 9,855 interviews of defendants who were incarcerated. This figure is not broken down by charge and includes both misdemeanor and felony defendants. This figure compares to almost 7,000 interviews in 1971 and 9,000 in 1972. During 1974, 799 inmates were released on 'I' bonds after the program's intervention as compared to 862 in 1973 and 810 in 1972. The proportion of inmates released to the number interviewed in 1974, was 8.1%.[13] Data are not available on the number of inmates who were released on monetary bond during the interview process but prior to a positive recommendation for an 'I' bond.

The interview process seeks to determine such factors as residency, employment, family ties, community affiliations and previous record. The information is verified and a subjective evaluation is made by the project's staff. Those cases which qualify for an 'I' bond are recommended to a judge, in chambers, in the Criminal Courts Building. Information on the number of defendants interviewed but not recommended is not available. Once a defendant has been recommended by the project and the recommendation is affirmed by the judge, the defendant is released on his own recognizance.

When the defendant is released on the 'I' bond he is not required to maintain contact with the program. The program does send a letter of reminder and calls the defendant prior to his court appearance. If at any time a bond forfeiture is entered in a case, the defendant is called and a letter is sent advising him to return to court and get the bond reinstated. The program indicates that in 1974, the bond forfeiture rate was 25% (173). However, 20-25% of the bond forfeitures were subsequently set aside and a judgment was not entered.[14] Additionally, some of the forfeitures occurred because the defendant was re-arrested on another charge and was in jail at the time of his scheduled court appearance.

V. FAILURE-TO-APPEAR RATES

It is difficult to compare forfeiture rates in Chicago with other jurisdictions. In Chicago, bond forfeiture rates are calculated on a more restrictive scale than in other jurisdictions. If the defendant does not appear at his assigned court on his assigned day, the court enters an order declaring the bond to be forfeited. This order is mailed by the court to the defendant's last known address informing him that the bond is forfeited and demanding his appearance.

The defendant must appear and surrender to the court having jurisdiction over his case within 30 days from the date of forfeiture. If the defendant does not appear or does not satisfy the court that the appearance is impossible within the 30 days, the court enters a bond forfeiture judgment against the accused. It is possible for defendants to have their bonds reinstated after the 30 day period if they remedy their non-appearance. As a result, a defendant's bond may be listed as forfeited, when in fact, he has returned to the court and has had his bond reinstated.

The following table of information was provided by the office of Judge Peter Bakakos, Supervising Judge of the Surety Division. The table represents bond forfeiture rates for 1974 in the First Municipal District.

Table 5

Bond Forfeiture Rates by Type of Offense

	Bond Forfeitures			B. F. Judgment			
Offense	D	C	I	D	C	I	Balance
Felony/Misdemeanor	14,006	1,911	3,023	3,338	1,499	2,502	31,329
Traffic	8,911	10,543	6,199	8,911	10,543	4,792	49,899
Multiple Parkers	1,392	16	-0-	818	12	-0-	2,238
TOTALS	24,309	12,470	9,222	18,117	12,054	7,294	83,466

It was pointed out by Judge Bakakos that the above table has several apparent inaccuracies. In the traffic section, for example, the number of bond forfeitures for 'D' and 'C' bonds is the same number for bond forfeiture judgments. However, the table does provide an illustration of the forfeiture versus judgment rates in the First Municipal District.

Information provided by the First Municipal District's Clerk's Office indicates that there were 35,008 'I' bonds received in 1974. This would indicate, in light of the above table, that there was a forfeiture rate of 26% and a bond forfeiture judgment rate of 21%. Hence, it can be stated that the failure-to-appear (FTA rate) for 'I' bonds is 21%.[15] This figure does not, however, provide an accurate illustration of the FTA rate. The proportion would be lower if the number of defendants who appear in court after the 30 day period were known and if the number of defendants who do not appear as a result of incarceration on another charge were known. The only point that can be made is that 21% of all defendants released on an 'I' bond do not appear at a scheduled court appearance and do not surrender within thirty days.

Data compiled by the Cook County Recognizance Program indicates that there was a bond forfeiture rate of 25% in 1974. This figure is based only on those defendants released upon the recommendation of the project. The program also indicated that 20 to 25% of the forfeitures were set aside and that a judgment was not ordered.

FOOTNOTES

[1]This budgetary figure is taken from Command Facts Handbook, Chicago Police Department, Research and Development Division, (September 1974).

[2]The number is reported in Cook County Board of Corrections, 1972-1973 Annual Report.

[3]This information is taken from Statistical Summary 1973, Chicago Police Department.

[4]These data are from the office of the Clerk of the Circuit Court.

[5]The results of the commission's study are discussed in the May 1975 issue of its monthly publication, Search light.

[6]This figure is based on data reported in the Statistical Summary 1973 of the Chicago Police Department.

[7]These data were provided by the office of the Clerk of the Circuit Court.

[8]These data are from the Statistical Report: Bonds, Cases, Fees, Fines, and Costs, December 1 to November 30th 1971-1974 prepared by the Clerk of the Circuit Court.

[9]This figure is taken from the Annual Report for 1974 of the Cook County Special Bail Project.

[10]Ibid.

[11]Ibid.

[12]Ibid.

[13]These data are contained in a memorandum from the Program to Chief Judge John S. Boyle and Mr. Donald P. O'Connell on March 25, 1975.

[14]Ibid.

[15]This information is provided by the Clerk of the Circuit Court.

Appendix A

Forms Used by Cook County Special Bail Project

SHEET _____ LINE _____ DATE _____ DIST. _____

CALL BACK _____

BRANCH _____ DATE SET _____ AMOUNT _____

NAME _____ AGE _____

CHARGE(S) _____ If drugs, amount _____

WHO CAN WE CALL TO VERIFY THIS INFORMATION?

RACE: Black___ White___ Latin___ Other___

NAME _____ Rel: _____ Phone _____

NAME _____ Rel: _____ Phone _____

NAME _____ Rel: _____ Phone _____

YOUR ADDRESS _____ APT___ Yrs.____ or Mos___

PRIOR ADDRESS _____ Years____ or Mos.____

HOW LONG HAVE YOU BEEN IN THE CHICAGO AREA? _____LIFE _____YEARS

FAMILY ___Married ___Single ___Separated ___Divorced ___(Other)_____

WITH WHOM DO YOU LIVE? ___Wife or Husband ___Parents ___Friend ___Relative ___Alone

CHILDREN?_____ SUPPORTING?___Yes ____No

EMPLOYMENT ____Employed ____Unemployed ____Welfare ____Unemployment Compensation

___Laid off (Date)_____ ____Student (school)_____

WHERE EMPLOYED? _____ Years____ or Mos_____

ADDRESS _____ May we call?____ #_____

When are you supposed to be at work? ____Today ____Monday _____Other

PREVIOUS EMPLOYMENT _____ Years____ or Mos_____

MILITARY SERVICE? _____ YEARS____ DISC_____

EDUCATION 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16

If graduated, where _____

RECORD _____NONE

Convictions_____ Last conviction_____

Now on probation?_____ Now on parole?_____

Prior bond forfeiture?_____Yes ____No

MEDICAL ___Epilepsy ___Drugs ___Diabetes _____Other

BOND SET?

$_____warrant

$_____night court

BAIL FUNDS:

$_____on person

$_____can raise

INSTRUCTIONS TO VERIFIER _____

INSTRUCTIONS TO ATTORNEY _____

Interviewer_____ Verifier_____

3/75

INSTRUCTIONS for

REVISED INTERVIEW SHEET 3/75

Note: Blocked off areas at upper right and left are left blank by interviewers; Call Back ___ is for use of verifier.

1. Name - Write name and alias if defendant is using one; write legibly or print and spell correctly - several people will need to read your writing.

2. Charge - Record all charges defendant states; do not record any details or facts of the case Do NOT interview : Disorderly conduct, gambling curfew violation, and loitering unless defendant has a warrant also.

3. Race - on far left of page, please check.

4. References - be sure there is at least one phone number. Do not interview defendant unless he can supply one. Try for three; specify where person can be reached now . Rel. - relationship to defendant.

5. Address - Spell correctly; if not in Chicago, indicate where it is. Apt. NUMBER is important for follow-up work; be sure to ask for it

6. Family - If defendant specifies "common-law" make note in the "other" space as well as the married space; "children" include number.

7. Employment - This section is usually important if it can be verified, so be complete. Employer's phone number is not usually important in Holiday Court, but if defendant gives boss as reference, be sure to get it. If defendant is laid off, get date and employer. Ask if defendant has I.D., check stub, or anything to help verify this. Be sure to mark the sheet "has I.D." so attorney mentions it. DO NOT keep I.D., or anything else defendant may show you.

8. Education - if in Chicago, get name of school.

9. RECORD - will be verified by State's Attorney...arrests don't count, only convictions. Convictions include probation, conditional discharge. Ask defendant if he ever has missed a court date - this will appear on his rap sheet as a BFW, even if case has since been disposed of.

10. Bond Set? - Record total amount if defendant has had bond set by warrant or night bond court, e.g. $2500 is entered, even though he needs $250 to walk. Bail funds - gives the attorney an idea of how much the defendant can raise.

Be sure to indicate any special instructions the defendant gives, e.g. "Don't call my parents" talk to Mary, etc.

Be as complete as possible; if it takes a minute or so for the defendant to remember a phone number, get it...It might be the one we can reach.

DON'T take anything from defendants or pass anything through the bars.

Sign your name at the bottom of the sheet; if the sheets pile up, call for one of the deputies to come collect them.

Appendix B

Cook County Recognizance Program
Interview Form

INTERVIEWER _____ VERIFIER _____

VERIFY _____ 1 2 3 4 5 ROR? YES _____

CALL FOR 10% _____ NO _____ REASON _____

NO ACTION _____ REASON: _____

10% CALL MADE _____

NAME _____ ALIAS _____

CHARGE _____ BOND _____

BRANCH _____ NEXT COURT DATE _____

AGE _____ BIRTH DATE _____ PLACE _____

COOK COUNTY RESIDENT FOR _____ ON BOND NOW? _____

TYPE BOND _____ CHARGE _____ COURT DATE _____

CRIMINAL RECORD: _____

PRIOR PROBATION/PAROLE ? Y N _____

NOW? Y N CHARGE _____ PRIOR BOND? Y N _____

PRESENT ADDRESS _____

FOR _____ WITH _____ TEL. _____

PRIOR ADDRESS _____

FOR _____ WITH _____

EMPLOYED? Y N IF UNEMPLOYED, HOW LONG? _____

HOW SUPPORTED _____

PRESENT EMPLOYMENT _____

FOR _____ AS _____ SALARY _____

SUPERVISOR _____ TEL. _____ CAN RETURN? Y N _____

PRIOR EMPLOYMENT _____

FOR _____ AS _____ WHY LEFT _____

MARRIED? Y N _____ CHILDREN _____

NARCOTICS USER? Y N _____ ALCOHOLIC? Y N _____

EVER IN MENTAL INSTITUTION? Y N _____

REFERENCES:

NAME	ADDRESS	RELATION	PHONE

OK TO CONTACT ALL REFERENCES? Y N - IF NO, WHY NOT? _____

COMMENTS _____

PHASE I EVALUATION OF PRETRIAL RELEASE PROGRAMS

Project Narrative

D. C. BAIL AGENCY

WASHINGTON, D.C.

August 1975

PHASE I SITE VISIT STAFF

Robert C. Davis

Janet Gayton

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TABLE OF CONTENTS

I. THE JURISDICTION

Originally encompassing an area of about ten square miles, metropolitan Washington, D.C. now covers over two thousand square miles, extending beyond the Capitol itself into Maryland and Virginia. The Washington, D.C. that most Americans are familiar with, however, is the city itself, a relatively small but dense urban area with a population of approximately 800,000 persons. The primary industry of the District of Columbia is government; each year some 18,000,000 tourists travel to see the array of red brick and white marble federal buildings, and each day 300,000 of the 3 million people living in the metropolitan area commute into the District for work.

Many of the persons working in Washington live in the suburbs; the District itself is (as of the 1970 census) 71% black and 29% white, and has the lowest average yearly income of any of the towns that comprise metropolitan Washington. The city is governed by the Metropolitan Washington Council of Governments, and has an elected mayor, deputy mayor, and nine council members.

II. THE CRIMINAL JUSTICE SYSTEM

A. Law Enforcement

The unique position of the District of Columbia is reflected in a diverse group of law enforcement agencies. The Capitol Police are charged with the duty of protecting all Capitol grounds, while the United States Police patrol all grounds and streets under the control of

the National Parks and Planning Commission. The activities of the White House, the President, his staff, and the Embassies are overseen by the Executive Protection Agency. In addition, the Federal Bureau of Investigation, the Central Intelligence Agency, the Secret Service, Military Police, United States Treasury agents, and Bureau of Dangerous Drugs agents are all empowered to make arrests in the District. Fortunately, the efforts of all the policing agencies are coordinated through the main local force called the Metropolitan Police of the District of Columbia.

B. The Courts

In 1970, Congress passed the "District of Columbia Court Reform and Criminal Procedure Act" which completely reorganized the District's court system and code of laws. Under the Act, the Superior Court (which is composed of a chief judge and forty-three associate judges) has jurisdiction over non-federal criminal, civil, family, probate, and tax cases. Appellate jurisdiction is lodged in the District of Columbia Court of Appeals which is composed of one chief judge and eight associate judges. Final review of criminal cases lies in the Supreme Court of the United States. In addition to the Superior Court and the Appellate Court, three U.S. Magistrates who sit in the United States Courthouse handle some criminal cases. Other courts which operate in the District include the United States Court of Customs and Patent Appeals, the United States Court of Claims, the United States Tax Court, and the Court of Military Appeals.

In 1971, a law was adopted for the District which provides for preventive detention hearings to be held in cases where it was strongly felt that a defendant might pose a threat to society or flee prosecution. The

law allows for certain dangerous defendants to be held without bail for up to 60 days prior to trial. While this law was designed to decrease the use of high bail amounts as a mechanism for pretrial detention, little use has been made of the option. The Director of the D.C. Bail Agency reported that less than a dozen preventive detention hearings are held each year.

C. Case Processing in the District[1]

Since the majority of non-federal criminal cases are handled by the Superior Court, the description of case processing, and subsequent discussion of the Bail Agency's activities, will focus on the Superior Court.

1. Felony Cases (See Flow Chart #1)

Of the roughly 17,500 criminal arrests in the District in 1974 (excluding code violations and traffic offenses), 6,632 were felony charges. Persons arrested for a felony are brought to a central detention facility to await an initial bail setting hearing. Prior to this hearing, however, 2,279 of the 6,632 persons arrested were released (34%): 1,214 of the cases were "no papered" (meaning that the prosecutor chose not to file charges) and the remaining 1,065 were released to a hospital, sent for a psychiatric exam, remanded to another jurisdiction, or referred to traffic court. Bail setting, then, was conducted for 4,353 felony cases.

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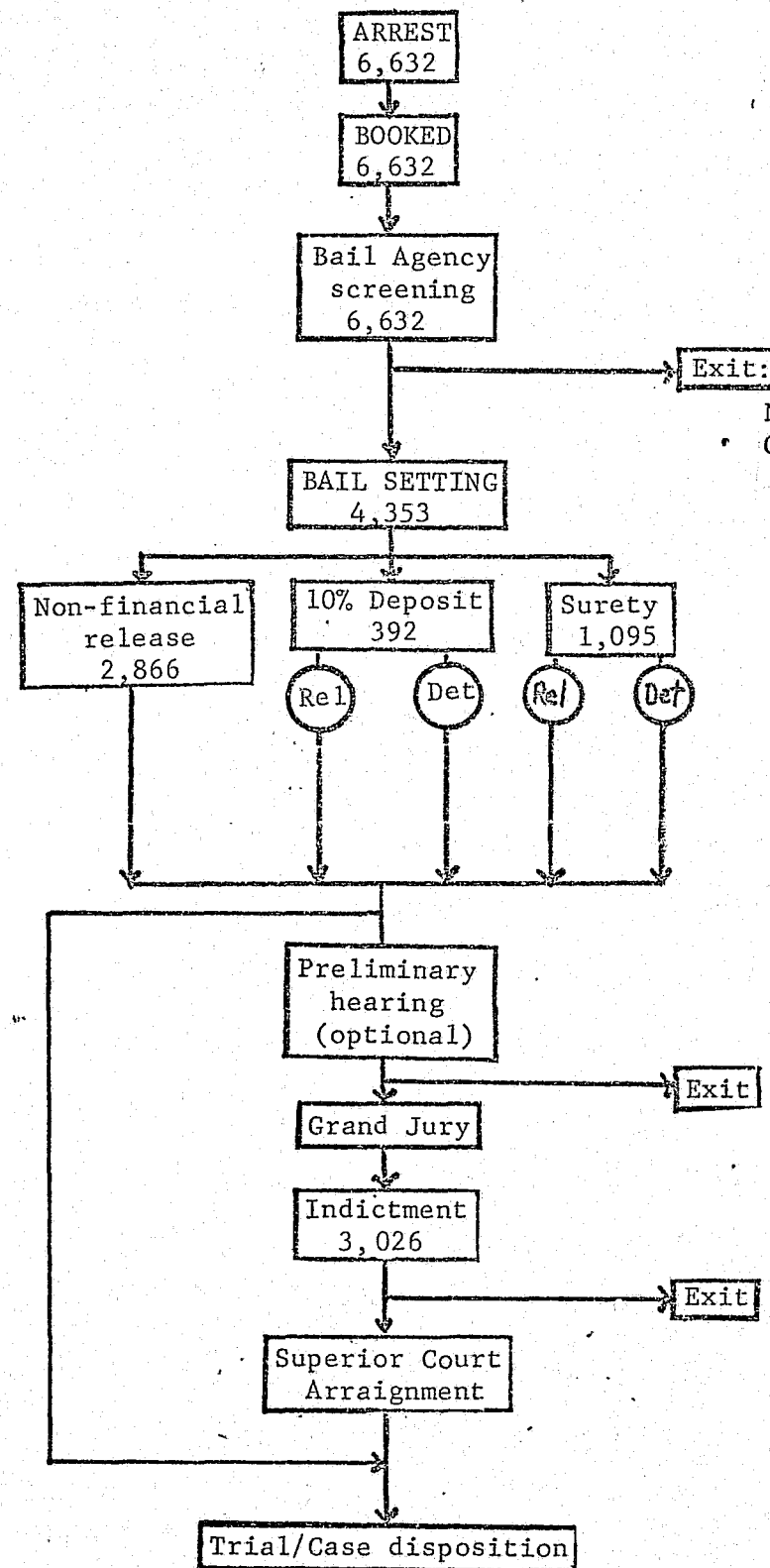
[1]The data from the District of Columbia Courts Annual Report 1974 was helpful in giving totals and percentages of case flow. Other data sources utilized in this report include: The Report of the D.C. Bail Agency (1971-1972-1973), the Uniform Crime Statistics of the D.C. Police for 1974, and Monthly Statistical Reports on Criminal Cases, Office of the U.S. Attorney for D.C. In addition, there were site visit interviews conducted by Phase I Evaluation Staff, during the period July 30th through August 2nd. Those interviewed included Superior Court Judges, Paul F. McArdle and Sylvia Bacon, U.S. Magistrate Jean Dwyer, D.C. Bail Agency Director Bruce Beaudin, and Assistant Public Defender William Schafer. We would like to express our appreciation to these people for their cooperation and the information which they provided.

Flow Chart #1
Felonies



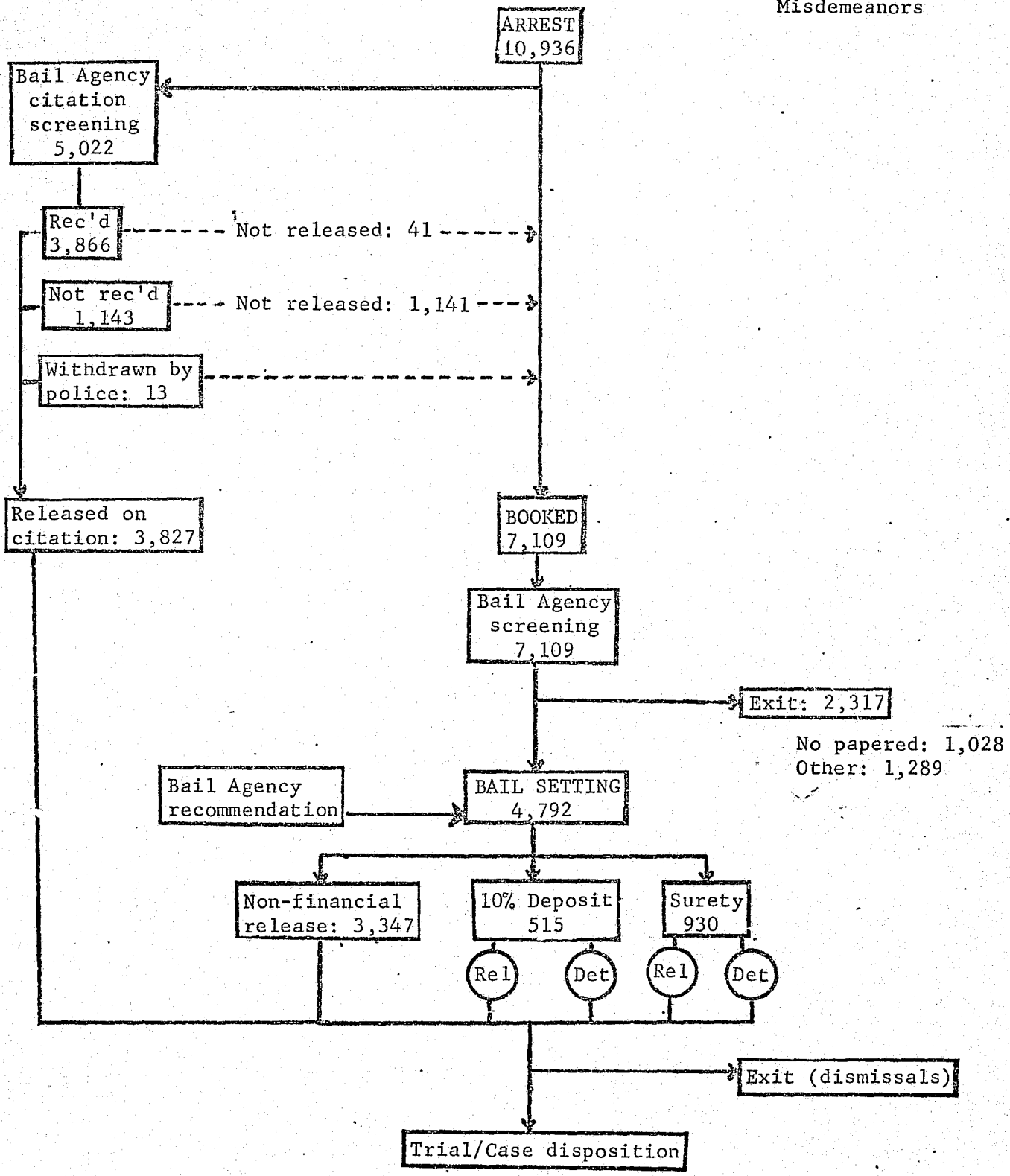
Although no data were available on the number of individuals who were unable to post bond, it is known that of the 4,353 defendants, 2,866 (66%) were released on some form of non-financial release, 1,095 (25%) had a standard bail amount set, and the remaining 392 (9%) had 10% cash bond set.

After bail setting, a person charged with a felony may elect to have a preliminary hearing, which is held within one to two weeks of the initial bail setting. During 1974, a total of 4,360 preliminary hearings were held in the Superior Court (this figure exceeds the number one would expect from the 4,353 new cases; however, it is likely that some of the preliminary hearings held in 1974 were for defendants initially arrested in late 1973). If probable cause is found, the case is presented to a grand jury and an indictment may be returned. A total of 3,026 indictments were handed down in 1974. Once indicted, the defendant is arraigned in Superior Court and the case proceeds to trial. Upon the request of counsel, a status hearing may be held prior to trial as, for example, in cases where the defendant wished to change his plea.

2. Misdemeanor Cases (See Flow Chart #2)

There were an estimated 10,936 misdemeanor arrests in 1974 (again, excluding code violations and traffic offenses). In Washington, D.C. the police make extensive use of citation releases in qualified misdemeanor cases. Upon determining that a particular arrestee may be eligible for citation release, the police contact the D.C. Bail Agency, which then conducts an immediate investigation into the arrestee's background. Five thousand twenty-two (46%) of the misdemeanor arrest cases were so referred to the Bail Agency. Of those referred, 3,827 (76%) were released on citations. Thirteen cases (1%) were withdrawn

Flow Chart #2
Misdemeanors



by the police and 1,182 (23%) were deemed ineligible either by the Bail Agency or by the police (it should be noted that of those recommended for citation release by the Bail Agency, only 1% were not released by the police).

The majority of misdemeanor cases, however, were transported to the central detention facility and booked by the police. Of the 7,109 who were booked, 2,317 (33%) were released prior to bail setting (1,028 were "no papered" and 1,289 were either remanded to another jurisdiction, referred to the hospital for psychiatric exams, or referred to traffic court). Bail setting was held for 4,792 cases. Of these cases, 3,347 (70%) were released on non-financial bond, 930 (19%) had bail set, and 515 (11%) had 10% deposit bail set.

After bail setting, the misdemeanor case proceeds to disposition either through trial, dismissal, or guilty pleas. Defendants who had been released on citations re-enter the process at this point.

The data available did not distinguish between misdemeanor and felony cases in the types of dispositions given. Of the 9,145 misdemeanor and felony cases which reached this final stage, 806 (9%) were subsequently dismissed, 2,011 (22%) went to trial, 4,933 (54%) pled guilty, and 1,395 (15%) were pending at the end of the year.

III. THE PRETRIAL RELEASE PROGRAM

A. Program History

In November of 1963, the Junior Bar Section of the Bar Association of the District of Columbia published a report on the administration of bail. That report served as a catalyst for a resolution by the Judicial

Conference of the district of Columbia to support the creation of an experimental program. By November of 1963, the Ford Foundation had awarded a grant to Georgetown University Law Center to establish such a program and the D.C. Bail Project was born.

On July 26, 1966, the President signed into law the District of Columbia Bail Agency Act to become effective whenever the monies were appropriated. The statute applied to persons charged not only under the U.S. Code but under the D.C. Code as well. On November 7, 1966, the staff of the Bail Project became the staff of the D.C. Bail Agency.

After extensive hearings on matters involving the entire spectrum of the criminal justice system, the District of Columbia Court Reform and Criminal Procedure Act was signed into law on July 29, 1970. The Act, which provided that the Bail Agency was to report to an executive board comprised of four chief judges of the District of Columbia courts and one lawyer selected by the judges, greatly expanded the role of the D.C. Bail Agency. Today the Bail Agency is a comprehensive agency providing a broad range of services to criminal defendants and the courts in the District.

B. Program Structure

Currently, the D.C. Bail Agency operates on an annual budget of $900,000 supplied by the United States Congress and two LEAA discretionary grants. The director of the Agency, Mr. Bruce Beaudin, is an attorney (as required by the Act), and the 61 staff members were drawn from the law schools and universities in the immediate area. The director is responsible to the Agency's board, and on a daily basis carries the

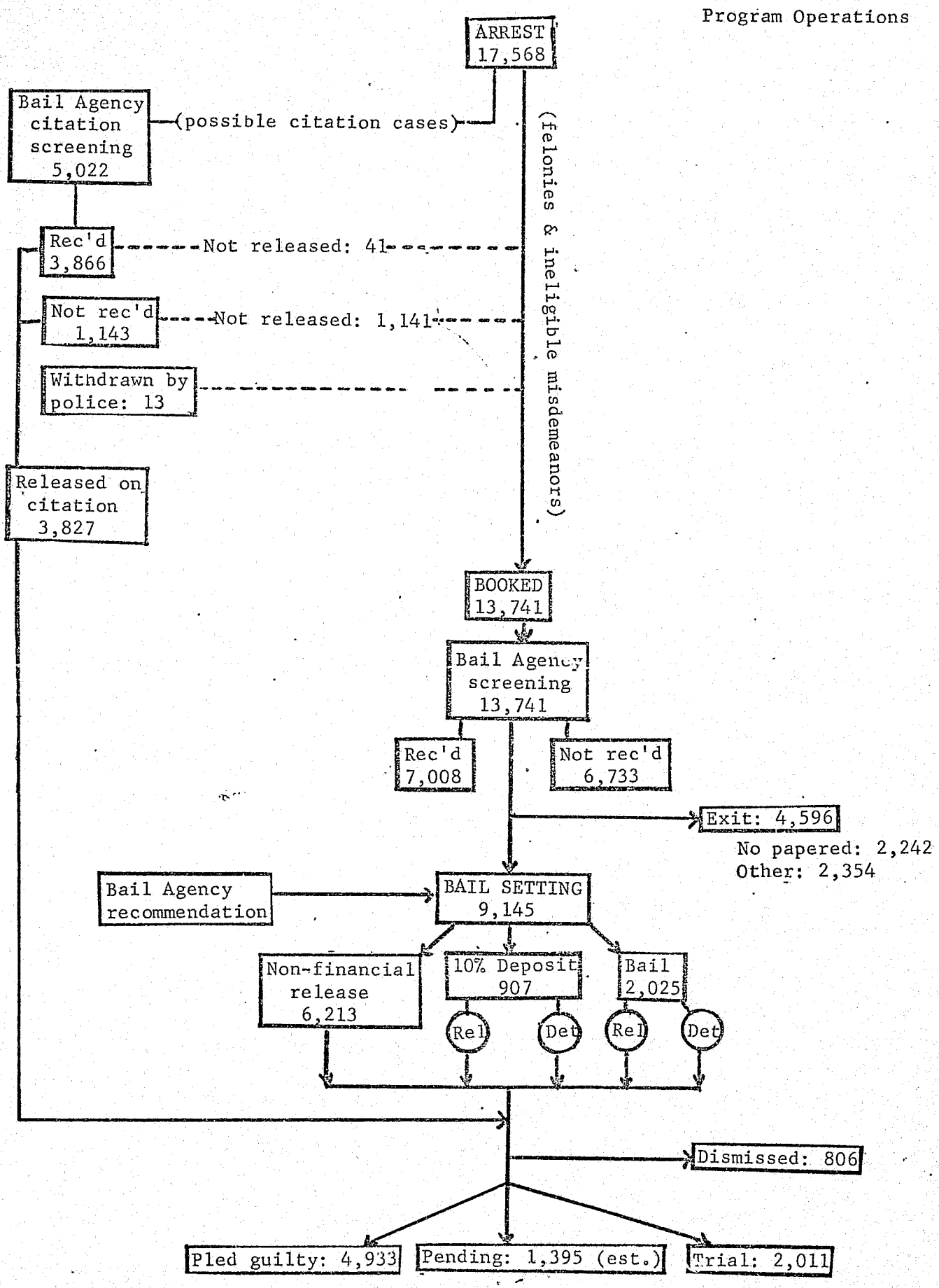
burden of setting agency policy. In addition, the Director is active in a variety of organizations and efforts to improve the criminal justice system (for instance, Mr. Beaudin is currently President of the National Association of Pretrial Services Agencies and was instrumental in founding the organization). The deputy director, reporting to the director, oversees day-to-day operation of the Agency. The remaining staff is divided into three main segments. The first, under the control of the Court Coordinator, consists of the Street Investigation Unit, the FTA Unit, the Condition Surveillance Unit, and the interviewers. The second segment is overseen by the Director of Personnel and Program Evaluation and contains the Social Services Unit, the Data Processing Unit, and the Research Unit. Finally, administrative functions are contained within the Administration Unit (for instance, secretarial staff).

C. Program Operations (See Flow Chart #3)

Although the bulk of the Bail Agency's efforts are focused on the Superior Court, it is authorized to serve the United States District Court for the District of Columbia, the three U.S. Magistrates assigned to the District of Columbia who sit in the United States Courthouse, the United States Court of Appeals, and the United States Supreme Court. Thus, under the express terms of the Agency's statute, all courts in the District of Columbia are provided with the opportunity to utilize the Agency's services except the Court of Customs and Patent Appeals, the Court of Claims, the Tax Court, and the Court of Military Appeals.

The Bail Agency has several functions. First, it is the information arm of the court in initial bail determinations. The Agency screens all arrestees brought before the court, evaluates their potential for release

Flow Chart #3
Program Operations



on a non-financial basis in terms of their community ties and prior criminal involvement and submits reports with recommendations to bail setting magistrates. Second, the Agency supervises those persons granted a non-financial form of release and reports violations of release conditions to the Court and the U.S. Attorney. Finally, the Agency assists pretrial releasees in securing employment or necessary medical and/or social services.

There are four basic targets of Agency activity: the Police (through the Agency's cooperation with the citation program), the United States Magistrates (federal felonies and misdemeanors), the United States Court for the District of Columbia Circuit (federal felonies), and the Superior Court of the District of Columbia (non-federal felonies and misdemeanors). In addition, the Agency's services are occasionally utilized by the District of Columbia Court of Appeals for the District of Columbia Circuit.

During 1974, 24,844 investigations were conducted by the Agency. The bulk of these interviews, 13,741 (55%) were Superior Court lock-up cases. Another 1,817 (7%) represented interviews conducted in the United States District Court. The remaining 9,286 cases (37%) were investigations taken pursuant to the Metropolitan Police Department's citation program (of the 9,286, 4,284 were investigations conducted for traffic and D.C. Code violation cases and are, therefore, not shown in the flow charts).

1. Superior Court Lock-up Cases

As noted earlier, the majority of the Bail Agency's investigations are for persons awaiting bail setting for felony and misdemeanor charges to be tried in Superior Court. In these cases, the Agency interviews defendants in the central detention facility approximately four hours

prior to the initial bail setting hearing. The interviews probe for information bearing on the accused's residence, family ties, and employment status (see Appendix B for interview form). The information is then verified through phone contact with the references given by the arrestee; in cases where the reference has no telephone, the Agency may elect to contact the reference in person using the Street Verification Unit. Finally, the Agency obtains information about the arrestee's prior criminal record using local police files, FBI files, court files, and Bail Agency records. In situations where the arrestee is found to be on probation, parole, or pretrial release, an evaluation of the defendant's reliability from the supervising agency is obtained.

The Agency's recommendation process begins by excluding those persons determined ineligible for a positive recommendation for non-financial release according to the Agency's criteria. Ineligibility may be caused by unverified information, an outstanding bench warrant, a detainer, a violation of release conditions in a pending case, or a negative report from a probation or parole officer (Appendix A contains a full list of current Agency recommendation policies). Of the 11,499 Superior Court lock-up cases which were filed by the U.S. Attorney, 49% were deemed ineligible for Bail Agency recommendations (it should be noted, however, that the absence of an Agency recommendation does not preclude the court's granting non-financial release in cases in which it seems appropriate).

Once a case is determined to be eligible for a recommendation, the Agency proceeds to "build" the basis for such a recommendation. That is, working in conjunction with defense counsel and various community agencies,

areas in which the arrestee lacks sufficient community ties are supplemented by, for example, finding him a place to live, a job, or a sponsoring agency to supervise him during the release period. Thus, regardless of the number of points obtained during the interview, every eligible arrestee is recommended for some type of non-financial release.

When the type of recommendation to be made is determined, the Agency forwards a copy of the report to the court, the prosecutor, and the defense counsel. Although available data does not permit an assessment of the extent of agreement between the Agency's recommendation and the court's release decisions, overall, the court released 68% of the 9,145 defendants for whom bail hearings were held on some form of non-financial release. The court often imposes conditions on non-financial releases, including reporting regularly to the Bail Agency (60% of all non-financial releases had this condition imposed), custody release to an organization or individual who would supervise the defendant during the pretrial period (29%), narcotics testing or treatment (27%), staying away from the complainant (24%), maintaining employment (14%), or maintaining a specified residence (15%).

2. Citation Releases

Initial assessment of an arrestee's eligibility for release on a citation is made by the police during a brief interview at the precinct house shortly after arrest. Results of the interview are telephoned to the Bail Agency, which then attempts to verify the arrestee's background through telephoning references given during the interview. Following verification, the Agency will contact the police with either a recommendation for or against release of the arrestee on a citation. Of the 5,022 investi-

gations conducted for misdemeanor offenses (non-traffic and not D.C. Code violations), the Agency made a positive recommendation in 76% of the cases. The police released 99% of the arrestees who were recommended. Conversely, only two of the 1,143 persons not recommended by the Agency were released on citations. Thus, it is apparent that the Agency's recommendation exerts a powerful influence over the citation release decision.

3. Agency Procedures Following Release

Supervision begins as soon as the defendant is released at initial bail setting. The release conditions as imposed by the court are explained to the defendant by an Agency representative and any questions are answered. Each case is then assigned to a specific individual in the Condition Supervision Section. The Agency is responsible by law for overseeing compliance with release conditions, notifying the court of violations, and, in appropriate cases, writing memoranda to pre-sentence evaluators summarizing the defendant's adjustment during the release period.

The Agency is also responsible for notifying defendants of upcoming court appearances. This notification system is arranged in such a way that in addition to mailing reminder letters to defendants, the next appearance date is readily accessible any time a defendant phones the Agency (thus, the defendant can be further reminded of pending court dates and any questions regarding the location of the courtroom, etc., may be answered).

When a failure to appear does occur, the Agency's Street Investigation Unit, in cooperation with the Failure to Appear Unit, attempt to locate the defendant and encourage him to return to court voluntarily. If the defendant subsequently appears at the Agency's office, arrangements are

made to bring the defendant before the judge who issued the bench warrant. The Unit's staff presents verified information to the judge concerning the defendant's compliance and current status. Any other assertions regarding the reasons for the FTA are made by the defendant or his attorney (the Unit does not participate in this end of the hearing). From July through December, 1974, the Failure to Appear Unit conducted 803 bench warrant investigations. Of the 803, 280 (35%) voluntarily returned to the court through the efforts of the Agency.

In 1974, there were 3,305 cases involving a rearrest of someone on pretrial release, 1,422 cases involving the rearrest of someone on probation, and 1,136 rearrests of persons on parole (these figures represent cases, not individuals, and are therefore inflated since it is likely that some persons were rearrested on more than one charge). Of the 3,305 cases of rearrests while on pretrial release, 2,697 represented rearrests of defendants who were released on personal recognizance or conditional release while 608 represented rearrests of persons released through surety bail. Forty-four percent of the rearrest cases of persons who had been initially released on non-financial or deposit bail had surety bail imposed while 36% of those cases were released a second time on non-financial conditions or cash bond. Four percent of the persons initially released on non-financial or cash bond who were held without bond after their rearrest (no bond was set), and 16% of the cases were "no papered".

The Agency is also responsible for assisting persons on pretrial release in securing employment, medical, and social services. Most of

the services provided by the Agency are referrals to appropriate organizations. The most frequent service requested is job referral and placement; during 1974, 516 individuals sought employment assistance. Since the Agency houses a microfiche reader from the Washington Job Bank Facility, new job openings are listed on a daily basis.

Other services available to defendants through the Agency include psychiatric screening and referrals, placement in General Equivalency Diploma (G.E.D.) programs, locating emergency shelter for transients, and referrals to alcoholism treatment programs.

D. The Agency and Its Environment

The D.C. Bail Agency Report for 1972 concludes by saying "those responsible for the direction of the Agency realize that little can be accomplished without the cooperation of the components of the Criminal Justice System, the Administration of the City, and the goodwill of Congress. We are grateful for and appreciative of the understanding and support we have received and hope that our contribution can continue to be as effective as in the past." The Bail Agency, from its inception in 1966, has attempted to include the principal actors of the criminal justice system in its decision-making process. Understanding that the key to success would be inter-agency cooperation, the successive directors of the Bail Agency made it their business to involve judges, the U.S. Attorney, the Public Defender, and social service agencies in the planning and development of the Agency.

It is interesting to note that in 1966 the Agency was recommending simple release on reconizance, but that by 1970, the bulk of Agency recommendations were for conditional release. In the past eighteen months, the Agency has returned to recommending straight personal reconizance without conditions. This trend could be viewed as evidence of the gradual acceptance of the Agency by the judiciary in that the courts now feel more comfortable releasing defendants with a minimum of conditions. In contrast to the Bail Agency's new policy, however, Judge McArdle noted that he is at times personally reluctant to release repeat offenders on their recognizance because they pose (he maintains), a threat to the community. Judge McArdle recommended closer Bail Agency staff scrutiny of recommendations for OR release of repeat offenders.

Interviews with two other Superior Court judges indicated that both were supportive of the Agency. For instance, D.C. Superior Court Judge Sylvia Bacon suggested that because the early planning phase of the Agency was well carried out and because the Agency has now become institutionalized, the Director of the Agency could now put his total efforts into organization and efficient use of manpower programs and resources rather than spending time "selling" the Agency.

One of the functions of the Agency which has contributed to its acceptance is the Agency's social service delivery capacity. The Agency's acceptance by the judiciary is due, in part, to its ability to place defendants in shelter and custodial care facilities while

awaiting court dates. This Agency function is given logistic support by the Public Defender's office which frequently supplies referral lists and community contacts to the Agency. Finally, Judge Bacon noted that the utilization of District social service agencies by the Bail Agency and the Public Defender's office has resulted in the upgrading of those organizations (particularly drug treatment facilities, which, Judge Bacon suggested, had a need for upgrading and continual monitoring of the quality of service).

The Agency expects to be working with the Department of Justice in developing a pretrial diversion program during the upcoming months. This role, which is already operative to some extent through the Agency's participation in providing defendant records to existing diversion programs, should expand the Agency's utility to the criminal justice system. Other future plans include the development of "store front" Agency offices to provide more efficient supervision of defendants on pretrial release. The Agency feels that it will be able to serve the defendants' needs better through closer community contact. The Department of Social Services of the Superior Court is presently operating a similar satellite program.

Judge Bacon observed that she would like to see the Agency develop some type of custodial care facility or half-way house for those defendants for whom release on recognizance would be inadvisable. She would also like to see the creation of a holding facility for those defendants considered mentally ill.

Probably the most controversial issue the Agency faces in its relationship to the rest of the criminal justice community is the issue of preventive detention. During December, 1974, the Agency began

recommending that preventive detention hearings pursuant to D.C. Code 23-1322 be held in certain cases. The Agency, concerned about statistics showing increases in crime and recidivism rates, began recommending preventive detention for those defendnats it felt presented a threat to society. Since the policy went into effect, the U.S. Attorney's office has accepted recommendations for preventive detention in only one or two of the 43 cases in which the Agency felt it was justified.

The Agency's policy of making preventive detention recommendations has not been completely accepted by either the U.S. Attorney's office or the Public Defender's office. The U.S. Attorney's office contends that while the Agency has access to defendants' prior records, they do not have access to the facts of the case. Since the U.S. Attorney must be able to convince the court that a defendant will probably be convicted in order to recommend preventive detention, they do not feel the Agency has adequate information to make such recommendations (it should be noted here that since March, 1975, the government has sought only five or six preventive detention orders). The Public Defender similarly maintains that preventive detention should remain between the prosecutor and the court, and that the Agency's function of recommending a type of bond that will ensure appearance does not cover preventive detention.

APPENDIX A
RECOMMENDATION CRITERIA
FOR SUPERIOR COURT

Our recommendations fall into three basic categories:

1. Recommendations for release (includes PR, conditional release, and third party custodians).

2. Release not recommended (Note: the Bail Agency never recommends a monetary bond, but rather abstains from making a recommendation when the defendant fails to qualify for release).

3. Request for a Preventive Detention hearing.

Recommendations for Release:

Note: Other "C" condition-"Report to the Bail Agency for review of conditions" is included in every case where a recommendation for release is made.

Misdemeanor cases:- Straight PR is recommended in those cases where the defendant is an area resident with a verified address without any "minus points" or obvious discrepancies.

Felony cases and Misdemeanors with Minus Points:-"2C" (report to the Bail Agency by phone weekly) and any other applicable conditions to cover "minus areas". For example: maintain address, narcotic testing, report to parole, etc.

Juvenile recommendations:-Release to a "suitable third party custodian", 2C in all cases.

All crimes of violence that include a complaining witness will have other "B" ("stay away from the complaining witness") included in any recommendation for release.

Defendants in the Armed Forces:

Release will be recommended only when the Armed Forces Police have been contacted and they have determined that the defendant is in good standing with the military and will be given time off to return to Court.

Recommendations Including Additional Conditions:

Additional conditions should be used to stabilize any weak areas the defendant may have. Some common examples are listed below:

1. Any defendant who has lived in the D.C. area for less than one year - condition V (remain in the D.C. area).

2. Any defendant whose residence is on an off/on basis or any defendant who has lived at his present address for less than three months, condition 2A will be recommended (maintain present address).

3. Any defendant who cannot return to his present address, but may reside at another verified address recommend 2A (insert address).

4. Any defendant who is an alien recommend "Other C" (surrender passport to DCBA).

5. Any defendant on probation or parole - recommendation will include "Other C" (report to probation/parole officer upon release).

6. Any defendant who indicates present narcotics usage (within the last six months) or narcotics treatment recommend "Other A" (narcotic testing and treatment).

Release Not Recommended:

Any defendant who has a BRA conviction or a pending BRA charge.

Any defendant presently charged with escape or who has a prior CONVICTION for escape. (Also to include prison breach, elopees, etc.).

Any defendant charged with a Bench Warrant for failure to appear, violation of conditions of release, probation or parole violation.

Any defendant presently under sentence awaiting parole or conditional release.

Any defendant whose mental state prevents him from rationally completing an interview.

Any defendant who has violated conditions of release in a pending case. (Note: violation will be verified in all cases with Condition Supervision representative).

Any defendant who does not have a fixed address (this includes hotel, motel, YMCA, and the like for less than three weeks).

Any defendant who has an undetermined address. (An undetermined address is one where a conflict has arisen between information taken from the defendant and information taken from references for verification. It may also occur due to conflicts of information taken from two references in the same case.)

Any defendant with an unverified address. (Note: Release will be recommended if an approved Custodial Agency agrees to take custody and provide verification within 24 hours. Such cases are subject to review by the Supervisor. If address cannot be verified, but employment for over 1 and 1/2 years and permission for the defendant to receive mail at his employer's is verified, release will be recommended with the additional condition "3B" ("Maintain present employment").

Any defendant who has an outstanding warrant or detainer.

Any defendant who is not an area resident (50 mile radius of D.C.) and who does not have any substantial ties to the community (i.e. employment, area family members willing to take custody).

Any defendant who is presnetly on surety bond when the bondsman is going to surrender his bond in the pending case. If the bondsman cannot be contacted no recommendation can be made. If, however, the bondsman's office can be contacted and a message is left concerning the defendant's new case, an appropriate recommendation for release will be made.

Any defendant charged with being A Fugitive From Justice when the underlying charge involves escape, failure to appear while on bond, probation or parole violation.

Any defendant charged with Obstruction of Justice where the complaining witness is involved in another pending case of the defendant's.

Any defendant who is on probation or parole whose supervising officer is opposed to release. Note: Certain agencies will not take a stand concerning release. In those cases, a favorable determination of adjustment must be ascertained before a recommendation for release can be made. If the Bail Agency is unable to contact any representative of the defendant's supervisory agency a recommendation will be made providing the defendant does not appear on the daily warrant list. If a defendant is on unsupervised probation, the judicial officer who sentenced the defendant should be advised of any new charges. Any recommendation against release by said judicial officer will always be followed.

PHASE I EVALUATION OF PRETRIAL RELEASE PROGRAMS

Project Narrative

CUMBERLAND COUNTY PRETRIAL RELEASE PROGRAM

FAYETTEVILLE, NORTH CAROLINA

July 1975

PHASE I SITE VISIT STAFF:

Robert C. Davis

Robert Hurley

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I. THE JURISDICTION

Although the Cumberland County Pretrial Release Program (CCPRP) works with all law enforcement units within Cumberland County, (including the Hope Hills Police Department, the Spring Lake Police Department, the North Carolina Highway Patrol, and the North Carolina Bureau of Investigation), the majority of the program's intake comes from the Fayetteville metropolitan area, through the Fayetteville Police Department and the Cumberland County Sheriff Department. While the city of Fayetteville (population 55,000) contains only a quarter of the 214,000 residents of Cumberland County, the Fayetteville metropolitan area -- which includes 40,000 Fort Bragg Army personnel and 20,000 dependents -- accounts for the majority of Cumberland County's population. The army base, which plays a major role in Fayetteville's economic life (particularly in the entertainment and hotel industries) also provides 20% of CCPRP's caseload.

II. THE CRIMINAL JUSTICE SYSTEM

In 1962, the voters of North Carolina adopted a new judicial article of the Constitution for the state court system. The new article, amended in 1965 to authorize an intermediate appellate court, creates a unified statewide and state operated General Court of Justice consisting of three divisions: The Appellate Division, The Superior Court Division and the District Court Division. On the appellate level, the intermediate appellate court -- the court of appeals -- was created to relieve the heavy caseload of the Supreme Court. On the highest trial level, the Superior Court lost its original jurisdiction over misdemeanors, minor civil cases, juvenile matters and domestic relations. The city and county courts were replaced by a uniform district court system. The justices of the peace and the mayor's courts were replaced by the magistrate, who operates within the district court.

Magistrates are appointed for 2 year terms by the presiding judge of the Superior Court in each judicial district. The jurisdiction of the magistrate in criminal matters is limited to trying worthless check cases for $50.00 or less, accepting guilty pleas to other minor misdemeanors for which the maximum punishment is thirty days confinement or a $50.00 fine, accepting waivers of trial and guilty pleas to certain traffic cases, issuing arrest and search warrants, and fixing bail. For minor traffic offenses -- a high percentage of all misdemeanors -- the penalty for each offense is fixed in advance by a uniform statewide schedule promulgated by the chief district judge. The magistrate, therefore, has neither trial nor sentencing discretion in these cases. In about 70% of all traffic cases, trial is waived and

the matter never goes to court. The magistrate simply assesses the fine according to the uniform schedule.

District court serves as the intake court for all municipal, county and state criminal offenses. Misdemeanor and felony arraignments are held once per week currently. The court has exclusive jurisdiction over misdemeanor offenses, but does not have trial jurisdiction over felony offenses, although the court may accept a reduced plea to a misdemeanor in a felony case. District Court judges are elected to a four-year term.

Superior Court has jurisdiction over felony trials and appeals of misdemeanor convictions in District Court. Most Superior Court judges are elected to six-year terms (excepting 8 special Superior Court judges who are appointed by the governor).

The District Attorney (one for each judicial district) is elected for a four-year term and has the responsibility to prosecute all cases in District and Superior Courts. In Fayetteville, the District Attorney's Office typically gets a case from the Police Department within 2 weeks of the time an arrest is made; currently, the office has another two weeks to decide whether it will prosecute the case. Although the District Attorney has full discretionary power in deciding which cases to try and which to accept a lesser plea, plea negotiations are relatively rare.

Defendants accused of crimes who are financially unable to employ a lawyer to represent them are entitled to the services of a lawyer at State expense. The trial judge determines the indigency of the accused and then assigns the case to the Public Defender. The Public Defender is appointed by the governor of North Carolina, normally for the duration of the gubernatorial term of office. In Cumberland County the public defender system is supplemented

by an assigned-counsel system. This system is utilized when there is a potential conflict of interest in the public defender representing more than one defendant in a given case.

Statutory changes slated to take effect September 1, 1975 will cause major reform of the court system. Among the most noteworthy changes are speedy trial provisions, including (a) daily rather than weekly felony arraignments in District Court, (b) a fifteen day limit from arraignment to preliminary hearing in District Court, (c) bi-weekly arraignments in Superior Court, and (d) a petition process whereby attorneys could request a speedy trial if their case is not disposed within a specified length of time (30 days for incarcerated defendants or 60 days for defendants on pretrial release). In Fayetteville, these statutory changes were scheduled to be accompanied by administrative changes within the District Attorney's Office, including a policy of seeking more pleas and fewer trials in felony cases.

A second major area of reform in the new statutes concerns pretrial release. As of September 1, all misdemeanors would be eligible for release on a citation issued by the police. In addition, judicial officers setting bonds are directed to consider a defendant's eligibility for unsecured bonds and third party bonds first and to use financial bonds as a last resort. The statute only loosely defines the criteria to be considered in determining eligibility for non-financial release (the criteria include the nature and circumstances of the offense, weight of the evidence, community ties, financial resources, character, mental condition and record of convictions and failures to appear). However, in the judicial district which covers Fayetteville, Presiding Court Judge Braswell and Presiding District Judge Carter went one step further and issued a joint policy directive to magistrates and judges on

setting bonds after September 1; the statement includes a copy of the CCPRP point system as a guide to judicial officials in determining which persons are eligible for non-financial release (a copy of this statement appears in Appendix A).

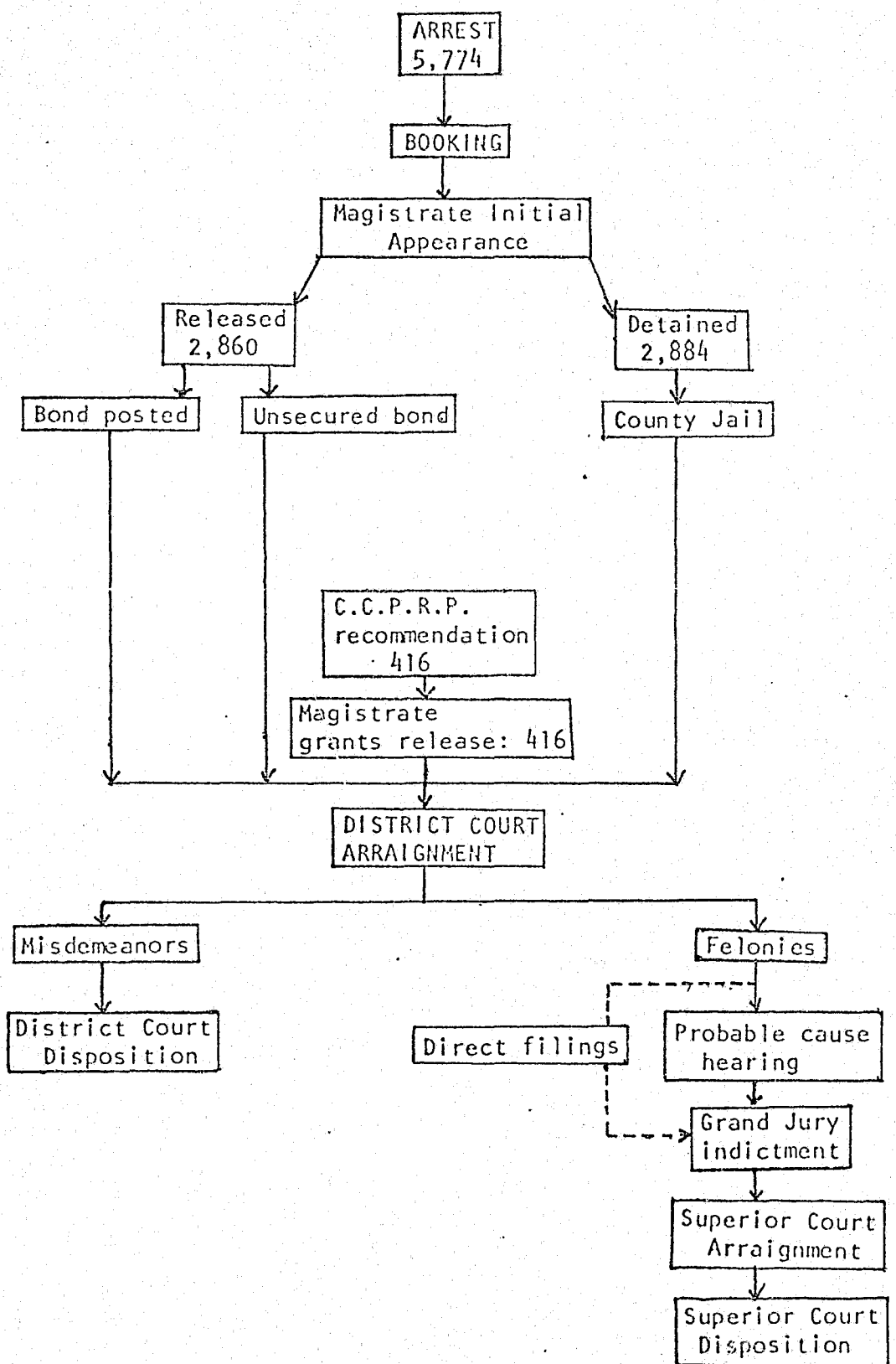
III. CASE PROCESSING IN FAYETTEVILLE (Flow Chart #1)

Between January 15th and July 13th, 1975, there were 5,744 arrests made in Cumberland County for felony and misdemeanor offenses. Immediately after apprehension, the accused is booked and taken before a magistrate who issues an arrest warrant, adjudicates certain minor misdemeanors and traffic offenses, and sets bonds in non-capital cases. If the magistrate grants an unsecured bond or if the defendant is able to post bond at that point, he is released. Between January 15 and July 13, 2,860 or roughly half of all persons arrested secured release at this stage.

The 2,884 persons not released were booked into the jail to await their arraignment in District Court. From these detainees, the pretrial release program selects those it will interview; interviews occur within one-half to 3 hours after incarceration. If, after verification of the defendant's community ties and criminal record, CCPRP determines to recommend the defendant for release, a report is forwarded to the magistrate in chambers who then makes a release decision. During the January 15 to July 13 period, 416 defendants secured release through CCPRP, leaving 2,468 defendants in jail waiting to post bond or, in capital cases, waiting for bond to be set at their arraignment. No breakdowns were available on any of these figures separating felony from misdemeanor cases.

If the District Attorney determines that prosecution is warranted, the case is arraigned in District Court (currently, arraignments are held once a week; as of September 1, felony arraignments will be held daily). Misdemeanor cases are disposed in District Court with the right to appeal the decision in Superior Court (roughly half of the Superior Court caseload currently consists

FLOW CHART #1
Case processing



of appeals of District Court cases). Felony cases may have a probable cause hearing in District Court (to be held within 15 days of arraignment as of September), but more often this hearing is bypassed and the case taken directly to the grand jury. If the grand jury returns an indictment, the case proceeds to arraignment (held every two weeks after September 1) and ultimately to a jury trial in Superior Court. Average elapsed time from felony arrest to plea or trial during the first 6 months of 1975 ranged from a high of 130 days for cases disposed in March to a low of 80 days for cases disposed in May.

Bond reduction motions in District or Superior Courts are usually handled by a judge in chambers after the Public Defender has advised the District Attorney of the motion. If defense counsel and the prosecution are unable to reach agreement on a bond reduction and defense counsel still wishes to pursue the motion, a formal hearing is held.

No data on the proportion of defendants released on bail or on the number and outcomes of bond reduction motions can be reported. This information is kept by the Superior Court Clerk's Office, but was not made available to Phase I staff. Some limited data on dispositions are available, however. For the first six months of 1975, of the 661 felony cases which were disposed in Superior Court, 338 or 59% resulted in conviction after plea or trial. Of the remainder, 262 or 39% of the cases were dismissed, and 11 (2%) resulted in acquittal. These figures do not include felony cases which never reached Superior Court.

IV. THE PRETRIAL RELEASE PROGRAM

A. Program History

The legal authorization for establishment of the Pretrial Release Program is provided by section 15-103.1 of the North Carolina General Statutes, which specifically authorized the establishment of a program for pretrial release of criminal defendants on unsecured appearance bonds or personal recognizance. Encouraged by the success of the pretrial release program in Charlotte-Mecklenburg, North Carolina, and disturbed over the overcrowded conditions of the Cumberland County jail and the lengthy periods of incarceration undergone by persons awaiting trial, a group of criminal justice officials in Fayetteville led by James Little, Public Defender, wrote a proposal to LEAA to establish the Cumberland County Pretrial Release Program.

Funding for CCPRP was approved and the Program began operations in January of 1974. The funding for the Program was through an LEAA grant of $84,721, a North Carolina match of $4,236 and Cumberland County funds of $4,236. A program director, Mr. Gary Modrell, was hired and he in turn hired the professional and clerical staff.

The program is governed by an advisory board consisting of representatives from most offices involved with the criminal justice system in Fayetteville. Board members include:

1. Chief District Court Judge
2. Cumberland County Sheriff
3. Fayetteville Chief of Police
4. Chairman, Board of County Commissioners
5. Cumberland County District Attorney
6. Public Defender, 12th Judicial District

7. A representative of the Cumberland County Bar Association
8. Director, Cumberland County Pretrial Release Program (non-voting)
9. Resident Superior Court Judges (Honored Members)
10. A magistrate appointed by the Chief District Judge (non-voting)

The responsibility of the Advisory Committee is to establish policy guidelines for the Pretrial Release Program and to serve as a consulting authority for the Pretrial Release Director.

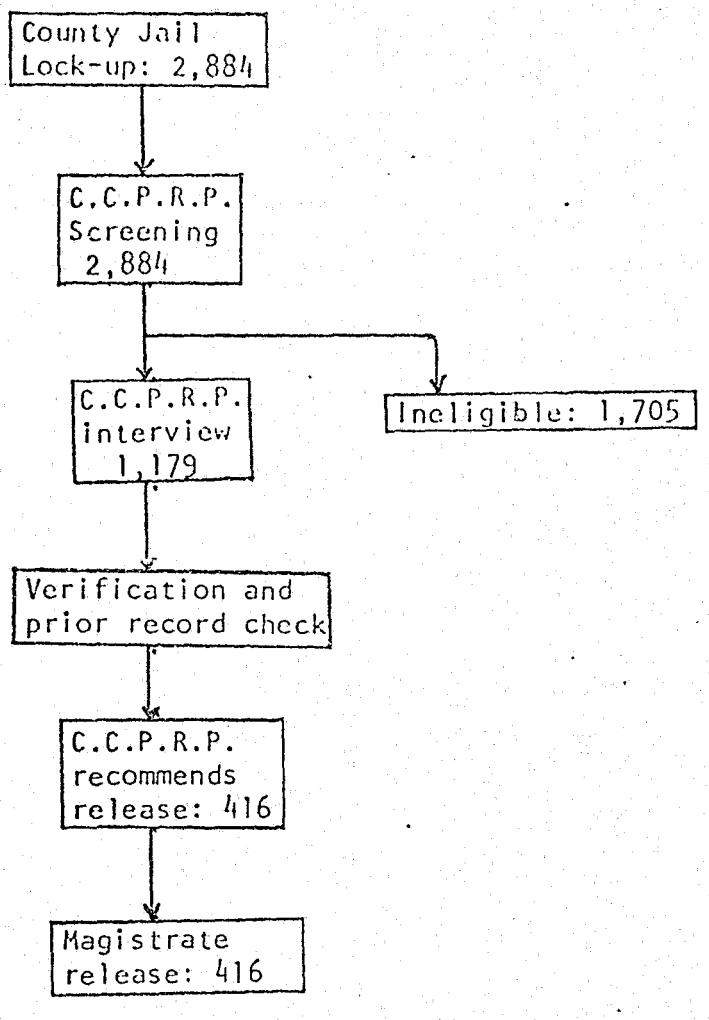
B. Program Operations (Flow Chart #2)

CCPRP staff interview selected defendants at the county jail from 8 to 12 seven days per week. The interview typically coccurs within three hours after the accused has appeared before a magistrate. Prior to interview, defendants are screened for eligibility; of the 2,884 individuals recorded as jailed between January 15 and July 13, 1975, 1,705 or 60% were determined ineligible due to the nature of the charge (major felonies are excluded from consideration; see Appendix B), outstanding warrant from another jurisdiction, non-resident status, or ability to secure release prior to contact by CCPRP staff (unfortunately, no statistics are available on the frequency of the latter category relative to true exclusions by the program).

If a person is determined eligible, he is given a 15 to 20 minute interview by a CCPRP counselor to determine his ties to the local community. References given by the accused are then contacted to verify information obtained in the interview and criminal history is checked. A point system (included in Appendix A) is applied and a recommendation is determined by the counselor. Of the 1,179 persons interviewed between January 15 and July 13, 1075, approximately 67% failed to satisfy the criteria for a recommendation.

All of the remaining 416 (14% of the jailed population or 7% of the

FLOW CHART #2
Pretrial Release Program
Operations



arrest population) for whom the program made a positive recommendation were released by the magistrate. The program does very little to assist in the release of defendants after this initial stage. Although when it began, the program was making recommendations for bail re-evaluations in cases not eligible for consideration at the time of its first intervention, this practice was stopped at the directive of the advisory board. The program now becomes involved in bail re-evaluation only at the specific request of a District or Superior court judge.

Once released through CCPRP, a defendant is required to maintain regular weekly contact with the program, at which time he is reminded of the date of his next court appearance. One week before a court date, each defendant is sent a form letter which again reminds him of the date and penalties for nonappearance. Failure to comply with the release conditions can cause the individuals unsecured bond to be revoked and his return to custody. A total of 44 individuals, or 10.5% of those released by the program, were subsequently revoked for non-compliance with the required conditions.

Of the 416 persons who were released pending trial during the period of January 15, 1975 to July 13, 1975, 26 failed to return for trial. These 26 individuals represent 6.25% of the total release population (since many of these cases remain open, this figure is an underrepresentation of non-appearance). Typically the program swears out a separate warrant charging these individuals with a bond violation for failing to return for trial. This separate charge can bring an additional sentence of up to 2 years imprisonment plus a fine.

CCPRP also attempts to get defendants into contact with social service agencies, if they are in need of a job, counseling or other servies. To date, however, time demands on staff have limited the amount of referral work they have been able to do. So far the most frequent types of referrals have been

for drug rehabilitation and psychiatric problems.

C. The Program and Its Environment

It is ironic that a program which has such diverse representation from all parts of the criminal justice system on its advisory board would encounter such intense opposition that its continued existence would be threatened -- yet this is exactly what is happening to the infant Cumberland County Pretrial Release Program. The program is due to run out of funding in September 1975, and at this writing it appears unlikely that the Cumberland County Board will vote local match funds to continue it for another year. The program's uncertain future is due at least in part to opposition from the Chief Clerk of the Superior Court and from bondsmen. The main points against the program seem to be community safety (various persons interviewed expressed the view that all accused felons should be ruled ineligible and/or that non-financial release should be used only as a last resort if the defendant is unable to post bail) and the Chief Clerk's argument that he could operate a pretrial release program out of his office without any additional staff or funds.

All members of the program's advisory board were enthusiastic about the existing independent status of the program and particularly about the diversity of offices represented on the advisory board. Indeed, involving so many different groups in the program has seemed to greatly facilitate its ability to function smoothly from the beginning, where many new pretrial release programs have had to go through a difficult initial period before they obtained the cooperation of other criminal justice agencies. For example, relationships between CCPRP and law enforcement personnel appear

to be quite good. A second testimony to the utility of involving diverse groups on the advisory board is the fact that to date no one that the program has recommended has failed to be released by the magistrate. This is directly attributable to the fact that District Court Presiding Judge Carter, a member of the advisory board, directed the magistrates in his judicial district to go along with CCPRP's recommendations. The joint directive of Judge Carter and Superior Court Presiding Judge Braswell incorporating CCPRP's point system into judicial bond decisions after September 1 is a further example of the importance of the board in smoothing the way for CCPRP to operate.

Most persons interviewed by Phase I staff agreed, however, that ultimately the program's funding should come from the state since District and Superior Courts are run by the state. At the time of the Phase I site visit, James Little, the Public Defender, was involved in drafting legislation for a statewide pretrial release system. Board members further envisioned that ultimately the program's activities would be expanded to include diversion as well as pretrial release.

Appendix I

GENERAL COURT OF JUSTICE
12th JUDICIAL DISTRICT
STATE OF NORTH CAROLINA
COUNTIES OF CUMBERLAND AND HOKE

POLICIES RELATING TO BAIL AND PRETRIAL RELEASE

G.S. 15A-535

Hon. E. Maurice Braswell
Senior Regular Resident Judge of Superior Court

and

Hon. Derb S. Carter
Chief District Court Judge

NORTH CAROLINA

IN THE GENERAL COURT OF JUSTICE
12th JUDICIAL DISTRICT

TO THE CLERKS OF SUPERIOR COURT
OF CUMBERLAND AND HOKE COUNTIES

ORDER

It is ordered that the policies contained in the papers attached hereto, and made a part hereof, constitute the official recommended policies and standards concerning release on bail bond and pre-trial release of a defendant in a criminal case before trial in all the courts of the Counties of Cumberland and Hoke, in and for the 12th Judicial District, effective September 1, 1975.

It is ordered that a copy of these policies, along with a copy of this Order, shall be permanently maintained in the office of each Clerk of Superior Court in the 12th Judicial District for public inspection in a loose-leaf notebook to be entitled: "Policies Relating to Bail in the 12th Judicial District".

The Clerk shall cause to be reproduced sufficient copies of these Policies, so as to deliver a true copy to the following persons: Chief District Judge, and each District Court Judge; each Magistrate in the county; the Sheriff; the Chief of Police of each Police Department within the county; the Sergeant of the State Highway Patrol whose duties cover each county.

Entered in Chambers in Fayetteville, North Carolina, on the 10th day of July, 1975, pursuant to authority of G.S. 15A-535.

E. Maurice Braswell

E. MAURICE BRASWELL
Senior Resident Superior Court Judge

OFFICIAL POLICIES ON PRE-TRIAL RELEASE

Effective September 1, 1975, it is the law, as provided in G.S. 15A-535, that: "Subject to the provisions of this Article (Article 26, Bail), the Senior Resident Superior Court Judge of each Judicial District, in consultation with the Chief District Court Judge, must devise and issue recommended policies to be followed within the District in determining whether, and upon what conditions, a defendant may be released before trial."

Pursuant to the directive of this Statute, E. Maurice Braswell, Senior Resident Superior Court Judge of the 12th Judicial District, and Derb S. Carter, Chief District Court Judge of the 12th Judicial District, have met, discussed the directive, and after consultation have devised and do now issue the following as the recommended policies that are to be followed within all of the courts of the 12th Judicial District in determining whether and upon what conditions a defendant may be released before trial: (It is noted that after trial, conviction and appeal, release on bail is governed by other provisions of the law which are not discussed in this paper.)

STATEMENT OF GENERAL POLICY

Bail, regardless of the form it may take, is to be used to insure a defendant's presence in Court. It is under no circumstances to be used to punish a defendant either by making him wait in jail because he cannot make an excessive bail or by making him pay a professional bondsman a large fee to post an excessive secured appearance bond.

In setting the amount of bail and/or in determining the form of bail, the magistrate is acting as an independent judicial officer who has the duty to the Court to insure the defendant's presence in Court, a duty to the defendant to see that bail is not excessive, and a duty to the public to see that dangerous defendants are not allowed to roam the public streets.

The Pre-Trial Release Program should function to accomplish these purposes: (1) to eliminate the inequalities of the present monetary bail bond system; (2) to alleviate the overcrowded jail facilities and reduce the cost of housing, guarding, and feeding prisoners; (3) to preserve the defendant's ability to keep his job and support his family.

DEFINITIONS

Certain terms used in bail practice have now acquired statutory definitions. G.S. 15A-531 says that the following definitions apply unless the context clearly requires otherwise:

1. Bail Bond. - An undertaking by the principal to appear in court as required upon penalty of forfeiting bail to the State of North Carolina in a stated amount. Bail bonds include an unsecured appearance bond, a premium-secured appearance bond, an appearance bond secured by a cash deposit of the full amount of the bond, an appearance bond secured by a mortgage pursuant to G.S. 109-25, and an appearance bond secured by at least one solvent surety.

2. Obligor. - A principal or a surety on a bail bond.

3. Principal. - A defendant or material witness obligated to appear in court as required upon penalty of forfeiting bail under a bail bond.

4. Surety. - One who, with the principal, is liable for the amount of the bail bond upon forfeiture of bail.

PERSONS AUTHORIZED TO DETERMINE CONDITIONS FOR RELEASE

The persons authorized by law to determine conditions for release of arrested persons are "Judicial Officials". See G.S. 15A-532. By the definition in 15A-101(5) a "Judicial Official" is: "a Magistrate, Clerk, Judge or Justice of the General Court of Justice".

RELEASE IN CAPITAL AND NON-CAPITAL CASES

Every defendant who is charged with a non-capital offense has a statutory right to pre-trial release. He must have conditions of pre-trial release determined in accordance with G.S. 15A-534. It is G.S. 15A-533(A) which gives the defendant the right to pre-trial release.

In a capital case there is no automatic right to pre-trial release. The statute leaves it in the Judge's discretion. See G.S. 15A-533(b). It provides: "A Judge may determine in his discretion whether a defendant charged with a capital offense may be released before trial. If he determines release is warranted, the Judge must authorize release of the defendant in accordance with G.S. 15A-534." Thus, a Magistrate and a Clerk cannot give pre-trial release to a defendant charged with a capital offense.

PROCEDURE FOR DETERMINING CONDITIONS OF PRE-TRIAL RELEASE

The procedure for determining conditions of pre-trial release is provided in G.S. 15A-534. It is as follows:

"(a) In determining conditions of pre-trial release a judicial official must impose one of the following conditions:

1. Release the defendant on his written promise to appear.
2. Release the defendant upon his execution of an unsecured appearance bond in an amount specified by the judicial official.
3. Place the defendant in the custody of a designated person or organization agreeing to supervise him.
4. Require the execution of an appearance bond in a specified amount secured by a cash deposit of the full amount of the bond, by a mortgage pursuant to G.S. 109-25, or by at least one solvent surety.

If condition (3) is imposed, however, the defendant may elect to execute an appearance bond under subdivision (4). If a judicial official orders release of a defendant under conditions (1), (2), or (3), he may also place restrictions on the travel associations, conduct, or place of abode of the defendant.

(b) The judicial official in granting pre-trial release must impose condition (1), (2), or (3) in subsection (a) above unless he determines that such release will not reasonably assure the appearance of the defendant as required; will pose a danger of injury to any person; or is likely to result in destruction of evidence, subornation of perjury, or intimidation of potential witnesses. Upon making the determination, the judicial official must then impose condition (4) in subsection (a) above instead of condition (1), (2), or (3).

(c) In determining which conditions of release to impose, the judicial official must, on the basis of available information, take into account the nature and circumstances of the offense charged; the weight of the evidence against the defendant; the defendant's family ties, employment, financial resources, character, and mental condition; the length of his residence in the community; his record of convictions; his history of

flight to avoid prosecution or failure to appear at court proceedings; and any other evidence relevant to the issue of pre-trial release.

(d) The judicial official authorizing pre-trial release under this section must issue an appropriate order containing a statement of the conditions imposed, if any; inform the defendant in writing of the penalties applicable to violations of the conditions of his release; and advise him that his arrest will be ordered immediately upon any violation. The order of release must be filed with the clerk and a copy given the defendant.

(e) A magistrate or a clerk may modify his pre-trial release order at any time prior to the initial appearance before the district court judge. At or after such initial appearance, except when the conditions of pre-trial release have been reviewed by the Superior Court pursuant to G.S. 15A-539, a District Court Judge may modify a pre-trial release order of the magistrate or clerk or any pre-trial release order entered by him at any time prior to:

1. In a misdemeanor case tried in the district court, the noting of an appeal; and

2. In a case in the original trial jurisdiction of the Superior Court, the binding of the defendant over to Superior Court after the holding, or waiver, of a probable cause hearing.

After a case is before the Superior Court, a Superior Court Judge may modify the pretrial release order of a magistrate, clerk, or district court judge, or any such order entered by him, at any time prior to the time set out in G.S. 15A-536(a).

(f) For good cause shown any judge may at any time revoke an order of pre-trial release. Upon application of any defendant whose order of pre-trial release has been revoked, the judge must set new conditions of pre-trial release in accordance with this Article.

(g) In imposing conditions of pre-trial release and in modifying and revoking orders of release under this section, the judicial official must take into account all evidence available to him which he considers reliable and is not strictly bound by the rules of evidence applicable to criminal trials.

(h) A bail bond posted pursuant to this section is effective and binding upon the obligor throughout all stages of the proceeding in the trial division of the General Court of Justice until the entry of judgment in the district court from which no appeal is taken or the entry of judgment in the superior court. The obligation of an obligor, however, is terminated at an earlier time if:

1. A judge authorized to do so releases the obligor from his bond; or
2. The principal is surrendered by a surety in accordance with G.S. 15A-540; or
3. The proceeding is terminated by voluntary dismissal by the State before forfeiture is ordered under G.S. 15A-544(b); or
4. Prayer for judgment has been continued indefinitely in the district court."

I. Who Fixes the Amount of Bail:

Generally, the primary responsibility for fixing bail will rest with a Magistrate. The Magistrate should fix bail in all misdemeanor cases and in non-capital felony cases. A Judge must fix bail in a capital case if the Judge, in his discretion, has determined that a bond is warranted. Clerks of Superior Court have the power to fix bail in all misdemeanor and non-capital felony cases. Neither Magistrates nor Clerks can fix bail in capital cases. A District Court Judge may fix bail in all cases. A Superior Court Judge may fix bail in all cases.

II. Methods for Release on Bail:

A defendant may gain his pre-trial release on bail by either one of the following methods:

1. Release on his own recognizance
2. Release on unsecured appearance bond
3. Release on cash bond
4. Release on secured appearance bond
   a. Release by professional bondsman, who has posted security
   b. Release by secured property bond

III. Point System (Note: Applicable to Cumberland County, and may be used as reference and guide in Hoke County.)

The determination to release under the program is based on a point system which is applied to the information which the defendant has given and has been verified. To be recommended, the defendant must have a Cumberland or Hoke County address where he can be reached and a total of five points. Points are awarded under the following six categories of information: residence, time in Cumberland or Hoke County, family ties, employment, character, and prior record. The number of points the defendant receives is determined according to the chart in Paragraph IV herein.

If the above criteria are met, the defendant is most likely to be recommended for release. However, the Judicial Official can still refuse recommendation for release if his overall impression is such that he does not believe the defendant is likely to return for trial.

Before the defendant is actually recommended for unsecured release, he must read and sign three forms. One is an unsecured appearance bond in the amount of his bail. The defendant does not actually have to put up any money, but he does subject himself to forfeiture of the amount of the bond if he does not appear at trial.

The second item the defendant reads and signs is a form setting out the North Carolina law on failing to appear at trial after being release on personal recognizance or on an unsecured appearance bond.

The final form the defendant signs contains restrictions on his everyday affairs that must be agreed to before he will be released without bail. It states the conditions of his release in the terms determined by the judicial official.

IV. Point Chart (Note: Applicable to Cumberland County, and may be used as reference and guide in Hoke County.)

To be recommended, a defendant needs:

1. A Cumberland or Hoke County address where he can be reached AND
2. A total of five points from the following:

Points Int.	Ver.	
		RESIDENCE (In Cumberland or Hoke County area; NOT on and off)
3	3	Present residence 2 years or present and prior residence 3 years.
2	2	Present residence 6 months or present and prior residence 1 year.
1	1	Present residence 4 months or present and prior residence 6 months.
		TIME IN CUMBERLAND OR HOKE COUNTY AREA
1	1	5 years or more.

Points Int.	Ver.	
		FAMILY TIES (In Cumberland or Hoke County area)
3	3	Lives with parents or wife and children.
2	2	Lives with spouse; or lives with children
2	2	Lives with non-family friends or on Ft. Bragg and has contact with other members of his family who live in Cumberland or Hoke County.
1	1	Lives with non-family friend (or on Ft. Bragg) or has contact with other members of his family who live in Cumberland or Hoke County.
		EMPLOYMENT OR SUBSTITUTES
4	4	Present job 3-5 years where employer will take back or present and prior job in Cumberland or Hoke County over 5 years.
3	3	Present job 1-3 years where employer will take back or present and prior jobs in Cumberland or Hoke County over 2 years.
2	2	Present job over six months where employer will take back or present and prior job in Cumberland or Hoke County over 1 year.
2	2	Student on <u>good</u> standing with the school.
1	1	Laid off job within last three months for reasons other than personal or ability to carry out job but eligible for rehire.
		(a) Present job six months or less <u>or</u> present and prior jobs six months; <u>or</u>
		(b) Current job less than a month where employer will take back; or
		(c) Unemployed three months or less with nine months or more single prior job from which not fired for disciplinary reasons;
		(d) Receiving unemployment compensation, welfare, etc.;
		(e) Full time student;
		(f) In poor health.
		CHARACTER
1	1	Good character and reliability (determined by counselor).
Disqualify		Prior negligent no show.
-2	-2	Prior Negligent no show.
-2	-2	Prior AWOL from military in last 3 years.
-2	-2	Definite knowledge of drug addiction or alcoholism.
Disqualify		Currently AWOL.
		PRIOR CONVICTIONS

Note: Use chart below for single offenses and for combination of offenses.

Code: One adult felony = 7 units if five years ago and no previous record within the 5 year period.
One adult felony = 10 units if within a five year period from present charge.
One adult misdemeanor = 2 units if within a five year period from the date of present charge.
One adult misdemeanor = 1 unit if five years ago and no previous record within the 5 year period.

-1	-1
-2	-2
-3	-3
-4	-4
-5	-5
etc.	

0 1 2 3 4 5 6	7 8 9 10 11 12 13	14 15 16 17 18 19 20	21 22 23 24 25 etc.
-1 point	-2	-3	-4

There follows a chart for establishing minimum monetary amounts for bail bonds.

Note: (1) Listed crimes followed by (F) are felonies.

(2) These figures are intended as a minimum. However, it is recognized that circumstances surrounding a particular case - the alleged criminal act, the character and the record of the defendant, any past failure to appear in court - may necessitate that this amount be raised. Conversely, where the circumstances warrant and good grounds exist, the judicial official may lower the amount, or allow an unsecured bond in a similar amount.

(3) If only a citation is issued by the apprehending official, then no bond at all is required.

(4) Where a person's bond is set at $200 or less, then he may be signed out of custody by an appropriate military official without the posting of any monetary security, the official thereby agreeing to be responsible for that person's appearance.

ABANDONMENT AND NON-SUPPORT

$150.00 - Bastardy
150.00 - Abandonment of Wife by Husband
150.00 - Insufficient Support of Children
500.00 - Abandonment and Insufficient Support of Child (F)
150.00 - Failure of Husband to Support Family While Living with Wife
150.00 - Failure to Support Parent

ABORTION

$2000.00 - Using Drugs, etc. to Destroy Unborn Child (F)
1000.00 - Using Drugs, etc. to Injure Woman (F)
1000.00 - Concealing Birth of a Child (F)

AMBULANCE OFFENSES

$200.00 - Making False Ambulance Request
200.00 - Illegal Ambulance Service

ANIMALS

$100.00 - Larceny of a Dog
100.00 - Cruelty to Animals
100.00 - Injury to Personal Property

ARSON AND OTHER BURNINGS

$500.00 - Burning Personal Property (F)
500.00 - Burning, Destroying Crops (F)
1500.00 - Burning Building Under Construction (F)
3000.00 - Burning Public, Corporate or School Buildings (F)
3000.00 - Setting Fire to Churches, Other Buildings (F)
--- - Burning of Habitation (F) (Magistrate cannot fix Bail)

ASSAULT AND AFFRAY

$ 50.00 - Simple Assault
50.00 - Simple Assault and Battery
50.00 - Simple Affray
100.00 - Aggravated Affray
100.00 - Assault on a Female

ASSAULT AND AFFRAY

$200.00 - Assault on a Child Under Age Twelve
100.00 - Assault by Pointing a Gun
100.00 - Assault Likely to Inflict Serious Damage
200.00 - Assault Inflicting Serious Damage
200.00 - Assault with a Deadly Weapon
200.00 - Assault with such Force as to Inflict Serious Injury
200.00 - Assault Inflicting Serious Injury
500.00 - Assault with Intent to Kill
500.00 - Assault on a Public Officer
500.00 - Assault with Intent to Commit Rape (F)
200.00 - Assault on Emergency Personnel
500.00 - Felonious Secret Assault (F)
1000.00 - Felonious Discharging of Gun Into Occupied Building, Vehicle, etc. (F)
1000.00 - Felonious Assault with Firearm with Intent to Kill Inflicting Serious Injury (F)
500.00 - Felonious Assault with Firearm Inflicting Serious Injury (F)
750.00 - Felonious Assault with Firearm with Intent to Kill (F)
1000.00 - Felonious Assault with Deadly Weapon with Intent to Kill Inflicting Serious Injury (F)
750.00 - Felonious Assault with Deadly Weapon 'Per Se' Inflicting Serious Injury (F)
2500.00 - Felonious Assault with Firearm on Law Enforcement Officer (F)
1500.00 - Felonious Assault with Firearm on a Fireman (F)
1500.00 - Felonious Assault on Emergency Personnel (F)
500.00 - Mayhem (F)
1500.00 - Maiming or Disfiguring Without Malice (F)
1500.00 - Malicious Maiming of Tongue or Eye (F)
2500.00 - Malicious Castration (F)
1500.00 - Throwing Acid or Alkali (F)
1500.00 - Willful Injury with Explosives (F)
1500.00 - Conspiracy to Injure with Explosives (F)
1500.00 - Damaging Occupied Property with High Explosives (F)

ASSISTING PRISONERS

$300.00 - Trading with Prisoners
500.00 - Furnishing Drugs to Inmates
500.00 - Furnishing Weapons to Inmates

BLACKMAIL

$300.00 - Blackmail

BREAKING INTO JAILS

$1000.00 - Breaking or Entering Jail (Lynching) (F)

BRIBERY

$3000.00 - Bribery of Jurors (F)
3000.00 - Bribery of Officials (F)
3000.00 - Offering a Bribe (F)

BURGLARY AND BREAKING AND ENTERING

$500.00 - Felonious Preparation to Commit Burglary (F)
500.00 - Felonious Breaking and Entering Cars, Vehicles, etc.
500.00 - Felonious Larceny by Breaking and Entering (F)

BURGLARY AND BREAKING AND ENTERING

$200.00 - Misdemeanor Breaking and Entering
500.00 - Felonious Breaking and Entering - Intent to Commit Larceny (F)
500.00 - Felonious Breaking and Entering - Intent to Commit Felony (F)
500.00 - Felonious Breaking Out
750.00 - Second Degree Burglary (F)
--- - First Degree Burglary (F) (Magistrate cannot fix Bail)
750.00 - Burglary with Explosives (F)
1000.00 - Safecracking (F)

CIVIL DISORDER

$100.00 - Blocking Ingress, Egress of Public Building

Disorderly Conduct
100.00 - By Fighting, Violent Behavior
100.00 - By Language, Gestures
100.00 - By Creating an Offensive Condition
200.00 - By Seizing an Educational Facility
200.00 - By Refusing to Vacate an Educational Facility
200.00 - By Sit-Ins, etc. at an Educational Facility
100.00 - By Demonstrating, etc. at an Educational Facility
100.00 - Disorderly Conduct in or near Public Buildings

In Public Building
100.00 - Rude Noises, etc. in Public Building
200.00 - Injure Walls of Public Building
200.00 - Injure Monuments of Public Buildings
100.00 - Commit a Nuisance
200.00 - Failure to Disperse
300.00 - Looting and Trespass
300.00 - Trespass During an Emergency

Riot
200.00 - Misdemeanor Riot
400.00 - Inciting to Riot
1000.00 - Felonious Inciting to Riot (F)
1000.00 - Felonious Riot: Property Damage (F)
2000.00 - Felonious Riot: Serious Bodily Injury (F)
1000.00 - Felonious Riot: Possession of Dangerous Weapon (F)
1000.00 - Felonious Riot: Possession of Dangerous Substance (F)

Weapons
500.00 - Transportation of Weapons During Emergency
500.00 - Possession of Weapons During Emergency
500.00 - Transporting Weapons in/near Riot Area
500.00 - Possession of Weapons near/in Riot Area

CREDIT CARD OFFENSES

$250.00 - Theft of Credit Card (F)
250.00 - Forgery of Credit Card (F)
400.00 - Criminal Possession of Credit Card Forgery Devices (F)
400.00 - Credit Card Fraud
100.00 - Receiving Goods or Services Obtained by Credit Card Fraud

CUSTODY ORDERS

$1000.00 - Violation of Custody Order (F)

DISORDERLY CONDUCT

$50.00 - Disorderly Conduct at Transit Terminals
50.00 - Profanity on Public Highway/Public Road
50.00 - Disorderly Conduct: Various City Codes

Disorderly Conduct
100.00 - By Fighting, Violent Behavior
100.00 - By Language, Gestures
100.00 - By Creating an Offensive Condition
200.00 - By Seizing an Educational Facility
200.00 - By Sit-Ins, etc. at an Educational Facility
200.00 - By Demonstration, etc. at an Educational Facility
100.00 - Disorderly Conduct in or Near Public Buildings
100.00 - In Public Building
100.00 - Rude Noises, etc. in Public Buildings
100.00 - Injure Walls of Public Building
100.00 - Injure Monuments of Public Buildings
100.00 - Commit a Nuisance
50.00 - Disturbing the Peace: Various City Codes
50.00 - Profanity: Various City Codes

DRUGS

NARCOTIC DRUG VIOLATIONS

$4000.00 - Unlawful Manufacture (F)
1500.00 - Unlawful Manufacture of Marijuana
4000.00 - Unlawful Sale (F)
500.00 - Unlawful Possession (F)
500.00 - Failure to Keep Records - Physician (F)
500.00 - Failure to Keep Records - Manufacturer (F)
500.00 - Failure to Keep Records - Pharmacy (F)
500.00 - Failure to Keep Records - Wholesaler (F)
500.00 - Obtaining Narcotics by Fraud (F)
500.00 - Obtaining Narcotics by False Statement (F)
500.00 - Obtaining Narcotics by False Representation (F)
500.00 - Obtaining Narcotics by False Prescription (F)
500.00 - Obtaining Narcotics by False Label (F)
500.00 - Possession of Syringe, etc. (F)
5000.00 - Supplying Drugs to Minors (F)
1500.00 - Growing Marijuana (F)
200.00 - 6 months Misdemeanors
300.00 - 2 year Misdemeanors

BARBITURATE AND STIMULANT DRUGS

400.00 - Unlawful Delivery
400.00 - Unlawful Refill
400.00 - Unlawful Possession
400.00 - Obtaining by Fraud
750.00 - Obtaining by Fraud
750.00 - Sale, Possession for Sale (F)
400.00 - Possession of Syringe, etc.
400.00 - Impersonation of Practitioner
400.00 - Failure to Keep Records
400.00 - Transportation
400.00 - Concealment
1000.00 - Subsequent Offenses (F)
200.00 - General Misdemeanors not Elsewhere Specified

GLUE SNIFFING

$300.00 - Inhaling Fumes
300.00 - Possession and Use
300.00 - Sale

DRUNKENNESS

$25.00 - Public Drunkenness - 1st Offense
100.00 - Public Drunkenness - 2nd Offense and Subsequent Offenses
50.00 - Drunk and Disorderly Conduct

FIREWORKS

$100.00 - Manufacture, Sale, Possession, Transportation, etc. of Fireworks
100.00 - Use, Discharge of Fireworks

FORGERY

$500.00 - Forgery of a Check (F)
500.00 - Forgery of a Note, Bill (F)
500.00 - Forgery of a Security (F)
500.00 - Uttering a Forged Check (F)
500.00 - Uttering a Forged Note, Bill (F)
500.00 - Uttering a Forged Security (F)
500.00 - Forging Endorsement on a Check (F)
500.00 - Forging Endorsement on a Bill, Note (F)
500.00 - Forging Endorsement on a Security (F)
500.00 - Passing a Check with Forged Endorsement (F)
500.00 - Passing a Bill, Note, with Forged Endorsement (F)
500.00 - Passing a Security with Forged Endorsement (F)

FRAUD

$500.00 - Obtaining Property by False Pretenses (F)
100.00 - Obtaining Property for Worthless Check
50.00 - Writing Worthless Check ($50.00 or less)
100.00 - Writing Worthless Check ($50.01 to $100)
150.00 - Writing Worthless Check ($100.01 and above)

GAMBLING

$100.00 - Gambling

HOMICIDE

--- - Murder - First Degree (Magistrate cannot fix Bail)
5000.00 - Murder - Second Degree (F)
1000.00 - Manslaughter (F)

HOTELS AND MOTELS

$100.00 - Obtaining Lodging, etc. without pay

INJURY AND DAMAGE TO PROPERTY

$100.00 - Injury to Real Property
100.00 - Injury to Crops, Trees, Land
100.00 - Damage To Timber
100.00 - Injury to Fence, Wall
100.00 - Injury to Buildings, Houses
100.00 - Injury to Personal Property

LANDLORD-TENANT

$50.00 - Violation of Contract by Tenant
50.00 - Violation of Contract by Landlord
100.00 - Obtaining Advances by Promise to Work

LARCENY

$100.00 - Larceny - $50 or less
200.00 - Larceny - $50.01 to $200
500.00 - Larceny - $200.01 and above (F)
500.00 - Felonious Larceny by Breaking and Entering (F)
500.00 - Larceny From the Person (F)
500.00 - Larceny by Trick (F)
100.00 - Larceny of a Dog
500.00 - Larceny of Secret Technical Processes (F)
100.00 - Shoplifting
200.00 - Breaking Into Coin-Operated Machines
200.00 - Damage, Destroy, Coin-Operated Machines
150.00 - Temporary Larceny of Motor Vehicle
100.00 - Receiving Stolen Goods - $50 or less
200.00 - Receiving Stolen Goods - $50.01 to $200
500.00 - Receiving Stolen Goods in Excess of $200 (F)

LIQUOR LAW VIOLATIONS

$500.00 - Manufacturing Liquor or Aid and Abet
150.00 - Sale of Liquor
150.00 - Possession of Liquor for Sale
200.00 - Possession of Non-taxpaid Liquor
100.00 - Purchasing Alcoholic Beverage from Source Other than A.B.C. Store
200.00 - Transportation of Intoxicating Liquor Generally
200.00 - Transporting in Excess of One Gallon of Alcoholic Beverage
50.00 - Transportation in Passenger Area of Car with Seal Broken
100.00 - Unlawful Possession or Consumption of Alcoholic Beverage
100.00 - Possession or Consumption of Alcoholic Beverages by Minor or Other Unauthorized Person
100.00 - Other Violations of A.B.C. Laws

MORALS OFFENSE

$200.00 - Fornication and Adultery
150.00 - Indecent Exposure in a Public Place
150.00 - Indecent Liberties with Children
150.00 - Peeping Tom
500.00 - Prostitution
500.00 - Bigamy (F)

MOTOR VEHICLE VIOLATIONS

DRIVERS LICENSE OFFENSES

$50.00 - No Operator's License
200.00 - Driving While License Suspended - 1st Offense
300.00 - Driving While License Suspended - 2nd Offense
400.00 - Driving While License Suspended - 3rd Offense
200.00 - Driving While License Revoked - 1st Offense
300.00 - Driving While License Revoked - 2nd Offense
400.00 - Driving While License Revoked - 3rd Offense
1000.00 - Driving While License Permanently Revoked

DRIVERS LICENSE OFFENSES

$ 50.00 - Allowing Unlicensed Person to Drive
300.00 - Obtaining a Driver's License by False Pretense or Other Fraudulent Means
150.00 - Displaying a License not Belonging to Driver or a False, Fraudulent License
100.00 - Other Violations of the Drivers License Act

SAFETY VIOLATIONS

$ 20.00 - Speeding, Exceeding a Safe Speed
20.00 - 0 to 5 mph above posted limit
25.00 - 6 to 10 mph above posted limit
30.00 - 11 to 15 mph above posted limit
50.00 - 16 to 25 mph above posted limit
100.00 - 26 to 35 mph above posted limit
150.00 - In excess of 35 mph above posted limit
20.00 - Failure to Decrease Speed to Avoid Collision
500.00 - Pre-Arranged Speed Competition
300.00 - Willful Speed Competition
25.00 - Speeding at such a low rate as to impede free movement of traffic
300.00 - Permitting Vehicle to be used in Speed Competition
200.00 - Betting on Speed Competition
30.00 - Failure to Dim Lights
20.00 - Failure to Reduce Speed to Avoid Accident
20.00 - Improper Signal or Failure to Give Signal
20.00 Improper Parking
200.00 - Driving Under Influence of Liquor/Narcotics - 1st Offense
300.00 - Driving Under Influence of Liquor/Narcotics - 2nd Offense
400.00 - Driving Under Influence of Liquor/Narcotics - 3rd Offense
20.00 - Traveling Wrong Way on a One-Way Street
20.00 - Driving on Wrong Side of Road
50.00 - Driving Wrong Way on a Dual Lane Road
30.00 - Improper Passing
20.00 - Following Too Close
20.00 - Improper Turning/Improper Signal
20.00 - Failure to Yield Right-of-Way
20.00 - Failure to Obey a Stop Sign or Stop Light
20.00 - Failure to see Movement Could be Made in Safety
100.00 - Careless and Reckless Driving
100.00 - Passing a Stopped School Bus or a School Bus with Signals Blinking
100.00 - Failure to stop for Siren
20.00 - Other Violations of Safety Rules

EQUIPMENT VIOLATIONS

$20.00 - Failure to Display Valid Inspection Sticker
20.00 - Improper Muffler
20.00 - Improper Lights
20.00 - Improper Brakes
20.00 - Improper Tires
20.00 - Other Equipment Violations

REGISTRATION OFFENSES

300.00 - Involving Stolen or Altered Plates or Certificates
75.00 - Operating an Unregistered Vehicle
75.00 - Operating a Vehicle Without Displaying the Assigned Plates
75.00 - Other Violations of Registration Laws

MISCELLANEOUS

$100.00 - Failure to Maintain Financial Responsibility
100.00 - Failure to Report Accident by Quickest Means Possible or to Department of Motor Vehicles Within 24 Hours
200.00 - Hit and Run - Property Damage of $200 or Less
300.00 - Hit and Run - Property Damage of More than $200
500.00 - Hit and Run - Personal Injury (F)
100.00 - Failure to Give Name, etc. When Involved in an Accident
40.00 - Litterbugging
20.00 - Height and Width Violations

MUNICIPAL ORDINANCES

$50.00 - Disorderly Conduct
50.00 - Profanity
50.00 - Parking Violations
50.00 - Failure to pay Taxi Fare
50.00 - Other Violations of Municipal Ordinances

NUISANCE

$100.00 - Nuisance

RAPE

--- - Rape (F) (Magistrate cannot fix Bail)
1000.00 - Carnal Knowledge of Female Child (F)
500.00 - Assault with Intent to Commit Rape (F)

RESISTING, OBSTRUCTING OFFICER

300.00 - Resisting, Delaying, Obstructing Officer in Performance of His Duty

ROBBERY

1000.00 - Robbery (F)
1500.00 - Robbery with Dangerous Weapon (F)

SCHOOLS

50.00 - Failure to Attend (Truancy)

TAXES

50.00 - Failure to List Taxes

TELEPHONE OFFENSES

100.00 - Bad Language
100.00 - Threats
100.00 - Extortion
100.00 - Repeated, Annoying Calls
100.00 - Failure to Hang Up
100.00 - Making a False Statement

TRESPASS

100.00 - Trespass After Being Forbidden

TRESPASS

$100.00 - Forcible Entry and Detainer
100.00 - Blocking Ingress, Egress of Public Buildings

WEAPONS

200.00 - Carrying Concealed Weapon
100.00 - Selling, Giving Weapons to Minors
100.00 - Sale, Purchase of Weapon Without Permit

MISCELLANEOUS

50.00 - Violation of Employment Security Commission Laws
50.00 - Violation of Fish and Game Laws
50.00 - Violation of County Ordinances or Local Acts of General Assembly

Appendix II

Pretrial Release Program Exclusions

1. First Degree Murder
2. Rape
3. First Degree Burglary
4. Safe Cracking (G.S. 89.1)
5. Habitual Felon (G.S. 14-7.1)
6. Assault upon a Law Enforcement Officer (If weapon is used or the officer sustains injuries)
7. Kidnapping (G.S. 14-39)
8. Malicious Use of Explosive or Incendiary Device (G.S. 14-45)
9. Arson (G.S. 14-58)
10. Public Drunkenness (G.S. 14-334 & 335)
11. Felonious Narcotics (G.S. 90-Art. 5)
12. Felonious Possession of Barbituate or Stimulant Drugs (G.S. 90-Art. 5A) (except up to one-half pound marijuana)

PHASE I EVALUATION OF PRETRIAL RELEASE PROGRAMS

Project Narrative

RELEASE ON RECOGNIZANCE PROGRAM

NEW ORLEANS, LOUISIANA

July 1975

PHASE I SITE VISIT STAFF:

Robert C. Davis

Robert M. Hurley

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I. THE JURISDICTION

New Orleans, traditionally a balance of Mediterranean and Anglo-Saxon cultures, is in a state of rapid transition. The flavor of the older sections of the city remains heavily French and Spanish, but new, homogeneous suburbs have sprung up in the post-World War II era and the growth of the tourist industry has begun to alter the character of the inner city as well.

Like most major U. S. cities, New Orleans is currently facing financial problems. The population of the central city has declined in recent years, while the population of its suburbs has increased. According to the census bureau, most of those moving to the suburbs are young whites, while those coming into the city are predominantly Latin American immigrants and blacks; between 1960 and 1970, the black population of the city increased by 14.9%, while the white population declined by 17.6%. Although the official unemployment rate is only 7.2%, a recent study conducted at the University of New Orleans indicates that if an additional 75,000 to 100,000 persons who rarely work or seek work are counted, the actual rate is closer to 25%. The same study reported that 21.6% of the New Orleans population lives below the official government poverty level compared to 9.1% in Atlanta and 8.6% in Dallas.

Tourism is rapidly replacing shipping as the city's major industry. While the French Quarter and the French Market remain architectually the same, the residental nature of the Quarter has given way to antique shops and museums and the fish and vegetable vendors of the Market are being replaced by boutiques and candle shops.

The newest addition in the area of tourism is the newly-completed Superdome, a sports and convention center in the heart of the city. While the dome is expected to create badly-needed new jobs there has been a good deal of skepticism about the actual benefit these jobs will bring to the

city's economy. It is argued that service jobs tend to be low-paying, require few skills, and offer few opportunities for upward mobility. The construction of the Superdome, representing the dominance of tourism over the city's declining shipping industry, is thus a focal point of contention among residents who are concerned over the direction their city will take in future years.

II. CASE PROCESSING

The jurisdiction served by the District Attorney's ROR Program in New Orleans includes state, municipal, and traffic courts. The ROR program deals exclusively with state courts, and within the state court system, performs the great majority of its work within the magistrate section (which serves as the intake for all persons arrested), with only minimal work in criminal court (where cases are adjudicated). State offenses are divided into four categories, based on the severity of the sentence for each offense. Class I offenses are capital crimes, including murder, treason, aggravated kidnapping and aggravated rape. Class II offense are punishable by a term at hard labor at the State Penitentiary and include such crimes as simple rape, burglary, extortion, armed robbery, and aggravated arson. Class III offenses, including negligent homicide, aggravated battery, criminal damage to property, and forgery, are punishable either by a penitentiary term or by a term in the Parish Prison if less then two years. Class IV offenses, or misdemeanors, are punishable by a term in Parish Prison and/or a fine. Persons arrested on state criminal charges are booked into the Parish Prison adjacent to the Criminal Court Building; during the one year period from April 1974 - March 1975, there were 10,366 state arrests, approximately 85% on investigation and 15% on a warrant or Grand Jury indictment. Once booked,

persons charged with misdemeanor offenses are eligible for release in accordance with a bail schedule. If the suspect has been arrested between the hours of 8 a.m. - 12 p.m., he is usually brought to magistrate court within 2 to 3 hours (either the magistrate, who is elected, or one of three appointed commissioners - added January 1975 - is in court sixteen hours a day). At this time, if the accused is determined eligible by the District Attorney's ROR interviewer (see the next section for ROR eligibility criteria), he is interviewed by the ROR unit to determine his suitability for release on an unsecured bond.

Within 30 minutes or so after being brought to the courtroom, the accused appears in front of the magistrate who reads the charges and sets bond. After the magistrate hearing, the defendant is remanded to the Parish Prison where he may secure release by posting bail with the sheriff.

After verifying interview information and determining a recommendation, the ROR interviewer presents his report to the magistrate in chambers. If the magistrate accepts the program's recommendation for ROR, he signs a release order and forwards it to the jail.

Bail re-evaluations may occur either while the case is in Magistrate Court or after the case has been bound over to Criminal Court. Re-evaluation hearings are normally informal; the process is initiated by the defense lawyer who usually advises the prosecutor before going to the judge in chambers. If the prosecutor refuses to go along with the motion and the defense wishes to pursue it further, a contradictory hearing is held; the public defender indicated, however, that this was a rare occurence. If a motion for an unsecured bond is being considered for a defendant whom the ROR program excluded from an interview, the judge may request that the ROR program interview the defendant prior to the court's acting on the motion. Indications were, however, that unsecured bonds are rare after the initial magistrate hearing.

Although neither the ROR program nor the courts maintain comprehensive data on the proportion of defendants released on various forms of bond, the Phase I staff was able to obtain some information on persons released in Magistrate Court from a sample of court docket books (N=137; every 3rd case during the month of July, 1974). This sample indicated that 46% of all defendants were released in Magistrate Court on some form of bond while 54% were detained (See Flow Chart #1).[1] Approximately 11% of all defendants or one-fourth of all persons released were released on an unsecured bond on recommendation of the ROR program. This figure is not an accurate reflection of the total proportion of unsecured bonds since Magistrates occasionally use unsecured bonds without a program recommendation. Although the Phase I staff's sample did not distinguish between surety bonds and unsecured bonds, one Magistrate estimated that 10% of the bonds he set were unsecured bonds without an ROR program recommendation.

The next step in defendant processing is the status hearing in Magistrate Court, held within ten days of the initial magistrate hearing. At this hearing, often informal, the prosecutor must indicate whether or not he wishes to file formal charges. If so, the case is bound over to a trial part in Criminal Court. The District Attorney's office exercises a good deal of discretion in deciding which cases to prosecute; in 40% of all new cases in 1974, the District Attorney's records indicate that formal charges were not filed. It is interesting to note that the Phase I sample of Magistrate docket books during the month of July 1974, indicated

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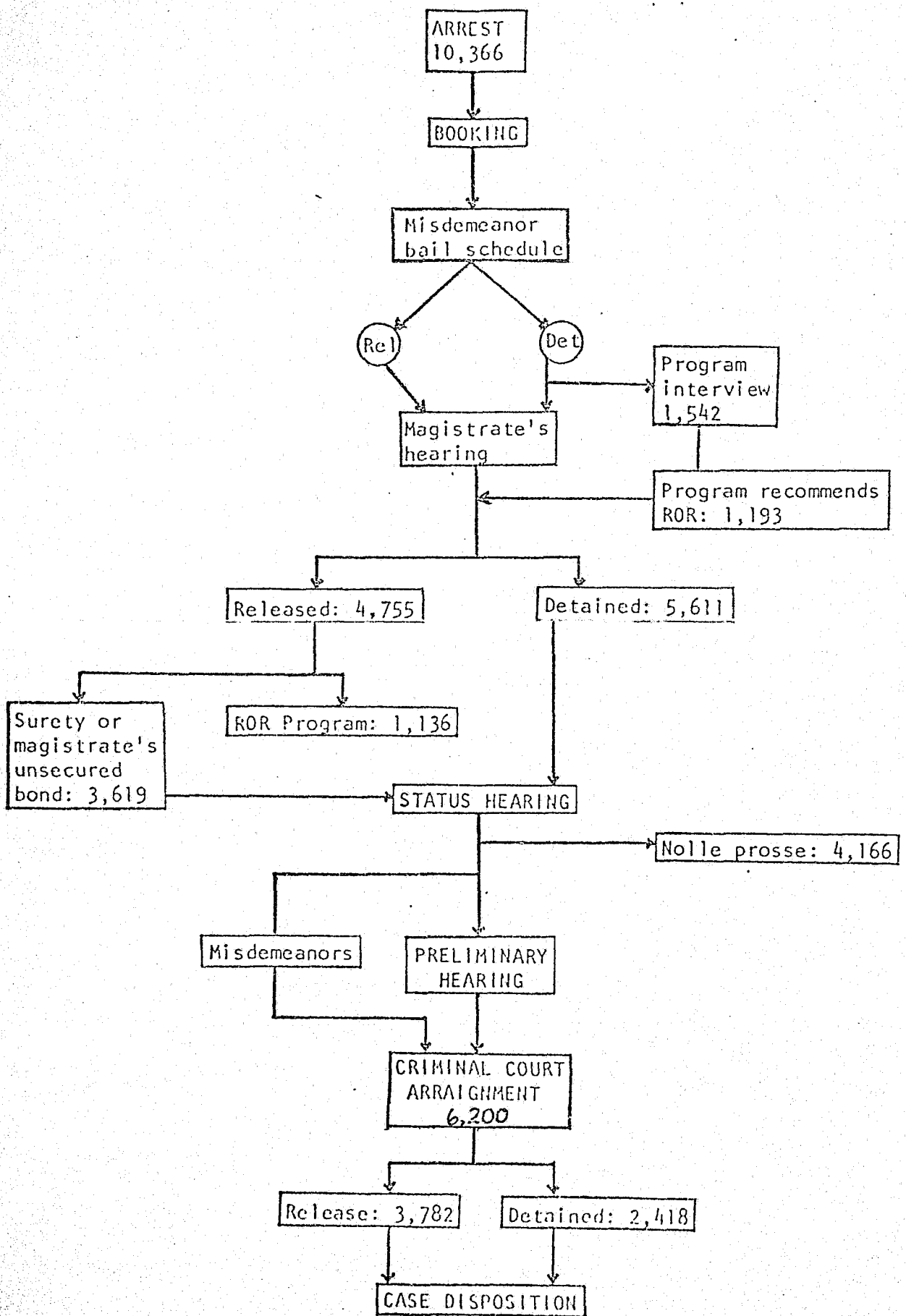
[1]Unfortunately, the lack of specificity of the charges recorded in the docket book does not allow for accurate breakdowns of release for felons vs. misdemeanants.

FLOW CHART #1
Case processing



a relationship between the release status of the defendant and the decision to prosecute. Persons unable to post bond in the Magistrate section were 20% less likely to be prosecuted than those on pretrial release, even though it is likely that the detained group were, on the average, charged with more serious offenses than the released group. It is possible that the extremely crowded conditions at Parish Prison - which has long held well over double its maximum capacity - may be exerting an indirect influence on prosecution policies; i.e., there may be a tendency to insist on a stronger case to warrant prosecution if a defendant is detained than if he is on release.

If formal charges are filed by the prosecutor, the case is bound over to a trial part in Criminal Court. Felony defendants may request a preliminary hearing or proceed directly to arraignment. If the preliminary hearing is bypassed and the Grand Jury indicts, arraignment occurs within one to seven days of the status hearing, depending on the release status of the defendant. Misdemeanor cases currently are also bound over to Criminal Court for adjudication, although a bill is pending before the Louisiana Legislature to shift misdemeanor jurisdiction to the magistrate section.

The sample data collected by the Phase I staff indicate that of those cases accepted for prosecution (i.e., those cases bound over to criminal court), 51% were on some form of pretrial release, while 49% were detained. An additional 10% secured release in criminal court, raising the total proportion of persons released at some point prior to disposition to 61% (2 of the 34 cases detained at the time they reached Criminal Court were indicated as still open at the time of the sample, one year after the date of arrest; if the records are accurate and if these persons do obtain pretrial release prior to disposition of their cases, the 61% estimate may be a few percentage points low).

Once a case has been assigned to a trial part in Criminal Court, it remains in that part to disposition. The table below presents the frequencies of different dispositions for cases in the Phase I sample:

Table 1: Case Disposition by Pretrial Status

	Plead Guilty	Found Guilty	Not Guilty	Nolle Prosse	Open	Miss-* ing	Total
Defendants on release	49%(21)	9%(4)	5%(2)	19%(8)	16%(7)	2%(1)	100%(43)
Defendants detained	81%(22)	0%(0)	7%(2)	4%(1)	7%(2)	0%(0)	100%(27)
All defendants whose cases reached criminal court	61%(43)	6%(4)	6%(4)	13%(9)**	13%(9)	1%(1)	100%(70)

*(1 case recorded in the Magistrate docket books as being accepted for prosecution did not appear in the Criminal Court docket book.)

**(This sample figure of 13% agrees closely with an annual figure of 11% reported by the District Attorney's office for 1974.)

The majority of cases (61%) were disposed of by a guilty plea. Defendants who remained in detention were far more likely to enter a guilty plea than defendants who were on pretrial release. Accordingly, defendants who were detained had their cases disposed more rapidly than defendants on release, as is shown in the following table:

Table 2: Percentage of Cases Disposed in Each Time Period

	1 Month	1 - 3 Months	3 - 6 Months	6 - 12 Months	Open Cases	Total
Released Defendants	0%	48%	24%	12%	17%	100% (N=42)
Detained Defendants	19%	56%	11%	7%	7%	100% (N=27)

Three-fourths of detained defendants have their cases disposed within three months of arrest, while only half of released defendants have their cases disposed within the same period of time.

III. THE DISTRICT ATTORNEY'S ROR PROGRAM

A. Program History

In 1968, a group of students at Tulane Law School, headed by James Derbes, began interviewing selected defendants and making recommendations to the court for release on recognizance. Initially staffed by volunteers, the program managed to obtain foundation money, primarily from the Stern Foundation, and finally secured LEAA Block Grant funds for a three year period through the city's Criminal Justice Coordinating Committee. According to Mr. Derbes, when the block grant funds ran out, CJCC suggested that the program expand to diversion in order to obtain new block grant funding. Although the program drew up plans to do this, CJCC determined instead that the funds which it ultimately received for diversion (as part of a $3.5 million Target Area Crime Specific grant from LEAA) should be channeled to the District Attorney's office rather than to New Orleans ROR, Inc. Without funds, the program was unable to continue, and ROR investigations were transferred to the District Attorney's office when the grant for diversion became active in April 1974.

New Orleans ROR, Inc. was able in its six-year life span to change the attitudes of some of the judiciary toward the use of unsecured bonds. Judge Bogert, now Chief Judge of Criminal Court, in particular, was a supporter of New Orleans ROR, Inc., and played a major role in gaining judicial acceptance for the new District Attorney's ROR program. By the time of its demise, New Orleans ROR, Inc. was making recommendations on all criminal defendants except those charged with murder, rape, and armed robbery, those without a local address, and (in most cases) those with a felony conviction within the previous ten years.

The current ROR program was implemented without funds by the District Attorney's office shortly after Harry Connick, the present District Attorney came into office. Although the District Attorney's office had funds for the diversion program it had just begun, no funds at that time existed for ROR and it was funded from a core budget until LEAA discretionary grant funds were made available through CJCC. The total level of funding for the combined District Attorney's ROR and Diversion Program is currently $80,000; this breaks down to $18,000 for ROR and $62,000 for diversion.

Once again, however, the pretrial intervention program is facing financial difficulties. Funds for the program are scheduled to run out in August, 1975 and although the program and CJCC are working with the state planning agency and the regional office of LEAA to try to secure block grant funds, it seems likely that there will be an interim period during which funding will have to come from the District Attorney's budget if the program is to continue.

B. Current Operations

The ROR Program interviews defendants during the hours of 8:00a.m. - 12:00p.m. Monday through Friday in court prior to their appearance before a magistrate. Defendants arrested at other times are interviewed in Parish Prison as soon as possible after their initial appearance in court. The program is highly selective in its interviews; of 10,366 persons arrested in the 12 month period from April 1974 - March 1975, only 5,792 were considered potentially eligible for ROR, and of these, only 1,542 were interviewed.

While some persons were not interviewed because they had already posted bail at the stationhouse, or had posted bail after appearing before a magistrate on weekends or in the early morning (no statistics available), the primary reason for the relatively small number of interviews is the

extensive exclusionary criteria the program has adopted. Charge exclusions include residence burglaries, concealed weapons (guns), purse snatching, prostitution, and transients, as well as serious crimes of violence. Once persons are screened, they may later be excluded for such things as having a previous felony conviction, having an open charge pending, being on parole or probation, having a previous willful failure-to-appear, or not residing in the New Orleans area for at least six months (see Appendix 1 for a complete list of exclusionary criteria).[2]

When the interview has been completed (within 5 - 10 minutes), verification efforts are begun. When a reference has been contacted, the interviewer requests verification of the information received from the defendant. In addition, for those defendants who will be recommended, the interviewer tries to persuade the reference, if he is a relative, to pick up the defendant at the ROR office. Once the verification process is complete (within 30 minutes), the interviewer applies a Vera-type point system to the interview form, determines a recommendation, and if positive, takes it to the Magistrate in chambers for his authorization.

Of the 1,542 interviews over the twelve month period, 67 made bond prior to the time a recommendation decision was made, leaving 1,475 potential candidates for ROR release. Of these, 1,193 were recommended (12% of the arrest population) and 1,136 (95% of those recommended) were released (see Flow Chart #2).

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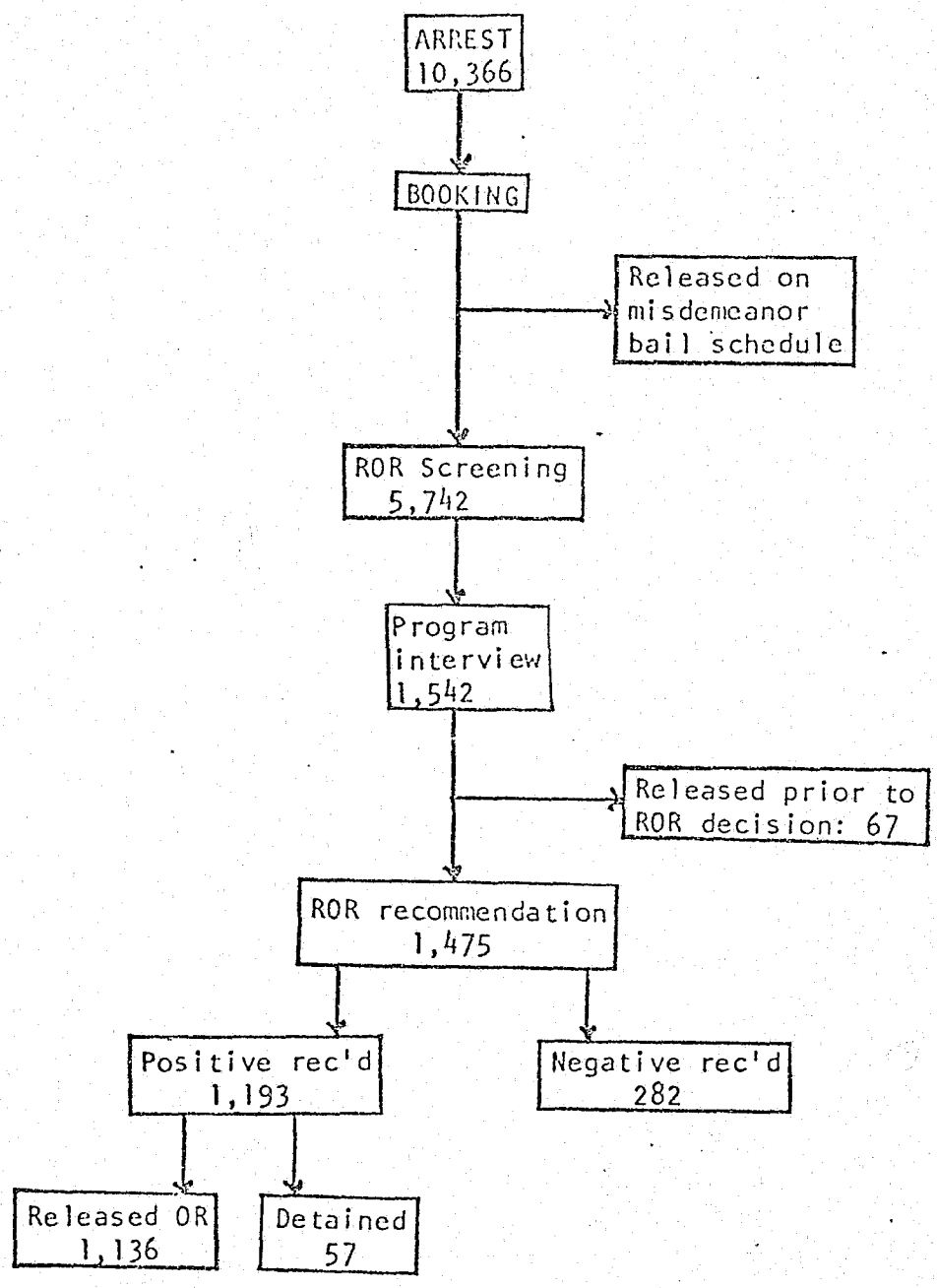
[2]Although Robert Donnelly, director of the ROR and Diversion Programs, indicated that prostitution and carrying a concealed weapon are recent additions to the list of exclusions, it is not clear how the other exclusions were adopted. Although both Mr. Donnelly and Stuart Carroll, the project monitor at CJCC, believe they were adopted from New Orleans ROR, Inc., Mr. Derbes, former director and later board member of New Orleans ROR, Inc., emphatically indicated to Phase I staff that the only exclusions under that program were murder, rape, armed robbery, no local address, and (sometimes) a previous felony conviction within the last ten years.

FLOW CHART #2
Program Operations



Released defendants are required to contact the program within 24 hours of release and to contact the ROR office once a week for the duration of the pretrial period. In addition, ROR personnel phone defendants before their court dates to remind them of the time and place they are to appear. Failure on a defendant's part to maintain contact with the program or his rearrest during the pretrial period can result in the program rescinding his bond.

Follow-up procedures have apparently contributed to the low failure - to-appear rate which the program has thus far achieved. Of the 1,136 persons released in the twelve month period, only 37 nonappearances were recorded, a nonappearance rate of 3 1/2%. Although no FTA rates were available for other persons on release, a program interviewer indicated that nonappearance rates for defendants granted unsecured bonds by a Magistrate, without a recommendation from the ROR Program, are considerably higher. This may be due in large part to the fact that the ROR program does not maintain supervision of defendants released on unsecured bond without a program recommendation (there were indications that the program is trying to discourage the use of unsecured bonds without a program recommendation).

Interviewing of defendants previously excluded by the program or collecting additional information on defendants previously interviewed but not released, for purposes of bail re-evaluation, is undertaken rarely and only upon the court's request. Re-evaluation requests are always initiated by defense counsel.

Although the pretrial release program is supposed to serve as a referral source for the diversion program, apparently it was not serving this function at the time Phase I staff were in New Orleans. Rather, most of the diversion program's cases were referred by the District Attorney's screening room. The program's director told Phase I staff that he hoped to increase referrals from one program to the other in the future.

C. The Program and Its Environment

The main issue regarding the ROR program in New Orleans (and the reason it was selected for a site visit by Phase I staff) is whether an effective pretrial release program can be run by a District Attorney's office. There would seem to be an inherent philosophical problem when the same office that prosecutes a case (and which normally would recommend a high bail amount) recommends nonfinancial release. Further, in other cities release on recognizance is often used in instances where the state has a weak case (as witnessed by the fact that defendants who are ROR'd often ultimately have their cases dismissed), and this might be particularly true where the prosecutor operates the program.

This, however, was not the case in New Orleans. The ROR Program office operates on an independent basis from the D. A.'s screening room. The ROR interviewers select potential candidates themselves; they are not referred by the screening room (although cases were referred to the diversion program by the screening room and program personnel cited several instances of cases in the diversion program which would obviously not result in a conviction if they had been prosecuted).

There did seem to be, in fact, several advantages in the program being run by the District Attorney's office. First, according to Rivers Trussell, Coordinator of Special Projects for the District Attorney's office, the fact that the District Attorney's office in New Orleans is extremely powerful makes it difficult for anyone to apply political pressure to influence program operations or directions. Secondly, the program enjoys a 95% acceptance rate of its recommendations for release on recognizance, probably due in large part to the credibility of these recommendations coming from a traditionally conservative source and the support the District Attorney's office enjoys among the members of the judiciary.

The program's director has also made efforts to involve the police in the program by encouraging them to make recommendations for ROR where they feel it is appropriate; it is also likely that the program enjoys greater credibility with the police than most programs because it is run by the District Attorney's office.

There remains, however, one controversial issue arising from running the program through the District Attorney's office -- the program maintains a lengthy list (relative to most other pretrial release programs) of exclusions, by charge as well as other reasons (see Appendix 1). This has resulted in the program serving only a small percentage of defendants in Magistrate Court. Although a number of persons currently connected with the program were under the impression that the exclusionary criteria were adopted from the previous ROR program, New Orleans ROR, Inc., this was denied by that program's former director, James Derbes, and verified by Ms. Betty Cole, who also was associated with New Orleans, ROR, Inc., and now is an assistant public defender. There is no doubt that at least prostitution and carrying a concealed firearm, both misdemeanors, are recent additions to the list of exclusions. Several persons in the Criminal Justice System interviewed by Phase I staff felt that the program was excluding too many persons. Stuart Carroll, the program's monitor at the Criminal Justice Coordinating Committee, felt that the program's criteria should be liberalized both on philisophical grounds and in light of the overcrowded situation at the Parish Prison. Judge Robert Collins, in the Magistrate section, similarly felt that a number of the exclusions ought to be re-examined, in particular residence burglaries, and concealed weapons charges. It was his opinion that the release program is largely recommending the 'middle class defendant'. He also expressed confidence in ROR's system of notification and follow-up, although he noted that ROR will not followup on defendants he releases without a

recommendation and that he must personally attempt to supervise these defendants. Betty Cole, staff member of the Indigent Defendant's Program (which represents about 80% of all defendants), expressed serious doubts about the wisdom of running a pretrial release program out of the District Attorney's office; she also felt that exclusions should be more narrowly defined. Numa Bertell, director of the Indigent Defenders Program, added that little communication existed between his office and the ROR program and that, generally, his staff is not allowed to see the pretrial release interviews.

Appendix I

POINT VERIFICATION SHEET

Name of Defendant _____ Date _____

Charge _____ Bond _____

Total Points _____ Qualification = 6 points

	RESIDENCE:	
_____	Current address 1 year	3 points
_____	Current address 6 months or current & prior 1 year	2 points
_____	Current address 4 months or current & prior 6 months	1 point
_____	Current address less than 4 months or current and prior less than 6 months	0 points
_____	Resident of area 5 years	
	FAMILY TIES:	
_____	Lives with family	3 points
_____	Has weekly contact with family	2 points
_____	Lives with non-family member	1 point
_____	Lives alone	0 points
	EMPLOYMENT:	
_____	Current job for 1 year	3 points
_____	Current job 4 months or current and prior 6 months	2 points
_____	Evidence of employment in past 2 months	1 point
_____	No employment in past 2 months	0 points
_____	Retired, poor health, pregnancy, student	3 points
	CRIMINAL HISTORY:	
_____	No previous convictions	2 points
_____	1 misdemeanor conviction or 1 juvenile conviction	1 point
_____	3 or more misdemeanor convictions or 3 juvenile or 1 misdemeanor and 1 felony conviction	-1 point
_____	Definite knowledge of present narcotic or alcohol addiction	-1 point

NOTE: The following persons ARE NOT recommended even though they may have the required number of points:

1. Any person who presently has an open charge pending.
2. Any person who is presently on probation or parole.
3. Any person who has willfully failed to appear while on bond.
4. Any person who has an outstanding attachment, warrant or detainer against him.
5. Any person who has not resided in the New Orleans area at least 6 months.
6. Any person who has ever escaped from jail or a mental institution.
7. Any person who cannot provide at least two local telephone references.
8. Any person having a previous felony conviction.
9. Any person being presently charged with Aggravated Rape, Aggravated Kidnapping or Murder, Armed Robbery, Sale of Drugs, Possession of Large Quantities of Drugs, Most Residence Burglaries, Aggravated Burglary, Most Concealed Weapons (Guns), Most Purse Snatching, Prostitution and Transients.