

AN EVALUATION OF THE
PRETRIAL SERVICES AGENCY OF
THE VERA INSTITUTE OF JUSTICE

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FINAL REPORT

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ACQUISITIONS

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INTRODUCTION

The following report summarizes the activities of a group which evaluated the Pretrial Services Agency (PTSA) organized by the Vera Institute of Justice. As main evaluator, I organized our work along principles which had previously been expressed in my publications. It has been a concurrent evaluation, i.e., one which helps to improve the activity of an organization as it proceeds. Concurrent evaluation of a social program is rather similar to what in industry would be called quality control. In the beginning of our work it was therefore necessary to get thoroughly acquainted with both the goals and the details of the PTSA operation. Three young social scientists under my direction observed every situation where an arrested person had contact with the police, the court or PTSA staff. These observations formed the basis upon which our more systematic work developed during the rest of the year. The field notes of these observers are not included in the present report but they are very valuable material which should be made available to anyone who wants to understand the operations of PTSA or the activities of a concurrent evaluation.

Our report consists of four parts. The most

extensive and from my point of view the most important one is what we call the itinerary of the defendant. The purpose of PTSA is to ascertain which arrested people deserve release on their own recognizance* and to make sure that the released persons appear finally in court. Many steps intervene between the beginning and the end of this process; each step affects the next and therewith, the final outcome. As we studied each of these steps we made continuous suggestions to the agency about how its performance could be improved. We are very satisfied with the flexibility of the responsible Vera agents and their imaginative use of our suggestions. Still, there are further improvements possible. They would pertain especially to the point where the defendants are informed about the nature of their release and to the point where they leave the court. Also, the role of the PTSA court representative could be strengthened. (See Chapter One at pp. 41-46.)

To perform this kind of quality control we had to ascertain whether the various steps taken by the agency toward final court appearance of the defendant are successful. This undoubtedly is the case. If a defendant is recommended for

* The common abbreviation for release on own recognizance is ROR. That abbreviation will be used throughout this report. The New York Criminal Procedure Law definition of ROR is set forth in Appendix C of this report.

release, he is more likely to stay in touch with the agency than if the judge releases him without agency recommendation. If the defendant stays in touch with the agency, he is more likely to appear in court and to be finally available for judgment.

We have also studied statistically the decisions of the judges, how they are related to the PTSA recommendation on the one hand and to the final destiny of the defendant on the other. We find that the judges to a considerable extent follow the advice of the agency and if they release against such advice, the subsequent appearance rate is lower and the final failure to appear rate higher. We had, however, no opportunity to interview judges directly. Among the many suggestions I make in my report for further research, one of the most urgent is a carefully prepared series of such interviews in order to understand better why a judge follows and why he ignores the PTSA recommendations.

Chapter Two of my report deals with the PTSA point system. Its purpose is to measure the extent of a defendant's community ties and by inference the probability that he will appear in court. The PTSA procedure is to ascertain and if possible to verify such information as the employment and the length of residence of a defendant, his family situation, etc. We found that the PTSA point system while generally successful, is over-complicated. Take as an

example a defendant's residence ties. If a person has lived at his present address twelve months or at his present and prior address for a total of 18 months he gets three points. Fully 77 percent qualify for this top classification; the remaining 23 percent are subdivided into three groups which receive two, one, or no points, which is certainly wasted refinement. Our reform consisted in making the top classification more stringent (now only 54 percent get it) and combining the remaining 46 percent into one "negative" group. To talk in statistical terms: most of the PTSA criteria used are highly skewed and it seemed better to use them as dichotomies.

A detailed statistical study also showed that two other pieces of information seemed to have considerable predictive value: whether the respondent had a telephone and whether he expected someone, a friend or relative, to appear in court at his arraignment. While these two items are, of course, related to the other items, they seem to play a separate role. They did contribute to the successful prediction of the defendant's subsequent conduct. (See Chapter Two, Table 2.4).

The value of the new point system which we have developed on the basis of the findings in this evaluation and which has been adopted by PTSA will have to be studied carefully after its introduction. We do leave out the

statistical details in our report although they somehow should be made available to other workers in this field for scrutiny and possible improvement. Basically the idea is easily understandable by any reader who has ever taken a true-false test in school. Each defendant is described as to whether or not he satisfies six criteria. The point system then just consists of how many of these criteria a defendant satisfied: it can vary from zero to six. (A seventh criterion, a record of prior convictions on serious charges, is being added by the agency.) At the moment we propose that a person who satisfies at least two of these criteria be recommended for release, provided that his street address has been verified.

We also studied the section of the agency dealing with supervised release in a more narrow sense. This part of the report is much shorter because the operation covers only a small number of cases. As a matter of fact we were not too well impressed. The operation is very expensive and does not make enough use of the information available in the major ROR operation. The choice of supervising agencies seems haphazard. The contact between them and PTSA is not too well maintained so that it is really not known how well the agencies in turn stay in contact with the defendants.

Quite a number of reforms are advisable and alternative procedures should be considered. We understand that considerable change is under way now and probably this part of our report is needed only to complete the general record.

As part of the evaluation contract we were charged with comparing the performance of PTSA in the period 1973 - 1974 to the performance in 1972 - 1973 of the city agency which had administered an ROR program in Brooklyn for a number of years. This task was carried out in spite of the fact that such comparison is wrought with well known difficulties. This chapter therefore begins with two sections showing the differences in procedures and the differences in the defendant arrest load between the two years. On the second point we can only speculate as to changes in economic circumstances or in police procedure. On the first point we can state with confidence that the PTSA procedures were a considerable improvement in terms of clarity and administrative efficiency.

As far as the two agencies' recommendations go, there is one cardinal difference. Few cases of severe felonies were recommended for ROR in the precedent year. PTSA makes recommendations irrespective of charge and based only on the point system. It is a matter of policy whether the charge should be considered in the recommendation

or whether its weight should be left completely to the judge. It should however be mentioned that the arraignment judge may consider one other element of information which does not enter the point system. I understand that for legal reasons the agency recommendation only takes into account previous convictions while the judge also knows about previous arrests from the court records.

In spite of procedural differences between the two years the data show that the judges now are more likely to accept the PTSA recommendation and one can say rather conclusively that, taking the defendants group by group, the PTSA contact system leads to higher rates of appearance at court.

We originally intended to add a fifth part to the report, scrutinizing the changes in PTSA during its year of operations. Time and budget did not make this plan feasible. No harm is done, however, because PTSA's own monthly reports are available and can be studied any time for the purpose of discovering trends.

Not enough material is yet available to find out whether there are subsequent arrests in the career of an ROR'd defendant and, if so, how the frequencies are related to the information on which the original recommendation was based. In this connection I want to point out that in future studies, a comparison of those cases where a

defendant is released after paying a very small cash bail and the ROR defendants should be very revealing.

I cannot conclude this report without acknowledging the imaginative, indefatigable help we got from Mr. James Thompson, the research director of PTSA. .

CHAPTER ONE

THE DEFENDANT'S ITINERARY: CRITICAL POINTS FOR THE SUCCESS OF ROR

I. Introduction

The work of the ROR component of PTSA is distributed among four locations: the basement detention area in the Brooklyn Criminal Court, the Arraignment Part of that same court, a portion of one floor of the PTSA offices in Brooklyn where telephone and letter communications with defendants are managed, and the neighborhoods of Brooklyn where the agency's "area representatives" search out those defendants with whom PTSA wants to establish face to face contact.

Since the defendant encounters PTSA in each of these locations in rough succession, together they may be said to constitute the defendant's "itinerary" through the court. His experiences at each encounter with PTSA influence the content, meaning, and even success (if PTSA's goals to reduce non-appearances and recidivism are brought to mind) of later encounters.

The concept of itinerary, thus extended to encompass a progression of influences acting on defendants, directs

attention to "critical points" which contribute to or reduce the success which PTSA achieves (as defined by its announced goals). Using the concept of critical points, this chapter both describes the defendant's route through the PTSA process and analyzes the impact of each element of that process. Accompanying this description and analysis are recommendations for changes in agency practice and proposals for further research. Some of these recommendations and proposals are tentative. They require further data before decisions to implement them can be made. To signal their tentative nature and distinguish them from description and analysis, proposals and recommendations are single spaced while the rest of the text is double spaced.

2. The Interview

The function of the interview is to obtain information from the defendant which will be used by the agency in making recommendations to the court, and which will inform and influence the judge's ROR decision. The agency believes that certain judges also use the information on the interview to decide how much bail to set in those instances in which they deem ROR inappropriate. While it has not been

possible to interview judges, preliminary data confirm this.* The PTSA interview also obtains information which enables the agency to contact the defendant should he be released on his own recognizance (ROR'd) and then fail to appear in court.

Preliminaries

The defendant is brought from a police precinct to a detention area in the basement of the courthouse. Sometimes he is chained to other defendants. Once the defendant is in the detention area preliminary mug shots are taken. One purpose of the preliminary mug shot is to help identify defendants who refuse to answer when guards call their names. The defendant is then put in a cell to await the ROR interview. Depending on the time of day there may be as many as twenty defendants in that cell. When the interview is to begin a guard in the detention area calls out the defendant's name and directs him to sit in one of several booths where he will meet a pretrial interviewer. The booths interpose no bars between interviewers and defendants. They sit face to face. After the interview is finished, the defendant is put in another cell of about the same size as the first and adjacent to it, where he awaits arraignment.

Initial Contact

Beginning the interview, the interviewer presents

* See Tables 1.7 and 1.8, below.

himself to the defendant by saying, " I work for Pretrial Services Agency," or, sometimes, "My name is John Doe and I am from Pretrial Services Agency." Some interviewers note that PTSA is a private agency. Most do not like to give their names to defendants, feeling that at later contacts with the agency defendants may ask to speak to them directly. Agency procedures assign personnel by function rather than to serve particular defendants during the entire pretrial period; therefore the interviewer will be unavailable for later contact with the defendant. The interviewer explains the interview to the defendant by saying that the agency needs certain information so that it can recommend to the court that the defendant be ROR'd. Explanations vary from "Do you mind if we interview you so that we can get information that will probably help you when the judge makes his bail decision?" to statements like "I'm trying to get information so that the judge will release you without bail money". Another variant is, "The agency needs certain types of information about your work, family, where you live. Based on this information, the agency is sometimes able to recommend to the judge that you be released in your own custody. Sometimes it helps reduce the amount of bail. But we can't guarantee anything. Its up to the judge".

Early in the interview, it is explained to the defendant that the information he gives has to be verified. He is told that he will be required to give names of persons who will be able to verify the information he volunteers. This instruction probably induces a defendant to give reasonably "straight" answers. Most defendants are able to supply one or more contacts for verifying information. A small percentage refuse to give contacts and don't want anyone approached.

The interview questions will not be set out here since a copy of the interview form has been included in Appendix A. Key words and phrases printed on this form apparently are easily translatable into full questions by interviewers. Interviewers appear skilled at altering the wording of questions in response to defendant's difficulties in understanding. Most interviewers feel that the questions seldom embarrass or disconcert defendants. On the whole, they succeed in obtaining answers to most of the questions on the two page form.

After the interview is completed, the interviewer enters an area where he or another PTSA staff member attempts to verify information given by the defendant. The verification area is near the detention area and is equipped with telephones. When defendants are brought from the police precinct to the courthouse a copy of the preliminary police

report is also left in this area. Workers in the verification area add information relating to a defendant's prior criminal record to the interview form, using the preliminary police report and the NYSIIS sheet.*

From the NYSIIS sheets, the interviewer inserts the following onto the defendant's questionnaire: whether the defendant has a bench warrant outstanding against him; ** what the defendant is charged with; and any aliases which the defendant has used in the past. The total number of a defendant's prior felony and misdemeanor convictions is also entered on the interview form. Felony and misdemeanor weights are not determined from the original charges listed on the NYSIIS sheet. Instead the PTSA staff member estimates charge severity by referring to lengths of sentences recorded on the sheet. (Sentences of one year or more are assigned felony weight). Because it counts only felony level sentences as felony convictions, and excludes convictions on felony charges in which sentences are of misdemeanor weight, the PTSA definition of prior convictions as obtained from NYSIIS records

* The NYSIIS (now NYSID) sheet is distributed by the New York State Identification and Information System. It is a record of a person's criminal history. A NYSIIS number is assigned to a person at the time of his first arrest. That number is retained for life.

** A bench warrant is issued when a defendant fails to appear in court when he is required to do so. It is so denominated because it is issued from the judge's bench.

may be more favorable to defendants than that employed by the court.*

Impact of Interviewers on Subsequent Actions of Defendants

An analysis of agency check-in^{**} and court appearance records, comparing actions of defendants interviewed by different interviewers should be undertaken by PTSA's Research Department. If differences in check-ins and appearances are found, it may be worthwhile to study whether style of interviewing, manner of presenting the agency or of explaining its purpose, or type of verification of contact reference solicited by the interviewer (e.g. employers vs. family vs. friends, etc.) account for them.

If certain interview styles appear more successful than others, efforts to train staff in techniques of proven utility can then commence. Such training might rely on those interviewers who have already, perhaps spontaneously, mastered a successful style.

Finally, the end of the ROR interview is in no apparent way standardized. PTSA should consider using this time for informing defendants about their impending contacts with the agency, should they be released. Such orientations might be randomly withheld from defendants in order to experimentally test their effectiveness in influencing subsequent court appearances.

3. Verification

According to the operations manual distributed by PTSA to staff members involved in the interview and verification process, "Verification is one of the most important aspects of PTSA procedures". The manual also stresses that without verified information PTSA cannot "unequivocally recommend" the release of any defendant:

*However, since the term of probation for a misdemeanor can be three years, the PTSA method tends to increase the reported number of felony cases in some instances while it may under-report them in others.

**See below at pp. 44 - 56 for a description of agency check-in procedure.

Means of Verification

In most instances, contacts supplied by defendants are reached by telephone. The contact most often reached is the defendant's family contact, usually the relative with whom he lives. Since only slightly more than half of all defendants have telephones in their places of residence, it is difficult to contact many defendants' family members to verify information relating to residence and family ties. Presented with a defendant who has no telephone, interviewers sometimes use a reverse telephone directory in an attempt to locate other persons at a defendant's address who have telephones. These persons are then telephoned and asked to go and ask the reference to call the agency's number.

Further study is required to disclose how often the reverse directory is used. How much time is spent locating difficult to reach references?. How many references return agency calls?

A third channel for verifying information supplied by defendants is to locate friends or relatives of the defendant in the arraignment courtroom and gain their help in verifying information. In-court verification, however, is not systematically organized.

Verification references, however contacted, are not asked about a defendant's prior involvement with the law. Finally, information appearing on police or court papers is taken as verified.

Contact with the Reference

A reference contacted for verification is told that the defendant has been arrested and has given the agency his name as a reference. The interviewer describes for the reference the purpose of the ROR interview in a fashion similar to that used with defendants. Only a small fraction of references do not agree to answer the caller's questions.

The verification reference is asked, as one example, where the defendant lives and how long he has lived there. If the reference gives the same street address and length of residence as the defendant has supplied, then a check mark is put beside "residence" on a large worksheet utilized for verification.* (A copy of the worksheet is provided in Appendix A.) The procedure continues for each of the other non criminal record items utilized by PTSA's recommendation system (besides residence, they are: family ties, employment or school enrollment and health). The reference generally is able to verify most of the information requested. An item which seems to cause some difficulty is employment. Many defendants apparently do not want the agency to call their employers. Attempts can be made to verify employment through friends and relatives. However, these references are usually not quite so sure where the defendant works or how long he has been working; they are

* A separate box is checked to indicate that street address has been verified. No defendant is placed in the recommendation category indicating successful verification, unless this specific item has been verified.

even less certain of facts relating to a defendant's prior employment.

Most references ask what crimes defendants have been charged with. Interviewers are instructed to reply that they do not possess that information.

Verification possibly informs certain people that the defendant has been arrested. This may increase the attendance of a defendant's friends and relatives at court, and such increased attendance in turn may improve the defendant's chances for pretrial freedom.*

Some analysis should be attempted of the way the agency is presented to references and of the sensitivity of interviewers in presenting potentially disturbing information to relatives.

When asked which references are most informative and cooperative, interviewers often give anecdotes pointing out the elderly relatives of defendants as being least informative.

Conflicting Information

Usually, the information given by defendants matches that supplied by references. Discrepancies may relate to questions that involve "how long?" or "how much?".

When references supply information differing from that which defendants have given, interviewers note the conflict on the ROR questionnaire. In some cases it is possible to resolve discrepancies by returning to defendants already interviewed and

* A questionnaire sent to Criminal Court judges by the New York Office of Probation indicated that many judges look to see if anyone is in court with the defendant when they decide whether or not to release him. See Office of Probation for the Courts of New York City, "Questionnaire to Criminal Court Judges Regarding Release on Recognizance Program" (May 10, 1972).

probing for clarification.

Study is recommended to isolate those contexts which lead to repeated efforts at verification. It is suggested, for example, that when the outcome of verification affects the recommendation category in which the defendant will be placed, staff are more diligent in attempting to resolve discrepancies between defendants and references.

Estimates of what proportion of staff time should be spent on interviewing as against verification are hazardous. Regardless of this, securing references who are reachable by telephone deserves a high agency priority.

Interviewers most often themselves verify information which they have elicited in interviews. At other times, other interviewers verify the information. A study should be made to determine whether interviewers' reactions to defendants whom they interviewed affect the zeal with which they attempt verification. Study might also reveal whether interviewers develop an attachment to the information which they have gathered and whether they are therefore more willing to consider particular items verified than someone else would be. Study might also disclose whether verifiers who do not also interview are more or less sceptical about the validity of information supplied by defendants.

It is possible that interviewers who verify information which they have gathered retain specific details that may be used in the verification process. Efforts should be made to determine whether or not this is the case.

4. PTSA Recommendations

After the interview, attempts at verification and inspection of the NYSIIS sheet, the interviewer refers to PTSA's "point system" to select the correct release recommendation for the defendant. The point system is discussed at length in Chapter 2. (Also, see the verification worksheet in Appendix A). The point system and the recommendations in which it results are meant to indicate

the extent of a defendant's community ties and therefore the likelihood that he will return to court for all scheduled court appearances.

The agency employs categories or stamps to convey these recommendations:

A. Recommended (42%)

If the defendant has the requisite number of points and if the interviewer has been able to verify the information the interview form is stamped "Recommended for ROR based on the verified information on this form". This stamp is affixed to 42 percent of all interviews.

B. Qualified (21%)

If the defendant has the requisite number of points, but the interviewer has been unable to get in touch with references given by the defendant to verify sufficient information, the form is stamped "Qualified based on the unverified information provided by the defendant." This stamp is placed on 21 percent of the interviews.

C. Blank (18%)

If the defendant does not score the requisite number of points, irrespective of verification, then the interviewer leaves the space for the stamp blank. This absence of a recom-

mendation apparently is interpreted as a negative recommendation by the court. The stamp space is left blank in 18 percent of all interviews.

In some cases, the interviewer writes on a "Blank" form the notation that certain information has been verified.

D. All Other Including Warrants (17%)

(i) If the defendant has failed to appear at some previous court appointment and has had a bench warrant issued against him, the questionnaire is stamped "Warrant Outstanding; No recommendation". This stamp is used in 13 percent of all cases.

(ii) In three percent of all cases, because the defendant's prior criminal record cannot be obtained a stamp is used which says "No recommendation, prior record unavailable".

(iii) In a little over one percent of the cases, the agency uses an "Interview incomplete _____" stamp. The reason the interview is incomplete is then written in the blank. Usually, a defendant has refused an interview or has been too sick, drunk or incoherent to be interviewed.

The agency's experience with verification indicates that if contacts given by defendants who received the qualified stamp could have been reached, the information on their forms would have been verified and the defendants would have

been recommended for release. It is therefore important to know why certain contacts are reached and others not.

The major difference between "recommended" and "qualified" defendants appears to hinge upon presence of a telephone in their residence. Table 1.1 shows that 72 percent of "recommended" defendants, as compared to only 42 percent of "qualified" defendants, have telephones in their places of residence. However, phone access does not continue to decline as between the "qualified", "blank", and "all other" groups.

TABLE 1.1
TELEPHONE IN RESIDENCE
BY PTSA RECOMMENDATIONS

| Telephone: | PTSA Recommendations: | | | |
|------------|--------------------------|------------------------|--------------|----------------------|
| | <u>Recom- mended</u> | <u>Quali- fied</u> | <u>Blank</u> | <u>All Other</u> |
| Yes | 72 | 42 | 45 | 50 |
| No | <u>28</u> | <u>58</u> | <u>55</u> | <u>50</u> |
| Total % | 100 | 100 | 100 | 100 |
| (n) | (1028) | (515) | (422) | (431) |

Charge and Recommendation

In many cases, interviewers know what crimes defendants have been charged with before PTSA recommendations have been assigned. Interviewers anxious about recommending for

ROR defendants facing serious charges would presumably avoid doing so. Yet, foreknowledge of charge does not seem seriously to affect recommendations. Table 1.2 shows that 44 percent of all A or B felony cases are in the "recommended" category, barely less than the 46 percent of C or D felony and 45 percent of E felony and A misdemeanor cases also placed in this category.

TABLE 1.2

PTSA RECOMMENDATIONS
BY SEVERITY OF CHARGE
(Penal Law Cases Only)

PTSA Recommendations:

Severity of Charge:

| | <u>A or B Felonies</u> | <u>C or D Felonies</u> | <u>E Felonies or A Misds.</u> |
|-------------|----------------------------|----------------------------|-----------------------------------|
| Recommended | 44 | 46 | 45 |
| Qualified | 18 | 24 | 20 |
| Blank | 24 | 19 | 17 |
| All Other | 14 | 11 | 18 |
| TOTAL % | 100 | 100 | 100 |
| (n) | (315) | (1059) | (799) |

NOTE: In this table severity of charge is placed at the top of the table since it is thought that charge might influence PTSA recommendations. In this report, a causal variable or basis for classifying cases (e.g., age) normally is placed at the top of tables and differences in percentages (showing the impact) are then read from left to right.

5. Scheduling and the Precinct Shift

Work at PTSA is organized into three shifts, as shown in Table 1.3. As can be seen from the table, the interviewing is very unequally distributed: one third of PTSA's effort is concentrated into three morning hours. Five interviewers work in that period. Table 1.3 indicates that the average number of interviewers assigned during each of the shifts is roughly proportional to the workload absorbed by each.

TABLE 1.3

WORKLOADS AND NUMBER OF INTERVIEWERS
BY SHIFT AND TIME OF DAY

| | <u>Percent of All Interviews</u> | <u>Typical No. of Interviewers</u> |
|--------------------|----------------------------------|------------------------------------|
| Day Shift: | | |
| 7:30 am - 10:30 am | 31 | 5 |
| 10:30 am - 3:30 pm | 19 | 3 - 5 |
| Evening Shift: | | |
| 3:30 pm - 10:30 pm | 31 | 5 |
| Night Shift: | | |
| 12:00 am - 7:30 am | <u>20</u> | 2 |
| TOTAL | % | 100 |

Schedules are arranged so that one or more Spanish-speaking interviewers are always available. (Seven percent of all interviews are conducted in Spanish).

PTSA's night shift was created in an attempt to alleviate some of the burden on early morning staff in the detention area. That shift, also called the precinct shift, deserves attention here. Two interviewers comprise the precinct shift. Starting at midnight, these interviewers call into a central police precinct to discover the location and number of defendants held for the night in police detention facilities. A police car is then requested to transport the interviewers to the defendants. Transportation normally arrives at PTSA's downtown Brooklyn office in thirty to forty minutes.

No sooner have police brought in the defendant "caught in the act" than PTSA interviewers "try to get them out". In such a situation, close attention should be paid to maintaining good human relations between PTSA and police.

At the precinct, interviewers present precinct ID cards which permit them to enter secured cell areas.

After completing interviews at one precinct, interviewers are transported to another. By 5 or 5:30 a.m. interviewers are driven back to the PTSA offices.

It is not always possible for the police promptly to provide PTSA with transportation. Reliance on police transportation, particularly when police units are busy, has undercut the efficiency of the precinct shift.

In the precincts defendants do not usually share cells. Cells are furnished only with a wooden bench and a commode. Getting the defendant's attention here is more difficult than in the courthouse context. Defendants often are asleep when the interviewers arrive; they may also be intoxicated or have just returned from the hospital. They must remain in their cells for the interview and are questioned through the bars. The precinct interviewers, dressed "neatly" but in the style of young New Yorkers, do not appear to be there "on business".

Interviewers do not present ID cards to defendants nor do they point out that they are not policemen when they first introduce themselves to defendants. As in the courthouse interviews, descriptions of PTSA, statements of the purpose of the interview and the giving of one's name vary from interviewer to interviewer.

Interviewers return to the PTSA office after their interviews are completed. There they verify the information which they have learned in the precinct.

Table 1.4 relates the time of interviewing to the PTSA recommendation categories (See next page):

TABLE 1.4

PTSA RECOMMENDATIONS
BY TIME OF INTERVIEW

| PTSA Recom- mendations: | Time of Interview: | | | |
|-------------------------------|------------------------------------|--------------------------------------|--------------------------------------|--------------------------------------|
| | Midnight to <u>7:30 a.m.</u> | 7:31 a.m. to <u>10:30 a.m.</u> | 10:31 a.m. to <u>3:30 p.m.</u> | 3:31 p.m. to <u>11:30 p.m.</u> |
| Recommended | 44 | 43 | 33 | 43 |
| Qualified | 18 | 23 | 21 | 21 |
| Blank | 21 | 15 | 23 | 16 |
| All Other | 16 | 19 | 23 | 20 |
| TOTAL % | 99 | 100 | 100 | 100 |
| (n) | (526) | (790) | (510) | (822) |

It is apparent that defendants interviewed at night are placed into positive recommendation categories ("recommended" or "qualified") about equally often as defendants interviewed at other times of the day. While PTSA staff are interviewing these defendants, the District Attorney's staff are interviewing complaining witnesses.

6. The Complaint Room

In the complaint room an Assistant District Attorney (ADA) conducts interviews of the complainant, any

witnesses to the alleged crime and the arresting officer. In certain cases he may decide that the case is so weak no complaint should be filed. In the normal case, however, the ADA prepares a formal statement of the charges against the defendant, and it is filed.

The ADA also reviews the PTSA material and the NYSIIS sheet. He usually writes down the amount of bail which he thinks should be set by the judge at arraignment. He may indicate that he considers a particular case appropriate for ROR. This information will assist the ADA working in the arraignment part.

7. Arraignment

At arraignment the court examines the complaint against the defendant. If it is legally sufficient, the defendant is asked to answer the charges against him (plead guilty or not guilty). At this time the court also determines what conditions, if any, should be set to ensure that the defendant will return to court for all scheduled appearances. It is this bail decision which is of most importance to the work of PTSA.

The arraignment begins when the bridgeman, a uniformed court officer, calls out the docket number of the case, the name of the defendant and the charge. He then opens

the court papers, usually to the complaint, and hands them to the judge. Finally, he administers the oath to the complainant and/or arresting officer, if present.

The judge reads the complaint and sometimes directs questions to the ADA to clarify the charge or determine the nature of the evidence against the defendant. He then flips through the rest of the court papers, usually pausing at the record of prior arrests and convictions (the NYSIIS sheet), and quite often pausing to look at the recommendation made by PTSA.

The ADA usually looks through the statement of the charge and the release or bail recommendation made by the ADA who worked in the complaint room. He also glances at the PTSA form.

In minor cases, where they believe the defendant is not a danger to the community, ADA's appear willing to consider the PTSA recommendation and consent to ROR. This is not the case where the alleged crimes are more severe. In most such cases, the ADA requests that bail be set at \$500 or more.

Eighty-five percent of all defendants are represented by the Legal Aid Society at arraignment. Defense counsel invariably pay attention to the recommendation and the information provided by PTSA.

In 11 percent of all cases, a bail decision is obviated at arraignment: the defendant pleads guilty; his case is adjourned in contemplation of dismissal (ACD'd); or the case against him is dismissed. Such cases not involving a bail decision are excluded from the following analysis.

The categories employed in examining the bail decision and the percentages in these categories are as follows:

(a) ROR (42%)

The defendant is released on own recognizance, without the necessity of posting bail;

(b) Low Bail/Cash Alternative (21%)

Bail in amounts of \$1 to \$999, of which a substantial number of all amounts are exactly \$500, are included in this category. Also included are "cash alternative" bails - such bail decisions permit defendants to post from ten to 25 percent of the face amount of the bail in cash in lieu of securing a surety bond from a professional bondsman;

(c) \$1000-\$2499 Bail (18%)

Such bails infrequently include "cash alternatives" to very large bails;

(d) \$2,500 and Above (16%)

(e) Bail Not Set/Remanded (3%)

Cases in which bail is not set include murder charges and instances where defendants refuse to identify themselves;

remands involve defendants referred to psychiatric or narcotics facilities for examination.

TABLE 1.5

BAIL DECISION BY CHARGE SEVERITY

Bail Decision:

| | A or B Felonies | C or D Felonies | E Felonies Or A Misds. | B Misds. Or Violations | AVERAGE |
|---------------------------|-----------------|-----------------|------------------------|------------------------|---------|
| ROR | 12 | 40 | 49 | 62 | 42 |
| Low Bail/ Cash Alt. | 10 | 20 | 28 | 24 | 21 |
| \$1000 - \$2400 | 22 | 22 | 15 | 11 | 18 |
| \$2500 & Above | 46 | 16 | 6 | 1 | 16 |
| Bail Not Set/ Remanded | 10 | 2 | 2 | 2 | 3 |
| TOTAL % | 100 | 100 | 100 | 100 | 100 |
| (n) | (310) | (1002) | (723) | (165) | (2200) |

Table 1.5 shows that release on recognizance and low bails increase rapidly as severity of charge decreases. For example, one in eight defendants charged with A or B felonies are ROR'd as against more than one in two defendants charged

with B misdemeanors or violations. The same pattern is established in the bottom rows of Table 1.5: one in two defendants charged with A and B felonies have bail set at \$2500 or higher, but only one in one hundred defendants charged with B misdemeanors or violations have bail set so high:

PTSA Recommendation and Arraignment Disposition

The agency makes recommendations without regard to the severity of the charges against defendants. However, since emphasis on charge severity is apparent in bail decisions, it is instructive to study PTSA recommendations and the court's bail decisions separately for charge severity groupings. Tables 1.6, 1.7, 1.8, and 1.9 show the relation between agency recommendations and bail/release decisions for each of the charge severity categories of Table 1.5. Table 1.10 then presents a summary of the ROR rates (column 1 of Tables 1.6, 1.7, 1.8, and 1.9).

All tables are based on a one in ten sample of cases in which a bail decision was made at arraignment, excluding cases in which Penal Law charges are not involved.

It is apparent from Table 1.6 (on the following page) that even among defendants charged with the most serious offenses - the A or B felony cases - a recommendation by PTSA has some impact on bail decisions. Nineteen percent

TABLE 1.6
 BAIL DECISION BY PTSA RECOMMENDATIONS
A or B Felony Cases Only

| Bail Decision: | PTSA Recommendations: | | | |
|---------------------------|-----------------------|------------------|--------------|------------------|
| | <u>Recommended</u> | <u>Qualified</u> | <u>Blank</u> | <u>All Other</u> |
| ROR | 19 | 11 | 5 | 0 |
| Low Bail/ Cash Alt. | 9 | 16 | 12 | 2 |
| \$1000 - \$2400 | 27 | 18 | 15 | 21 |
| \$2500 & Above | 38 | 40 | 55 | 67 |
| Bail Not Set/ Remanded | 7 | 16 | 12 | 9 |
| TOTAL % | 100 | 101 | 99 | 99 |
| (n) | (137) | (56) | (74) | (43) |

of "recommended" defendants facing such charges are ROR'd, as against 11 percent among "qualified" and 5 percent among "blank" defendants.

Table 1.7 (on the following page) similarly shows that defendants charged with C or D felonies and "recommended" or "qualified" for release stand better chances of being ROR'd or having relatively low bail set than other defendants charged with C or D felonies. Further, Tables 1.6

TABLE 1.7

BAIL DECISION BY PTSA RECOMMENDATIONS

C or D Felony Cases Only

Bail Decision:

PTSA Recommendations:

| | <u>Recommended</u> | <u>Qualified</u> | <u>Blank</u> | <u>All Other</u> |
|---------------------------|--------------------|------------------|--------------|------------------|
| ROR | 54 | 39 | 24 | 13 |
| Low Bail/ Cash Alt. | 16 | 25 | 23 | 17 |
| \$1000- \$2400 | 19 | 16 | 29 | 36 |
| \$2500 & Above | 11 | 16 | 19 | 30 |
| Bail Not Set/ Remanded | 0 | 2 | 4 | 4 |
| TOTAL % | 99 | 98 | 99 | 100 |
| (n) | (663) | (240) | (188) | (107) |

and 1.7 together show a pattern of cross-overs between PTSA's "recommended" and "qualified" categories on the one hand and the court's decision to "ROR" or set "Low bail/cash alternative" on the other. Table 1.8, taken from these two tables, illustrates this. (See table on next page).

Table 1.8

CROSS-OVERS FROM "RECOMMENDED" TO "QUALIFIED"
AND FROM ROR TO LOW BAIL/CASH ALT.

| | <u>A Or B Felonies</u> | | <u>Difference</u> |
|------------------------|------------------------|------------------|-------------------|
| | <u>Recommended</u> | <u>Qualified</u> | |
| ROR | 19 | 11 | -8 |
| Low Bail/ Cash Alt. | 9 | 16 | +7 |
| TOTAL | <u>28</u> | <u>27</u> | <u>-1</u> |
| <hr/> | | | |
| | <u>C Or D Felonies</u> | | |
| | | | |
| ROR | 53 | 39 | -14 |
| Low Bail/ Cash Alt. | 16 | 25 | +9 |
| TOTAL | <u>69</u> | <u>64</u> | <u>-5</u> |

Among A or B felony cases, the downgrading of a "recommended" to a "qualified" stamp is associated with a "loss" of eight percent in defendants ROR'd. But seven percent of this loss is immediately offset by a corresponding increase in the "low bail/cash alt." category among "qualified" defendants. A similar, but not quite so neat, pattern obtains among C or D felony cases and among E felony or lesser cases. (See Table 1.9 below).

TABLE 1.9
BAIL DECISION BY PTSA RECOMMENDATIONS
E Felonies And A Misdemeanors

| Bail Decision: | PTSA Recommendations: | | | |
|---------------------------|-----------------------|------------------|--------------|------------------|
| | <u>Recommended</u> | <u>Qualified</u> | <u>Blank</u> | <u>All Other</u> |
| ROR | 68 | 53 | 29 | 13 |
| Low Bail/ Cash Alt. | 19 | 27 | 39 | 42 |
| \$1000 - \$2400 | 9 | 15 | 17 | 31 |
| \$2500 & Above | 4 | 5 | 12 | 8 |
| Bail Not Set/ Remanded | 0 | 0 | 3 | 5 |
| TOTAL % | 100 | 100 | 100 | 99 |
| (n) | (321) | (150) | (123) | (128) |

Corresponding to PTSA use of relatively finely graded recommendation categories ("recommended" to "qualified" to "blank") there is apparent at all levels of severity of charge, a rather finely tuned response in the decision. Such data suggest that it is an error to restrict assessment of the agency's impact to the ROR decision alone. Rather, low bail and/or cash alternative bails also probably are responsive to PTSA initiatives.

Summary of ROR Disposition

Table 1.10, taken from the foregoing tables, shows the percentage of defendants released on their own recognizance

TABLE 1.10

ROR RATES BY PTSA RECOMMENDATIONS
CONTROLLING FOR CHARGE

(Table Reads in Both Directions)

INCREASING TIES →

DECREASING SEVERITY ↓

| | <u>Blank</u> | <u>Qualified</u> | <u>Recommended</u> |
|------------------------|--------------|------------------|--------------------|
| A or B Felonies | 5 | 11 | 19 |
| C or D Felonies | 24 | 39 | 53 |
| E Felonies Or A Misds. | 29 | 53 | 68 |
| B Misds. or Violations | 32 | 83 | 84 |

by the court as it is jointly influenced by agency recommendations and charge severity. (The agency recommendations are placed in the reverse of their usual order so that going either from left to right, or from top to bottom, increases chances for ROR).

For "blank" defendants, those with few community roots, release rates in the first column increase from one defendant in twenty for severe charges (at the top of the column) to one defendant in three for minor charges (at the bottom of the column); by contrast, release rates for "recommended" defendants (the last column) go from one defendant in five for severe charges to four defendants in five for minor charges.

For any row (charge level) in the table the release rate for "recommended" defendants is always more than twice the release rate of "blank" defendants, those whom PTSA finds to have few community roots. Thus, the advantages of a positive recommendation (or of community ties) are clear by reading left to right in Table 1.10.

If the advantages of recommendations or roots are seen in the left to right direction in Table 1.10 then the disadvantages posed by severity of charges is apparent in the up and down direction in the table. For example, among "blank" defendants (the first column), rates of release are

a miniscule five percent among A or B felony cases, but increase rapidly to thirty-two percent among B misdemeanors or violations. The "qualified" and "recommended" columns, though they start at somewhat higher levels, show the same pattern.

Agreement and Disagreement Between PTSA and the Court

Table I.11 (See following page) attempts to further simplify the relationship between the agency's recommendation and the judge's decision. For this purpose the "recommended" and "qualified" defendants are combined into one group, called "Agency Favors ROR"; all other defendants are combined into a second group called "Agency Does Not Favor ROR". Using these two classifications, the Agency total column shows that PTSA "favors" 64 percent of all defendants, and "does not favor" 34 percent.

The court's decisions are also grouped into two categories, one for all defendants who were released on recognizance (ROR), and one for those defendants who were not so released (Not ROR).

The combination of cells a and d represents the percentage of cases in which there is agreement between the court and PTSA. Agreement occurs in 61 percent of all cases: 33% + 28%. The combination of cells b and c represents the percentage of cases in which there is disagreement between the court and PTSA.

Table 1.11

AGREEMENT AND DISAGREEMENT BETWEEN
PTSA AND THE COURT

| | | Court's Decision: | | <u>Agency Total:</u> |
|---------------------|------------|-------------------|---------|----------------------|
| | | ROR | Not ROR | |
| Agency Favors: | ROR | 33 | 31 | 64 |
| | | (a) | (b) | (a + b) |
| | NOT ROR | 8 | 28 | 36 |
| | | (c) | (d) | (c + d) |
| <u>Court Total:</u> | | 41 | 59 | 100 |
| | | (a + c) | (b + d) | (a + b + c + d) |

Disagreement occurs in 39% of all cases: 31% + 8%.

The contents of Table 1.11 can be described in still another way. In those cases where the agency makes a positive recommendation for release (a+b), the judge agrees in 51% of the cases (a/(a+b)); in those cases where the agency makes a "negative" recommendation for release (c+d), the judge agrees in 78% of the cases (d/(c+d)).

Study of Agency-Court Agreement & Disagreement

Further study is suggested to probe the specific contexts underlying the agreement and disagreement between the agency and the court. Using the letter entries from Table 1.11, once again, the following topics for research into agency-court disagreement can be posed:

Cell b (agency favors, court over-rules): data have already shown that the court takes into account the severity of the charge(s) against the defendant (see Table 1.5). Informal observations of arraignment decisions indicate that judges also express individualized concerns over such matters as the quality of the complaint prepared by the ADA, the demeanor of

defendants, the nature of specific charges (such as weapons) etc. These would be difficult to incorporate into any uniform recommendation system, however, as would the weight of the evidence, which judges are required to consider in making their bail decisions.

In addition to these factors, however, cases fall into Cell b in those instances where the ADA in arraignment, perhaps after examination of the defendant's "trial folder" prepared in the Complaint Room, is disposed to argue more forcibly for bail, and against ROR, on the basis of considerations not apparent from data available to PTSA or in the court papers. The number of witnesses to the case, the credibility of witnesses, the circumstances of the arrest, the apparent quality or nature of the police investigation, the use of force against the defendant, and any linkage of the case to other ongoing investigations by the district attorney are examples of factors which might lead the ADA to oppose PTSA recommendations for ROR.

Cell d (agency does not favor, court releases): In almost one out of ten cases, defendants are ROR'd after having received what is tacitly a negative release recommendation from the agency. PTSA's statistics consistently show that such defendants pose very high risks of failure to appear. The agency includes both the release rates of these defendants and their rates of failure to appear in its monthly statistical reports. (See Table 1.16 at p. 52.) It is suggested that both practices are misleading.

A study of the specific contexts which dispose the courts to nevertheless release defendants not recommended by the agency should also be undertaken. Such defendants will of course include many who are facing minor charges (See Table 1.5). In addition to these cases, the court may be taking into account such factors as family ties between complainant and defendant, or reacting to inadequate case preparation by the police or the district attorney.

Table 1.12 shows that some judges release more than twice as many defendants on their own recognizance as do other judges. Equivalent tables have been compiled relating PTSA recommendation and severity of charge to individual judge's release rates. Much the same variation occurs as is apparent in Table 1.12. However, the number of cases in these tables is too small to permit any but the most tentative conclusions.

TABLE 1.12
DEFENDANTS ROR'D AT ARRAIGNMENT
BY INDIVIDUAL JUDGES

Arraignment
ROR (%):

| | A | B | C | D | E | F | G | H | I | J | K | L |
|-----|-------|-------|-------|-------|-------|------|------|------|------|------|------|------|
| | 46 | 48 | 40 | 52 | 46 | 22 | 29 | 38 | 49 | 35 | 39 | 40 |
| (n) | (286) | (216) | (156) | (136) | (112) | (96) | (91) | (82) | (80) | (68) | (67) | (62) |

The variation among judges indicated in Table 1.12 underscores the need for interviews with judges in order to identify further factors important in the bail decision. Further research is necessary to explain the wide range in acceptance of PTSA recommendations. Table 1.12 shows that judges A to F, who sit in arraignment quite regularly release, in 44% of the cases, while judges G to L, who sit less regularly, release in 38% of the cases. Study is needed to determine how the frequency with which a judge sits in arraignment affects his release rate. Factors influencing the ROR rate could include judicial experience, usual case dealt with when not sitting in arraignment, extent of duty in night court, knowledge of PTSA program, etc..

Notification to Defendants of ROR Obligations

After the bail decision has been reached in the arraignment part, there ensues brief discussion about when the

defendant must next appear in court. In cases where bail has been set, the adjourned date is usually three or four days away. The cases of ROR'd defendants are adjourned for three to four weeks.

When a defendant is ROR'd, he is informed either by the judge or the bridgeman that he is being released, that he must appear in court on a particular date, and that failure to appear will result in a bench warrant being issued against him, in which case he will be charged with the additional crime of bail jumping. The defendant is warned of these matters in a rapid monotone.

8. The Arraignment Card

The defendant ROR'd at arraignment is handed a card which sets out his duty to appear in court and his right to counsel. The card also tells the defendant of his obligation to contact PTSA within twenty-four hours of his release. The arraignment card conveys to the defendant an impression of PTSA's official court status and notes that a warrant could be issued against him, if he later fails to contact PTSA. If the defendant reads the card, he discovers that he may contact the agency by visiting or telephoning its offices. The address and telephone number are given.

The message of the card is stated in 150 words of rather formal English. The opposite side of the card contains the same message in Spanish. PTSA has twice revised

the card, in efforts to improve its format and message. Revisions have increased the readability of the message. The use of red ink and large print also has helped to emphasize important parts of the card. Positioning of certain sentences also stresses their importance: By this test, the check-in requirement is the least important instruction on the card.

The defendant usually is handed the card by his attorney. Sometimes the bridgeman hands the card out. This happens when an ROR'd defendant is represented by private counsel or when Legal Aid attorneys are extremely busy. The attorney adds the date of the defendant's next court appearance and the court room he must go to, to the card. Attorneys often instruct defendants to call "that number" - i.e., PTSA. Defense counsel rarely explain what PTSA is to their clients. Most defendants are observed to put the card into their pocket or otherwise cease to look at it within moments after receiving it.

During one week, an arraignment judge was observed to hand out cards. During this time, ROR'd defendants contacted PTSA within twenty-four hours at a much higher rate than usual.

The ROR'd defendant is asked to step away from the bench just after he is handed the arraignment card. The bridgeman is in a hurry to call the next case. If the defense counsel

continues to explain the card to the defendant after the next case is called, the bridgeman will often call for silence in the court.

Receipt of the arraignment card establishes the second contact between the defendant and PTSA (the interview is the first). Yet, the defendant rarely is aware that this contact has occurred. PTSA is seldom mentioned when cards are given to defendants, and they are never told that the agency they must call is the same one whose representative interviewed them and made an ROR recommendation.

The arraignment card is provided by PTSA and is intended to insure defendant's third contact with the agency: check-ins within twenty-four hours. Redesign of the card to convey a brief, pungent message would be useful.

Additionally, PTSA interviewers might show the card to defendants when they are interviewed and explain PTSA's contact procedure and purpose. PTSA staff might also meet with defendants after their ROR to explain to them the nature of the agency and the importance of defendant check-ins.

An experiment testing the effectiveness of post arraignment contacts as an alternative to arraignment cards and perhaps also as an alternative to twenty-four hour check-ins is suggested.

9. The PTSA Court Representative

The court representative is present in court during arraignment proceedings. There he records arraignment outcomes on PTSA's copy of the interview form, attempts to verify information provided by defendants (if friends or relatives are in court and information remains to be verified) answers

rare questions from the arraignment judge about PTSA recommendations or interview information, and makes sure that the cards telling ROR'd defendants to check-in with PTSA are in supply and distributed to defendants.

The court representative is almost the only person from PTSA whom court officials come in contact with on a regular basis. The attitude of the major court actors to the court representative may be determined by the type of activity they observe him engaging in most often. Since this activity is clerical, it is unlikely that court representatives are perceived as "professional" representatives of PTSA or as persons whose recommendations and analysis should be given great weight by the court.

Rotation

It is PTSA policy to rotate staff among interview, court representative, and defendant follow-up work. Rotation probably contributes to employee understanding of the work of the agency and it may also enrich or broaden the job experience. Rotation of jobs could also give rise to innovation. As yet, however, few such innovations appear to have occurred.

Rotation may reduce confinement to narrow and repetitive tasks, but its full impact has not been analyzed. More study is needed to determine whether the policy has negative side effects, such as placing inexperienced personnel in the court representative position, so that the full potential of the court representative is never developed.

Potential Developments in Role of Court Representative

The role of court representative might be developed in some of the following directions:

Service to Judges - The court representative could act as a referral source for programs that are available for released defendants; programs for drug addicts, alcoholics, and employment training.

Service to Agency - The court representative could quickly monitor the quality of the completed interview form, checking for and determining whether the stamped recommendation is correct on the basis of the information supplied on the form. He could systematize in-court verification. He could also make sure the ROR'd defendant understands the meaning of release on recognition and his obligations to maintain contact with PTSA.

Finally, the court representative could act as the "eyes and ears" of the agency, looking for developments or conditions that might affect the ROR rate, or noting judges' apparent misunderstandings of the work of the agency.

10. PTSA Follow-up Procedures

PTSA's work in bringing defendants back to court for all their appearances is located four blocks from the court at the PTSA offices. Because these operations require contact with defendants, the office space in which they are performed is called the "contact area". These contacts are twenty-four hour check-ins; court date notification; and warrant follow-up. What each of these contacts involves is set out below. Other work in the contact area includes efforts to verify information not verified by the time of arraignment, and the scheduling of assignments for PTSA's area representatives.

Workers in the contact area receive twenty-four hour telephone check-ins and in person check-ins. They record the fact that these check-ins have occurred. They also receive

computer print-outs* listing the names of those defendants who have failed to check-in and attempt to reach these defendants by telephone. If unsuccessful, interviewers next send letters to these defendants reminding them to call or visit the agency. Anytime defendants are contacted they are asked if they know the time and place of their next court appearance. If they do not know, the PTSA employee informs them of it. Defendants are then told that they will receive further reminders of future court dates and that they should acknowledge each of these reminders.

The effectiveness of PTSA's arraignment card can be gauged by the number of defendants who check-in on their own initiative. Generally, fewer than half the defendants check-in at all during any weekly period, and the average is about 30 percent. When PTSA calls those defendants who fail to check-in, the defendants usually say that they didn't read the card or that they didn't get it in the first place.

The agency computer prints out, ten days beforehand, the names and addresses of all defendants with scheduled court appearances. PTSA then sends notification letters to these defendants. If there are fewer than ten days between appearances, defendants are telephoned. Sixty percent of defendants are

* PTSA uses a real time information system to record, retain, and process information relating to defendants. Information concerning each interviewed defendant is recorded in the system each day. All subsequent contacts with the defendant are also recorded in the system and the defendant is "followed" through the entire pretrial period.

mailed reminders; forty percent are telephoned. The reminder letters once more ask defendants to call PTSA to acknowledge their receipt. Records of these calls are also kept in PTSA's information system. If defendants do not acknowledge receipt of their reminders within five days after mailing, the computer lists them as "delinquents" and they are telephoned or visited by PTSA representatives.

Defendants missing court appearances (as identified by the issuance of bench warrants) are also listed by the computer. About 7 to 8 percent of defendants fail to make their first appearance. PTSA representatives attempt to contact these defendants. If they cannot be reached by telephone, neighborhood representatives are sent to their homes. In more than half the cases, defendants have failed to appear out of confusion or misunderstanding or as a result of their own, or a family member's illness. In those cases in which defendants have chosen not to appear, PTSA representatives attempt to convince them that it is better to return to court voluntarily than to face a police arrest.

During the pretrial period, workers in the contact area attempt to keep information concerning defendants' names and addresses current. They also make some attempt to verify information supplied by defendants who were "qualified" by PTSA. *

* See above at p. 19 for a description of these terms.

If that information is verified and defendants are then entitled to "recommended" status, the new recommendation is conveyed to the court. The effect of this procedure on post arraignment bail decisions has not been ascertained.

Agency Recommendations and Defendant Contact

Table 1.13 shows that those defendants who are in the "recommended" category consistently excel in checking-in with PTSA 24 hours after release: 35 percent of "recommended" defendants do so as against 21 percent of "qualified" defendants.

Table 1.13

RESPONSE TO 24-HR CHECK-IN
BY PTSA RECOMMENDATIONS

| Response To 24-Hr Check-in: | PTSA Recommendations: | | | |
|-----------------------------------|--------------------------|------------------------|--------------|----------------------|
| | <u>Recom- mended</u> | <u>Quali- fied</u> | <u>Blank</u> | <u>All Other</u> |
| Check-in On Own | 35 | 21 | 25 | 20 |
| Successful PTSA Contact | 44 | 47 | 35 | 29 |
| No Contact | 21 | 32 | 40 | 51 |
| TOTAL % | 100 | 100 | 100 | 100 |
| (n) | (273) | (81) | (52) | (41) |

and 25 percent of "blank" and 20 percent of "all other" defendants. Looking at the bottom row of Table 1.13, it is apparent that a defendant not "recommended" or at least "qualified" by the agency who is nevertheless released is twice as likely to fall out of contact with PTSA at the 24-hour check-in.

Phone and Contact

Contact, whether defendant initiated or agency initiated, is much easier to establish with those defendants who have access to telephones. Table 1.14 below shows that defendants with phones check-in twice as often and are also much easier to contact than defendants without access to telephones.

Table 1.14

CONTACTS WITH PTSA
BY ACCESS TO A TELEPHONE

| Response To 24-Hr Check-in: | Access to a Telephone: | |
|-----------------------------------|------------------------|------------------|
| | <u>Access</u> | <u>No Access</u> |
| Check-in On Own | 36 | 20 |
| Successful PTSA Contact | 46 | 37 |
| No Contact | 18 | 43 |
| TOTAL % | 100 | 100 |
| (n) | (274) | (173) |

Telephone access affects agency contacts even among those defendants who have verified community roots. The no-contact rate goes from 14 percent for "recommended" defendants with a telephone to 35 percent for "recommended" defendants without a phone. (Telephone access also affects check-ins among defendants separated into sub-groups with high or low stability of residence, family ties, employment, etc.)

24 Hour Check-In and Court Appearance

Table I.15 shows that those defendants who check in with PTSA have better appearance records than those whom the agency successfully contacts, and these defendants, in turn, have better records than the group out of contact with the agency. *

TABLE 1.15

FAILURES TO APPEAR AT FIRST
AND AT ONE OR MORE APPEARANCES BY
CONTACTS WITH PTSA

| Failure to Appear: | Contacts with PTSA: | | | Average |
|----------------------|------------------------|---------------------------|-------------------|---------|
| | <u>Check-In On Own</u> | <u>Successful Contact</u> | <u>No Contact</u> | |
| At First Appearance | 4 | 6 | 13 | 8 |
| At One or More Apps. | 4 | 11 | 18 | 11 |
| (n) | (133) | (190) | (125) | (448) |

* Among only "recommended" defendants, however, there is no net impact of check-in on failure to appear at first appearance.

Comparing the relation between 24-hour contacts with PTSA and FTA (failure to appear) at the first versus first or any other court appearance, Table 1.15 discloses that "check-in on own" defendants are one-third as likely as the "no contact" group to miss their first appearance (4 percent/13 percent), but they are less than one-fourth as likely to miss one or more subsequent appearances (4 percent/18 percent). This suggests that whatever else befalls defendants making their first appearance which causes them to miss a later appearance, this failure to appear is still slightly related to contacts with PTSA at an early stage in the pretrial release period.

Court Reminder Acknowledgement and Agency Contact

Forty-nine percent of defendants mailed court date reminder letters contact the agency on their own initiative and an additional 14 percent are successfully contacted (by telephone or visit) by PTSA. Thirty-seven percent are out of contact with the agency. Table 1.16 shows the relation between agency recommendation and agency/defendant contact for those defendants who were sent a court reminder letter. (See table on next page.)

TABLE 1.16

CONTACTS AFTER COURT REMINDERS
BY PTSA RECOMMENDATIONS

PTSA Recommendations:

| Contacts with PTSA: | <u>Recom- mended</u> | <u>Quali- fied</u> | <u>Blank</u> | <u>All Other</u> |
|------------------------|--------------------------|------------------------|--------------|----------------------|
| Check-In On Own | 54 | 46 | 39 | 28 |
| Successful Contact | 15 | 14 | 6 | 17 |
| No Contact | 31 | 40 | 54 | 56 |
| TOTAL % | 100 | 100 | 100 | 101 |
| (n) | (157) | (52) | (33) | (18) |

When Table 1.16 is compared with Table 1.13 (showing the relation between agency recommendation and 24-hour check-in) it can be seen that the amount of no-contact increases. The "blank" and "all other" ROR'd defendants remain less likely to have contact with PTSA than the "qualified" and "recommended" defendants.

Once again the presence or absence of a telephone in a defendant's place of residence is an important factor in establishing contact. In fact, its importance increases. Twenty-one percent of the defendants with telephones and

62 percent of the defendants without telephones have no contact with PTSA at the court reminder letter stage.

Table 1.17 shows, not surprisingly, that lack of contact at the first stage is related to lack of contact at the second stage.

TABLE 1.17
PTSA COURT REMINDER CONTACTS
BY CONTACT AT 24-HR CHECK-IN

24-Hr Check-In:

| | <u>Contacted</u> | <u>Not Contacted.</u> |
|--------------------|------------------|-----------------------|
| Court Reminder: | | |
| Contacted | 74 | 30 |
| Not Contacted | 26 | 70 |
| TOTAL % | 100 | 100 |
| (n) | (196) | (64) |

Seventy-four percent of those defendants who have contact at the first stage also have contact at the second stage; seventy percent of those who have no contact at the first stage also have no contact at the second stage.

Acknowledgement and Court Appearance

Table 1.18 shows the relation between agency/defendant contact at this stage and failure to appear in court for either the first or any subsequent court appearance.

TABLE 1.18
FAILURE TO APPEAR BY COURT
REMINDER CONTACTS

| Failure to Appear: | <u>Check-In On Own</u> | <u>Successful Contact</u> | <u>No Contact</u> | <u>Average</u> |
|----------------------|----------------------------|-------------------------------|-----------------------|----------------|
| At First Court App. | 0 | 6 | 16 | 7 |
| At One or More Apps. | 4 | 8 | 21 | 11 |
| (n) | (127) | (36) | (97) | (260) |

The data show quite clearly that those who have contact with the agency are much more likely to appear in court than those defendants who do not have contact with PTSA. Thus, contact with PTSA serves as an "early warning" of which ROR'd defendants may subsequently fail to appear in court.

This analysis indicates that the present court reminder procedures may be inappropriate for those marginal defendants who have had no contact with the agency at the 24-hour check-in stage. Perhaps if neighborhood representatives always visit "delinquent" defendants at this first stage, court attendance rates could be improved. Such a procedure could be adopted on an experimental basis.

No study has been made of the court attendance rates of those who initially are reminded of them by telephone rather than by letter. Such a study should be made. It might help the agency to determine the relative efficacy of personal as opposed to written communication with defendants.

The Neighborhood Representative

While most of the information obtained in the PTSA interview is geared to telephone or mail contact with the defendant, the agency recognizes that some defendants cannot be contacted effectively in this way. The agency therefore has eight employees located out in the community. These employees visit the defendants whom the agency has been unable to contact by telephone or by mail.

The priorities of the neighborhood representatives have evolved as the agency has decided that some failures of agency (or court) and defendant contact are more important than others. The neighborhood representatives now give priority in order of importance to warrant cases, defendants who fail to respond to court reminders, defendants with whom the agency failed to establish contact at the twenty-four hour check-in stage and who have a court appearance scheduled within three or four days of the check-in date, and other defendants with whom the agency is no longer in contact. Neighborhood

representatives do not regularly visit the average defendant who has failed to establish contact with the agency at the end of the 24-hour check-in period.

The neighborhood representative is usually sent to visit a defendant only when the PTSA staff working in the agency offices have exhausted all other means of locating him: writing and/or telephoning all references, family, friends, or places of employment listed on the defendant's interview form and using the reverse directory to leave messages with people in the same apartment building if either the defendant or his references have no telephones. This means that the neighborhood representative is given the job of trying to locate a highly marginal group of defendants.

The work sheets for the neighborhood representatives are compiled by the in-house employees who are not always aware of the particular problems involved in locating a highly marginal group of defendants. The neighborhood representatives receive their work assignments for the day over the telephone. The representatives telephone PTSA at assigned hours because it can take as long as 30 minutes to receive the day's assignment.

The main difficulty which neighborhood representatives experience is, obviously, locating the defendants. The representatives may find that the addresses they were given don't exist; that they can find the right apartment building, but not the right apartment; that the

defendant is never home. If the defendant is not at home but someone else is, that person often may be hesitant to give information about the defendant. The representative may be informed that the defendant moved or that he never lived at the address.

If the representative does not succeed in locating the defendant but has found the right address, he leaves a message to call PTSA in the defendant's mail box or under his door. When the neighborhood representative finds a missing defendant, he explains the function of the agency and the advantages to the defendant of regular agency contact and court appearances.

Full and accurate information on what the neighborhood representatives do is vital if the effectiveness of their work is to be accurately gauged. That information presently is unavailable.

PTSA should consider the possibility of locating district offices (or storefront operations) in areas of high defendant concentration. This would give the neighborhood representatives a base of operation and might also be a good place in which to locate some defendant services and contact mechanisms.

CHAPTER TWO

THE PTSA POINT SYSTEM

1. Introduction

This chapter of the evaluation assesses PTSA's present system for recommending defendants for release by the court and presents a revised system which it is claimed is simpler to administer and yet performs better than the system now in effect. The revised system for recommending defendants is based on a thorough analysis of PTSA's experience in Brooklyn. How it will perform in the Bronx or in other boroughs will have to be studied in the future.

The criteria for assessing a recommendation system are two-fold: (1) how well does the system identify those defendants who will fail to appear in court? and (2) how many defendants will the system be able to allow to be recommended for release? It is obvious that a point system which accurately identifies a group of defendants with very low risk of failure to appear will nevertheless be of very limited use if only a small proportion of all defendants are so identified. A scale liberally recommending defendants for release, but with high risks of failure to appear associated with the recommended group, is clearly also of limited utility.

2. Present PTSA Recommendation System

PTSA presently employs an "objective" point system in formulating recommendations for release which are presented to the court. By "objective," it is meant that PTSA's interviewers rigidly adhere to a set of criteria which allocate points on the basis of relevant responses to interview questions and success at verifying these responses.

Table 2.1 below provides an example of these point criteria, in this instance as they apply to the assessment of a defendant's "residence ties."

Table 2.1

RESIDENCE TIES

(Points for PTSA Brooklyn Scale)

| <u>Scale Category:</u> | <u>Definition of Category:</u> | <u>Percent Of Cases:</u> | <u>(n)</u> |
|------------------------|---|--------------------------|------------|
| 0 | Briefly at present & prior addresses & fewer than 4 yrs. in New York City | 11% | (287) |
| 1 | At present address 4 mos. <u>or</u> at present & prior address 6 mos. <u>or</u> 4+ yrs. in City | 7 | (171) |
| 2 | At present address 6 mos. <u>or</u> at present & prior address 12 mos. | 5 | (142) |
| 3 | At present address 12 mos. <u>or</u> at present & prior address 18 mos. | 77 | (2057) |

Now this is an awkward kind of distribution for two reasons. Seventy-seven percent of the respondents fall into the last category. The remaining 23 percent are subdivided in much more detail than is necessary for the purpose at hand. In the new system the respondents are divided into two groups only, but with about equal frequency. They either have or have not lived two and one half years or more at their present address. The figures are given in Table 2.2.

Table 2.2

RESIDENCE TIES

(Points for New Classification)

| <u>Classification</u> | <u>Definition</u> | <u>Percent Of Cases:</u> | <u>(n)</u> |
|-----------------------|--|------------------------------|------------|
| + | 2½ years or more at present address | 46% | (1226) |
| - | Less than 2½ years at present address | 54 | (1432) |

A similar conversion into so called dichotomies was done with all the factors which were used in the old point system. Before this procedure is explained and justified in more detail, the reader has to be reminded to what use the whole point system is put.

Before a grand total of points on all recommendation scales can be translated into a specific recommendation for release*, reference must be made to the degree of verification which the defendant's answers have received. PTSA's verification worksheet sets out on its righthand margin two columns, headed "Int." and "Verif." respectively. Into the "Int." column go "interview points", points assigned by the recommendation criteria, but on the basis of the defendant's unsupported answer. Into the "Verif." column, on the other hand, go "verified points," also based on the criteria, but tabulated only for those answers which have been confirmed by a verification reference supplied by the defendant and located by the agency.

In effect, a cross-classification of defendants is produced by the joint outcome of recommendation criteria and verification. When the minimum point total required for a recommendation is introduced, the following results:

* These categories are discussed in Chapter One at pp. 19-21.

Table 2.3

RECOMMENDATION OUTCOMES AFTER CODING
AND VERIFYING DEFENDANTS' ANSWERS

| | Defendant eligible on basis of <u>his</u> answers? | |
|--|---|------------------------------|
| | <u>YES</u> | <u>NO</u> |
| Defendant eligible on basis of only <u>verified</u> answers? | <u>YES</u> Recommended & Verified | Stamp Space Is Left Blank |
| | <u>NO</u> Qualified But Unverified | Stamp Space Is Left Blank |

3. New Items for the New Point System

We have mentioned before the conversion of specific items of information into dichotomies. But we have also added two more items taken from the interviews in the detention area:

Whether the defendant claimed to have a telephone.

(54 percent claim telephone access.)

Whether the defendant expected a friend or relative to be present at his arraignment.

(65 percent expect someone.)

If such new items are added, it is first important to show that they don't duplicate old indicators. That they don't is exemplified by Table 2.4 which shows how phone access (a new item) and a positive classification on residence relate:

Table 2.4

RESIDENCE TIES RELATED TO
TELEPHONE ACCESS

| | | Residence Ties: | | |
|----------------------|---|-----------------|----|-----|
| | | + | - | |
| Telephone Access: | + | 32% | 22 | 54 |
| | - | 16 | 30 | 46 |
| | | 48 | 52 | 100 |

Such a scheme is called a fourfold table and it indicates that people with longer residence are more likely to have a telephone and of course telephone owners have lived longer at their present address. A coefficient of association (the phi coefficient) measuring this relationship and which can vary from zero to one has the value .22 in Table 2.4.

4. The Total System

Similar fourfold tables have been run for each pair of dichotomies - new and old - and the result is about the same: all items are moderately and positively related which means that they can be considered as a set of indicators of an underlying characteristic of a defendant: we might call it "reachability" or rootedness in the community. The system

is now handled like a true-false test. People are scored according to the number of items on which they are "positive." A comparison is possible with diagnosis in medicine. Several tests exist of tuberculosis, each one is fallible. But the more tests which are positive the more sure we are that the patient has the malady.

In the total new system, six items are used. Three of them are familiar from the old system but reclassified as dichotomous: family ties, length of residence, and one item which tells whether the defendant is employed or in school. Two items are the new ones mentioned above: telephone ownership, and whether the defendant expects some friend or family member to be present at arraignment. One item requires some additional explanation.

As explained above, a defendant is only recommended for ROR if the street address where he lives is verified and he scores above the minimum number of points required for a recommendation on the basis of his verified responses. In the new system, a sixth dichotomy is also called verification and is counted as positive whenever at least two pieces of information given by the defendant are ascertained to be true. The more lenient form of verification which enters the new point system is justified. Fourfold tables cross-tabulating every five of the other items with the lenient

verification item show that the latter increases the predictive value of the other five indicators. It may be that for policy reasons the agency will want also to retain the requirement for a verified street address if a defendant is to receive the recommendation from the agency.

Thus the respondent can score none to six positive points on the new point system. (Again for policy reasons, the agency may add a seventh item: the presence of a serious prior felony conviction. However, the percentage of defendants for which conviction data of this sort are available makes the change numerically irrelevant.)

Table 2.5 summarizes a large number of calculations into two numerical columns. The second one gives the distributions of this new point system. The first column tells the proportion of defendants in each point group which have failed to appear at least once. (See the following page.)

The first column of Table 2.5 is crucial in two respects. It first shows that the new point system permits a good prediction as to the subsequent conduct of the defendants who have been ROR'd. More than a third failed to appear at least once if they have no positive point; less than 10 percent do so if they have six points. In addition, Table 2.5 does suggest at what point a recommendation is appropriate. Between two and three points there is a sharp break in the non-appearance rate. It is, however, recommended that if a defendant has more than one point on the new scale he is recommended for release (provided one of the points is the verification item), so that this group is maximized.

Table 2.5

NUMBER OF POINTS ON SIX ITEMS
BY PERCENT FAILING TO APPEAR ONE OR MORE TIMES

| <u>Number of Points On Revised Scale</u> | <u>Percent FTA's *</u> | <u>OF</u> | <u>Number in Category</u> |
|--|----------------------------|-----------|-------------------------------|
| 0 | 34.5% | | (113) |
| 1 | 32.9 | | (310) |
| 2 | 26.8 | | (623) |
| 3 | 15.9 | | (879) |
| 4 | 13.7 | | (1116) |
| 5 | 12.0 | | (1067) |
| 6 | 7.7 | | (607) |
| | | | (4715) |

* The failure to appear data reported here are for a limited thirteen week sample of ROR'd defendants in the period September 3 through December 2, 1973. Failure to appear rates of a sample of ROR'd defendants during the year-long period June 4, 1973 through May 19, 1974 are reported in Chapter 4, page 115. In this chapter only the 13 week sample will be discussed.

4. Comparing the Old and New System

It is easy to compare what happened with the old point system and what would have happened if the new system had been applied to the old data. It will be remembered that the recommendation to the judge can either be: recommended and verified; qualified but on the basis of unverified information; and finally, no recommendation. The figures in parentheses in Table 2.6 give the frequencies in which these three classes of events occurred.

Table 2.6

NEW AND OLD SYSTEMS COMPARED:
PERCENT RECOMMENDED AND
PERCENT FAILING TO APPEAR AT LEAST ONCE

| | <u>Old System</u> | | <u>New System</u> | |
|-----------------------------|-------------------|-------------|-------------------|-------------|
| Recommended And Verified | 52% (1099) | FTA: 12% | 60% (1288) | FTA: 13% |
| Qualified But Unverified | 26 (558) | 22% | 26 (563) | 20% |
| No Recommendation | 22 (474) | 28% | 13 (280) | 33% |
| TOTAL % (n) | 100 (2131) | | 99% (2131) | |

It can be seen that about 200 cases move from lack of recommendation to a verified recommendation. This shift seems highly justified. The failure to appear rate remains approximately the same in the first two rows of Table 2.6, but

the not recommended defendants have a lower failure to appear rate under the old point system than they now have under the new system.

It also seems that the new recommendation system is less discriminatory than the old system, in so far as race/ethnic differences are concerned. The extent of differences in levels of positive recommendations is reduced in comparing race/ethnic groupings.

Table 2.6

NEW AND OLD SYSTEMS COMPARED:
PERCENTAGES OF DEFENDANTS VARIOUSLY RECOMMENDED
BY RACE/ETHNIC, AGE, AND SEX GROUPS

| Race/Ethnic: | Recommended: | | Qualified: | | (n) |
|--------------|--------------|-----|------------|-----|--------|
| | OLD | NEW | OLD | NEW | |
| Black | 49 | 62 | 26 | 25 | (1042) |
| White | 64 | 68 | 19 | 24 | (445) |
| Spanish | 45 | 53 | 34 | 32 | (524) |
| Sex: | | | | | |
| Male | 52 | 61 | 26 | 27 | (1872) |
| Female | 47 | 55 | 28 | 21 | (216) |
| Age: | | | | | |
| 20 & younger | 61 | 64 | 25 | 26 | (767) |
| 21 & older | 46 | 59 | 27 | 27 | (1336) |

NOTE: Percentages in this table are based only upon cases falling into the "recommended", "qualified" or "blank" (not recommended) categories.

CHAPTER THREE

EVALUATION NOTES ON

PTSA'S PROGRAM OF SUPERVISED RELEASE

1. Introduction

PTSA's program of Supervised Release employed in its first year a director, six counselors, and a "community resource officer" in an attempt to augment releases on recognizance for defendants facing very serious charges. The agency believed that these defendants, in the absence of special provisions, would spend very long periods in pretrial detention. Among the special provisions which the program sought to provide for such defendants, a number of community agencies were recruited to provide direct services to Supervised Release defendants and to act as agents for Supervised Release in taking weekly check-ins from the defendants.

The counselors interviewed candidates for Supervised Release only after their arraignment in Criminal Court, and therefore after ROR had been denied at the first opportunity. The delayed interview also meant a compounding of difficulties for the program: defendants had to be located at one or another of the detention institutions; some defendants screened for intake interviews would inevitably free themselves on bail before being located; other defendants would "take a plea"

at the next court appearance, perhaps at the same appearance at which a Supervised Release counselor had prepared a detailed "presentation" arguing for the defendant's release to the program. All such outcomes represented serious increases to the cost of securing release for the average defendant. Preliminary cost data were supplied by the evaluation to PTSA, and they have led to substantial revisions in the operations of the program.

Because PTSA's program revisions are so substantial as to represent a virtual redesign of the effort; this chapter will note only aspects of the first year's operations which it is believed still remain relevant to the current program. In brief, Section Two below describes the recruitment and participation of community agencies in Supervised Release, basing its presentation on the very limited amount of data available. Section Three briefly reviews the channeling of serious cases into Supervised Release. Although greatly altered, the filtering of cases into the program remains a key to the cost/effectiveness of any effort to direct relatively extensive (and expensive) services to a limited number of clients. Finally, Section Four speculates on the performance of the counselors in Supervised Release, and suggests that performance measures be devised to assess the work of program staff at each phase of operations.

2. Participation of Community Agencies

In roughly the first year of the program's operations, 179 community agencies were recruited to the work of Supervised Release. Recruitment was the work of a full time staff member, the community resource officer. A random assembling of the names of some of these agencies will give an indication of the variety involved: Aware, Inc., Willa Hardgrow Mental Health Clinic, Bed/Stuy Public Information (WNYE FM), Concord Baptist Church, Genesis House, Phoenix House, McKibbs Star Athletic Club, Mayor's Office for Veterans Affairs, etc., etc..

Table 3.1 immediately below shows, however, that agency recruitment was considerably more successful than the securing of defendants for placement in the agencies. Of the 179 organizations formally participating in the program, more than one third had not received a single placement and another one quarter had received only one referral from the program.

Table 3.1

CONCENTRATION OF REFERRALS

| <u>Number of Referrals Made to An Agency</u> | <u>Percent of Agencies With Indicated No.</u> | <u>Number</u> |
|--|---|---------------|
| 10 or more | 4% | 7 |
| 5 to 9 | 7 | 13 |
| 2 to 4 | 24 | 44 |
| One | 26 | 46 |
| None | 38 | 69 |

It can also be inferred from Table 3.1 that in only about one in ten agencies (those receiving five or more referrals) would there be any likelihood of continuing contact between Supervised Release staff and staff in the community agency. Indeed, Supervised Release staff experienced continuing difficulties in monitoring the performance of community agencies in their work with defendants. It often became impossible to determine from the agencies whether or not their defendant clients were meeting the requirements of their release. Supervised Release was placed in the position of making representations to the court - in order to secure a defendant's release in the first place - which required compliance from a community agency not a party to the original release.

Though the number of programs brought into participation with Supervised Release was great, the variety of services actually employed by PTSA's staff was quite restricted. Table 3.2, on the following page, presents a typology of referrals together with the percentage of all referrals falling into each type. A requirement for the release into the program of any defendant was that a community agency be nominated as the defendant's sponsoring or check-in agency. (The distinction between the two types of agencies is not clear, but sponsoring agencies apparently most often involve religious organizations.)

Table 3.2

NUMBER OF REFERRALS
BY TYPE OF AGENCY SERVICE

(Percentages of Referrals Not Defendants)

| <u>TYPE OF SERVICE</u> | <u>Percentage Of Referrals</u> | <u>Frequency of Referrals</u> |
|------------------------|------------------------------------|-----------------------------------|
| Check-In | 29% | 97 |
| Sponsor | 22 | 74 |
| Employment | 21 | 70 |
| Other | 15 | 52 |
| Drug | 6 | 19 |
| Health | 4 | 13 |
| Vocational | 3 | 11 |
| TOTAL | 100% | 336 |

It is apparent from Table 3.2 that few referrals involve defendants in distinctive programs. Only one in five program referrals go to employment and another three percent to vocational opportunities.

Table 3.3 on the following page relates the types of services afforded by the referral to the incidence of violations of program or court requirements (including failure to appear as required and re-arrests on other charges). There appear to be some differences in the incidence of violations

Table 3.3

VIOLATIONS AS A PERCENT OF ALL REFERRALS
BY TYPE OF SERVICE

| <u>TYPE OF SERVICE</u> | <u>Percentage Of Violations *</u> |
|------------------------|---------------------------------------|
| Check-In | 15% |
| Sponsor | 16 |
| Employment | 21 |
| Other | 8 |
| Drug | 21 |
| Health | 8 |
| Vocational | 21 |
| AVERAGE (n) | 18% (336) |

among referrals of different types. Since check-in or sponsorship is required for all defendants, the incidence of violations for these types is close to the average for all referrals: 18 percent. On the other hand, referrals to drug programs and employment programs show a somewhat higher rate of violations, and health and "other" programs (including education) show lower than average violations.

Though these data are inconclusive, they demonstrate the possibility for tracking program effectiveness and studying the relationship of effectiveness to types of services offered. PTSA should institute such studies on a routine basis, by aggregating data on defendants across programs of similar type. When reliable data are found, they should then be employed to guide future placements.

3. Channeling Serious Cases

Since Supervised Release directs its attention to those defendants facing more serious charges, it begins to screen cases only after the Criminal Court arraignment. Arraignment is thereby utilized as a "filter" to assure that trivial cases (often disposed of at arraignment) and moderately serious cases (for which ROR or low bail/cash alternative is often determined) have been eliminated from program intake at the very start.

Table 3.4 below illustrates this filtering. Though 14 percent of all cases continued post arraignment are composed of A or B felonies, the incidence rises to 20 percent of cases not ROR'd at arraignment, and further rises to 30 percent of

Table 3.4

| Severity of Charge: | CONCENTRATION IN CHARGE SEVERITY AT EACH STAGE OF INTAKE INTO SUPERVISED RELEASE | | |
|------------------------|--|-------------------------------|--------------------------------------|
| | Stage of the Intake Process: | | |
| | <u>Con't Post Arraignmt</u> | <u>Not ROR'd At Arraignmt</u> | <u>Considered For Supvsd Release</u> |
| A or B Felonies | 14 | 20 | 30 |
| C or D Felonies | 46 | 45 | 49 |
| E Felonies or A Misds. | 35 | 30 | 21 |
| B Misds. or Violations | 5 | 5 | 1 |
| TOTAL % | <u>100</u> | <u>100</u> | <u>101</u> |

all cases considered for Supervised Release. (The latter are cases for which a special coding study of the program's files uncovered interview forms or other routing sheets indicating program interest in a defendant.)

The transition from "Not ROR'd" to "Considered for Supervised Release" deserves special comment. Included in this transition are losses due to defendants who make bail after their Criminal Court arraignment, and losses due to elimination by Supervised Release staff. In these terms, it is evident that the program itself does relatively little to filter cases. Especially among E felonies and A misdemeanors, the program has allowed more than half of all such cases to come into consideration for Supervised Release.

More attention should be paid by the program to the monitoring of case characteristics at each stage of the intake process. More care should be exercised to avoid a situation in which Supervised Release passively inherits cases which, by default, have not been winnowed out of the intake sequence. Cases in the "gray felony" area, and certainly misdemeanor cases, appear to be over-represented among those considered for the program.

The characteristics of cases secured by individual counselors (or specialists in a Supervised Release intake unit) should be periodically and hopefully routinely monitored in order to assess whether or not certain staff are taking "easy shots" in order to secure releases. At the other extreme, as program records indicate certain defendant and case characteristics which are almost never greeted with a positive release decision, these cases should be eliminated from intake at an early stage.

4. Staff Performance

The work of the Supervised Release counselors is not easily accessible to observation by outside observers. Counselors' contacts with defendants are necessarily privileged. Again, counselors spend much of their time out of the office: in the detention institutions, in the Criminal Court and the Supreme Court, and in contacts with other community and criminal justice workers.

But a second factor limits the observability of the counselors' work. Supervised Release counselors feel that their work is on a professional plane. The intrusion into this realm of outside observers, or even agency supervisors, is often resented. Rightfully, counselors resist the redefinition of their work roles in the terms of a "numbers game:" number of interviews, number of presentations to the court, number of releases, and number of failures to appear.

Countering the counselors' claims to a professional work role must be the recognition that the services of the program have been and will remain quite costly. Individual counselors are not in the best situation to observe the cost impact of the specific tasks which they undertake. For example, it has been observed that counselors share little information concerning their experiences with specific community agencies. Such failure to communicate no doubt allows quite unsuccessful programs to continue to be utilized. (Four of seven agencies to which more than 10 referrals have been made have recorded three or more defendant violators apiece).

The agency should consider steps to integrate the Supervised Release counselors into other aspects of agency activities. Counselors could sometimes stand in for ROR supervisors or they could assist in special training programs acquainting the less experienced ROR interviewers with the processes of the court and the work of other court based programs. Counselors should themselves be made more aware of the work of PTSA's ROR section, including the capabilities of the agency's information system and the technical lore of defendant contact and follow-up work. Many of the problems of continued contact with community agencies resemble those successfully solved in ROR's follow-up of released defendants.

The agency might consider the counselor role as one avenue for promoting talented ROR interviewers who do not have an interest in supervisory work.

CHAPTER FOUR

A COMPARISON OF THE NEW YORK CITY
OFFICE OF PROBATION AND PTSA ROR PROGRAMS

1. Introduction

The New York City Office of Probation (Probation) ran an ROR program in the Brooklyn Criminal Courts from October 1964 to June 1973. At that time responsibility for creation and operation of a new program was transferred to PTSA. As part of the overall evaluation of the PTSA program, this chapter compares the operations and accomplishments of the two programs. Data are reported for the last year of the Brooklyn Probation program, June 1972 - May 1973, and the first year of the PTSA program, June 1973 - May 1974.

This chapter divides into four sections, two descriptive and two analytical. The first section sets forth the Probation and PTSA forms and procedures. Since Probation ran a city-wide program, much of this discussion will be generally applicable and not limited to Brooklyn as such. However, statistics relate solely to Brooklyn. The second section compares the character of the defendant population served during the two years and notes factors, such as police department and court procedures, which, if

changed between the two years, limit direct comparison of the programs. The third section examines differences in the information supplied to the court by the two programs and in-court acceptance of the agencies' release recommendations. It then discusses possible explanations for these differences. Finally, the last section discusses the differences in the results obtained by the two programs as measured by the rates at which released defendants failed to come to court for all of their scheduled appearances.

2. Agency Procedures and Forms

Both Probation and PTSA seek to inform and influence a judge's decision to release a given defendant on his own recognizance. Both do so by obtaining information concerning a defendant's background, making certain judgments about that information and reporting both the judgment and the information to the court. While there are many similarities in the way the two agencies perform these tasks, there also are substantial differences. We will first explore these differences in the context of the different forms used by the programs to collect and record information concerning each criminal defendant interviewed. Copies of those forms

are included in an appendix at the back of this report.*

(See Appendix A for PTSA and Appendix B for Probation forms.)

The Interview Form

The Probation form is one page long. The form is printed on an NCR (Non-Carbon Reproduction) set so that four copies are made when the form is filled out. The PTSA form is two pages long. The form is printed in such a way that four NCR copies of the first page are made when the form is filled out but only the original of the second page, labeled "Agency Use Only", exists. Probation and PTSA both circulate their NCR copies to other participants in the Criminal Court arraignment, specifically the judge and the defense attorney. PTSA also gives a copy to the Assistant District Attorney (ADA) prosecuting the case; Probation does not. In neither program is the defendant given a copy of the interview form.

The person who conducts the Probation interview is called an investigator. Both the investigator and the defendant are required to sign the completed form. Above the signature of the defendant appears the sentence, "I have consented to this investigation and certify that this

*Probation began to use a revised interview form during the 1972-73 period. Copies of both forms, which are quite similar, are included in the Appendix. Where relevant, differences in the forms will be noted; otherwise the more recent form, dated 7/72, will be discussed.

information is correct". The person who conducts the PTSA interview is called an interviewer. The name of the interviewer is recorded on the form but no signature line is provided. Nor is there space on the form for the defendant's signature. The form contains no information indicating that the defendant has consented to the interview and no information indicating whether or not the defendant certifies that data which he supplies is correct.

Next to the information furnished by the defendant on the Probation form appears a column labeled "Verified". Below that word the investigator is asked to indicate whether or not each item of information has been verified or whether he has been "unable" to verify. Next to the information furnished by the defendant on the PTSA form appears a column labeled "Verified by:". Space is then provided to indicate whether each item of information has been verified by telephone, in person, or by some other means. The name of the verifier is entered on the form. While the question of verification will be treated below in section three, we note here that the design of the Probation form just described leads us to conclude that Probation did not assume that all items would be verified while the design of the PTSA form indicates that PTSA apparently anticipated that all items would be verified.

Information Provided by the Interview Form

Both forms record the defendant's name and age and list the charges pending against him. The PTSA form presents more detailed information concerning the defendant. On the Agency Use Only page of the interview form, aliases and nicknames are listed and the sex and ethnicity of the defendant is recorded. A notation is made if an interpreter is needed in order to communicate with him. The Probation form gives no indication of the sex or race of a defendant.

Both forms also include questions about what the defendant expects to happen at arraignment; however, the questions are very different. While the Probation form asks whether the defendant expects to have a private attorney and is able to post bail, the PTSA form asks whether the defendant expects a friend or relative to come to the arraignment and records the name of anyone who is expected to attend.

The purposes of the questions also are very different. Probation does not complete interviews for persons who expect to hire a private attorney or post bail and therefore probes these areas. PTSA seeks out friends and relatives who attend the arraignment in order to verify information which has not yet been verified.

*Recent Probation policy is to the contrary; however through mid - 1973, when the Probation program ended in Brooklyn, these defendants were not given full interviews.

The bulk of each form is devoted to information indicating the nature and extent of the defendant's community ties and his criminal record. These are the prime subject matters of both forms because the relevant statutes require courts to consider those factors when making bail and recognizance decisions. The applicable section of the criminal procedure law is set out in Appendix C.

The PTSA form generally seeks more detailed information than the Probation form and in each instance records names and telephone numbers of persons able to verify particular items. The identity of these contacts is recorded on the Agency Use Only page and not circulated. By contrast, the Probation form asks for the names and telephone numbers of two "references". The identities and telephone numbers of these persons are noted on the form which is circulated at arraignment.

The interview forms indicate that both programs perceive the prime indicators of an individual's community ties to be length of residence at one address or in the New York City area, extent and nature of ties to family members living in the City, length and regularity of employment and/or school attendance, and existence of health problems incapacitating the defendant or requiring regular treatment.

Where the defendant's prior criminal record is concerned both PTSA and Probation record the number of a

defendant's previous misdemeanor and felony convictions and indicate whether or not a defendant is on probation or parole at the time of the interview. PTSA also notes the number of pending (open) criminal cases against a defendant and records the existence and status of any outstanding bench warrants for the defendant. The difference between the PTSA and Probation treatment of warrant cases will be discussed in the section on the recommendation process, below. On the Agency Use Only page of the PTSA interview form there are included a number of questions which help the agency to contact or locate the defendant, if he is released on his own recognizance. Items covered range from the zip code at the defendant's home address and his social security number to his own statement of where believes he can be found if he is not at home. Some items on the Agency Use Only page of the PTSA form do appear on the Probation form. These items include the name of the union, if any, to which the defendant belongs, the defendants' home telephone number and the fact that the defendant has some identification in his possession at the time of the interview. As previously noted, the Agency Use Only page also records the name, address and telephone number of a defendant's family contact, employer/supervisor, doctor, and probation/parole officer. The page also specifies whether the defendant agrees to allow PTSA to

contact the employer/ supervisor. This is the only item about which defendant consent expressly is noted on the PTSA form.

Having completed the interview forms, PTSA and Probation employees then evaluate the information and make release ~~recommendations~~ or ratings to the court. PTSA calls its judgments "recommendations". Probation calls its judgments "ratings", taking the position that recommendations cannot be made unless the severity of the charge is considered. Neither agency considers that factor. The agencies uses different methods for making their findings and recommendations known to the court. The PTSA form has a blank band running across the top, just below the defendant's name and list of charges against him. The PTSA system of recommendation stamps has already been explained. (See Chapter 2, pages 11-13). The appropriate recommendation is stamped in the blank band (called the stamp space) in red ink.

Probation has a section at the top of its form, above the defendant's name and below some clerical information labelled "Comments/Ratings". There are then two lines on which an investigator can write his comments and ratings. There are ten potential comments from among which

an interviewer might choose.* One stamp is employed. It reads: "Defendant's ties to the community indicates (sic) that he will appear when wanted". The use and significance of this stamp will be set forth in the following section. Printed above the space for comments on the older Probation form there also appeared a series of spaces which could be checked to indicate if a defendant was rated for ROR and if information was verified. This information was removed when the newer form was prepared.

On the top of both Probation forms there also are boxes which can be checked if an ROR investigation has not been made. The boxes set forth the reasons for the lack of an investigation. The reasons varied slightly from one form to the next. The more recent form gives three possibilities: excludable** case, insufficient staff available, and "other". If the "other" box is checked, the reason is written in the space for comments.

* The ten potential comments as set forth in an Office of Probation directive dated January 27, 1972 are as follows:

1. Defendant lives outside of New York City .
2. Reference could not be reached at present time.
3. Reference could not verify information.
4. Reference has no phone.
5. Defendant (unable or refused) to furnish references.
6. Home address--verified.
7. Case pending.
8. Home address--unverified.
9. Defendant is currently in Armed Forces
10. Defendant is currently on probation.

** The Probation "excludable" cases will be discussed in the next subsection.

Both the PTSA and Probation forms also include space in which to record the arraignment outcome and the pretrial release status of the defendant. Probation includes this information at the bottom of the form in a space called Criminal Court Action. The space contains a very formalized statement: "Upon review of this report and other information concerning pretrial release of the above named defendant it is hereby ordered that the defendant be". It is then possible to place a checkmark in front of the words expressing the outcome.

The possible alternatives are: parole, released on bail or no bail set. Space also is provided to indicate the amount of bail set, whether a surety bond is required or whether the defendant has been allowed to deposit cash in lieu of a bond.

The PTSA form indicates the arraignment disposition on the Agency Use Only form. There is no formal statement comparable to that which appears on the Probation form; there simply are a series of boxes to be checked. These boxes present a greater number of alternative outcomes than the Probation form, including the specific category, ROR'd. Like the Probation form, the PTSA form provides space in which the amount of bail or cash in lieu of bond can be recorded.

Finally, unlike the Probation form, the PTSA form includes space on the Agency Use Only page to record the next date on which the defendant is expected to appear in court and the courtroom (Criminal Part) in which he is expected to appear.

The Labelling/Recommendation Process

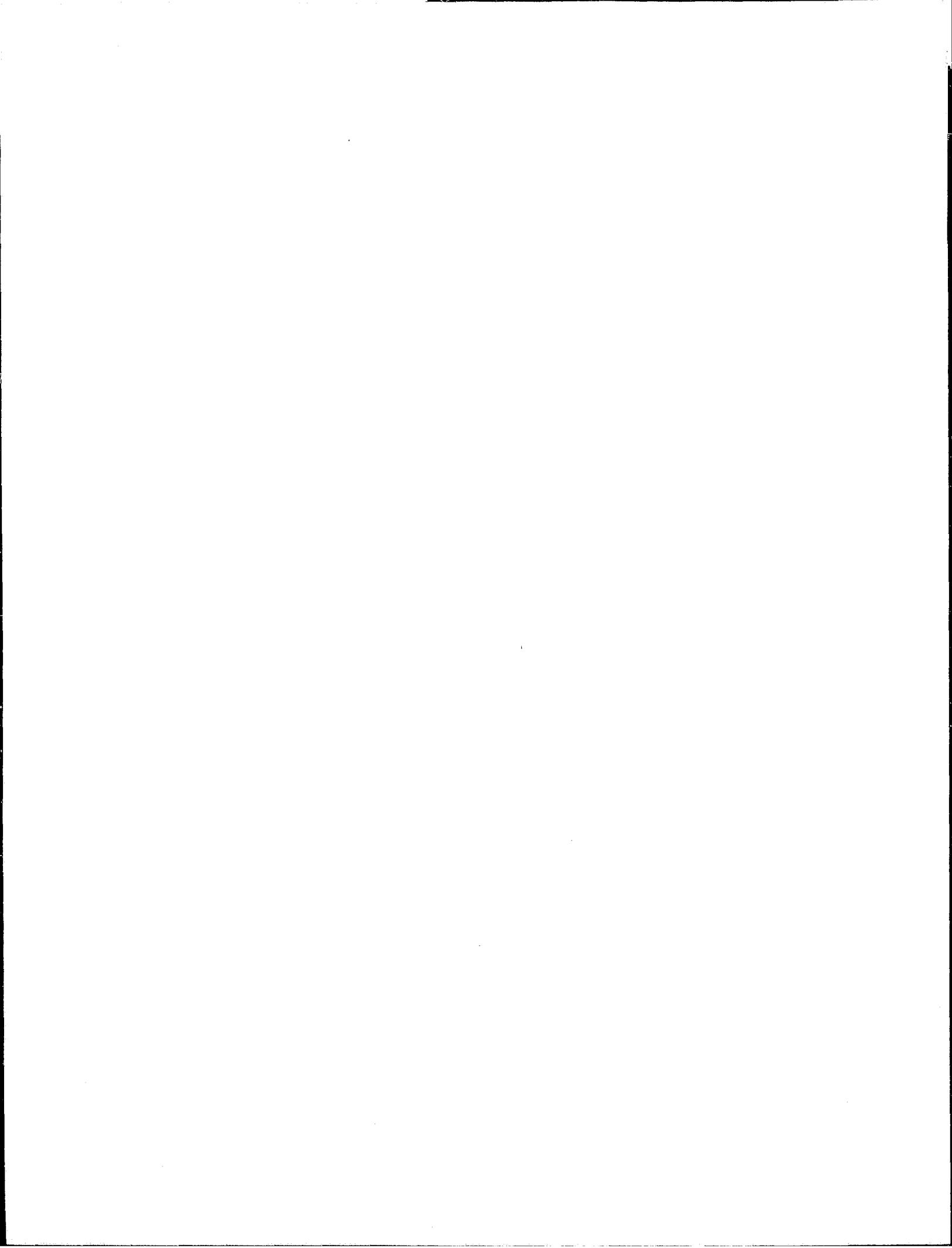
There are certain defendants about whom Probation gathers no information and makes no recommendations. These are the "excludable" cases. They involve defendants arrested on homicide charges and defendants arrested on assault charges if their victims are in critical condition as well as defendants against whom a warrant is outstanding. When presented with these cases, Probation investigators simply enter the name and address of the defendant on the interview form and check the box which states that no investigation has been made because the case is excludable. Similarly, when a defendant says that he can afford to hire a private attorney or post bail, the investigator simply enters the defendant's name and address on the form and makes a slash (/) down the rest of the page. Cases in which a defendant has another criminal charge pending against him are treated in the same fashion.*

PTSA interviewers interview all defendants regardless of the charge against them or their belief that they can post bail. Thus, unlike the Probation program, in every case under the PTSA program, the court is supplied with information concerning the nature and extent of a defendant's community ties. Similarly, the agency will make an ROR

*It should again be noted that all description of Probation practices refers to the period, 1972-73. Thus no reference is made to changes which may have been made in procedures since that time.

recommendation for defendants charged with homicide or a potentially fatal assault if, like other "recommended" defendants, those defendants have verified community ties and score the requisite number of points. PTSA does refrain from making ROR recommendations in warrant cases and where the charge against a defendant is bail jumping. As previously indicated, in these cases the interview is stamped with the message that no recommendation has been made because of the defendant's previous failure to comply with required court appearances.

Both PTSA and Probation employ a point system to determine whether a defendant should be rated or recommended for release. The PTSA point system already has been discussed at some length. A copy of the Probation rating sheet, which sets forth the point allocation under that program, is included in Appendix B. Briefly, both programs give points to defendants who have regular family contacts and stable employment or school enrollment and who have lived at one address for specified periods of time. Both programs subtract points from defendants who have prior felony or misdemeanor convictions. Finally, both programs require that a defendant score a given number of points before he can be considered for a release recommendation and stipulate that New York area residence is a prerequisite to favorable agency action. The policy of both programs is that infor-



CONTINUED

1 OF 2

mation for which points are to be allocated must be verified as true before the agencies will rate or, in the case of PTSA, unqualifiedly recommend a defendant for ROR.

PTSA provides its employees with a large worksheet on which to record all attempted contacts with defendant's references and information learned when these contacts are reached. The sheet sets out the requirements of the point system and provides space in which to record both the number of points which defendants earn on the basis of the interview form alone and then, in a second column, points which they earn on the basis of successful verification attempts.

No comparable worksheet is provided by Probation. While the total number of verified points which a defendant earns may be entered on the agency's copy of the investigation form, no record is kept of verification efforts, who was contacted, or what information was learned. The point system is set out on no documents regularly used by Probation employees.

Employees receive rating sheets at their initial training sessions and copies of the sheet may hang on the wall of the Probation ROR offices.

In the Probation program, if a defendant scores the required number of verified points, the agency stamp stating that the defendant's community ties indicate that he will comply with all scheduled court appearances is affixed to the interview form and the defendant is considered "rated for ROR". There are no other positive ratings in the Pro-

bation system. The agency's policy is that all interviews other than those stamped and rated for ROR merely provide information to the court from which it may reach its own decisions. Probation does not consider the checking of the two boxes labelled "Rated for release: Yes" and "Verified" on the old investigation report to have been a positive rating for release.* Only the stamp relating to community ties was intended to convey a positive ROR rating.

The meaning and use of the PTSA stamps already has been discussed (See Chapter 1 at pages 11-13). Here one need only note that PTSA employs two positive recommendations: the "recommended" stamp when the defendant scores the requisite number of points on verified information and the "qualified" stamp when the number of points assigned of the basis of the interview is sufficient but some or all of that information has not been verified.

Agency Contact with ROR'd Defendants

Both programs contact defendants ROR'd at arraign-

*According to a report prepared by the Office of Probation for the Courts of New York City entitled "Analysis of Release on Recognizance Report to Court Form" (June 7, 1972), depending on the interviewer, the check in the verified box might have meant either that part or all of the form had been verified. For this reason and because the court apparently looked for the stamp and ignored the rating boxes, the report recommended that the rating boxes be removed from the Probation form. (Id. at page 9). As has been noted, those boxes were in fact removed.

ment to remind them of their scheduled court appearances; however the scope of the "follow-up" procedures used varies dramatically between the agencies.

A primary difference is that PTSA has identified certain occasions during the pretrial period when defendants are expected to initiate contact, or check-in, with the agency. No such requests are made of defendants by Probation. Another difference is that PTSA regularly sends its employees to visit the homes of defendants who cannot be reached by telephone while Probation only does so on a limited basis.

The PTSA contact procedures, requiring defendants to check-in with the agency within 24 hours of their release and immediately after receipt of court reminder letters, is described in detail in Chapter I. If contact is not made, PTSA calls the defendant's home or tries to reach him through his references. If these attempts fail, a neighborhood representative is sent to the defendant's home.

The Probation follow-up procedure is rudimentary. At arraignment, Probation, like PTSA, gives the ROR'd defendant a card which indicates when and where he must next appear in court. Probation then attempts to send letters to defendants reminding them of their approaching court dates.*

* However, indications are that due to insufficient staff Probation typically is unable to notify defendants of court dates.

If defendants miss a scheduled court appearance, letters may be sent to remind them of their obligations and of the added problem which non-appearance may cause them.*

Investigator aides, hired with funds made available to the City through the Emergency Employment Act, spend some of their time in the community doing court notification and looking for defendants who have failed to make required court appearances.** Other than the work of the investigator aides, there is no effort comparable to that made by PTSA neighborhood representatives to find defendants who cannot be reached by telephone.

3. Factors Affecting Comparison of the Two Programs

The frequency of agency release recommendations as well as rates of defendant releases and subsequent failures to appear vary between the two programs, as will be seen below in section 4. These variations may be attributable to program differences. However, they could also depend on factors not related to differences in the program. This section mentions some of these factors, starting with those

* Again, insufficient staff limits this work.

** When Emergency Employment Act funds were exhausted the position of investigator aide was phased out. Now there are no Probation employees charged with the job of regularly visiting defendants' homes.

about which information is available and then moving to others about which it is possible only to speculate.

The Defendant Populations

In terms of race/ethnicity and sex, the defendant populations served by PTSA and Probation are similar.*

Table 4.1 shows that the defendant case load of each program is more than one-half black, almost one-quarter Spanish surnamed, and about one-fifth white.

TABLE 4.1

PERCENTAGES IN RACE/ETHNIC GROUPINGS
BY PROGRAM

| Race/Ethnicity: | Program: | |
|------------------|------------------|-------------|
| | <u>Probation</u> | <u>PTSA</u> |
| Black | 56 | 53 |
| White | 21 | 21 |
| Spanish-surnamed | 24 | 24 |
| Other | <u>0</u> | <u>1</u> |
| TOTAL % | 101 | 99 |
| (n) | (1715) | (2308) |

* Because information relating to sex and ethnicity is not recorded on the Probation investigation report, this information is derived from the relevant court records. Information on the sex and ethnicity of PTSA defendants is derived from the PTSA interview form.

Table 4.2 next shows that approximately 90 percent of the case load of each program is male.

TABLE 4.2

PERCENTAGES OF MALES AND FEMALES
BY PROGRAM

| Sex: | Program: | |
|---------|------------------|-------------|
| | <u>Probation</u> | <u>PTSA</u> |
| Male | 91 | 89 |
| Female | <u>9</u> | <u>11</u> |
| TOTAL % | 100 | 100 |
| (n) | (1798) | (2374) |

According to Table 4.3, the PTSA defendant population appears to be younger than the Probation defendant population. A possible explanation for this difference is the fact that data relating to the Probation population were obtained from court records while data relating to the PTSA population were derived from PTSA's own records. The law provides for the sealing of Court

records concerning youthful offenders;* sealed records therefore were not included in the Probation cases reviewed.

TABLE 4,3

PERCENTAGE IN AGE GROUPINGS
BY PROGRAM

| Age: | Program: | |
|---------|------------------|-------------|
| | <u>Probation</u> | <u>PTSA</u> |
| 16 - 18 | 15 | 22 |
| 19 - 20 | 12 | 12 |
| 21 - 23 | 17 | 16 |
| 24 - 27 | 17 | 15 |
| 28 - 34 | 19 | 17 |
| 35 - 44 | 13 | 11 |
| Over 44 | <u>8</u> | <u>6</u> |
| TOTAL % | 100 | 99 |
| (n) | (1764) | (2514) |

Charge Severity

The severity of the crimes with which the defendant

* Section 720.15 of the Criminal Procedure Law provides for the sealing of these records. Youthful offenders are defined by the statute as persons between the ages of 16 and 18 who are charged with the commission of a crime.

populations are charged changes somewhat from one program to the other.* Table 4.4 compares the severity of the charges brought against the defendant populations during the two years. When defendants are charged with more than one crime, the most serious crime with which they are charged is indexed.

TABLE 4.4

PERCENTAGE IN CHARGE SEVERITY GROUPINGS
BY PROGRAM

| Charge Severity: | Program: | |
|------------------|------------------|-------------|
| | <u>Probation</u> | <u>PTSA</u> |
| A Felony | 1 | 2 |
| B Felony | 10 | 11 |
| C Felony | 11 | 11 |
| D Felony | 28 | 31 |
| E Felony | 12 | 12 |
| A Misdemeanor | 25 | 19 |
| B Misdemeanor | 2 | 2 |
| Violations | <u>11</u> | <u>12</u> |
| TOTAL % | 100 | 100 |
| (n) | (1937) | (2381) |

* PTSA data are derived from the NYSIIS sheet which contains a pre-arraignment statement of the charge while Probation data are derived from the court papers at arraignment. There is little difference occasioned by the use of two different data sources, however, because PTSA experience shows that charges rarely are reduced at arraignment.

Table 4.4 shows that PTSA defendants face slightly more serious felony charges (A through D felonies) than do Probation defendants. The five percent increase in such charges from one year to the next is contributed to more or less equally by the four felony categories. The concomitant five percent decrease in less serious charges (E felonies, A and B misdemeanors and violations) consists almost exclusively of a decrease in A misdemeanor charges.

Table 4.5 shows the severity of the crimes with which black, white and Spanish-surnamed defendants were charged during the two years. (See Table 4.5 on next page.)

Table 4.5 shows that the five percent increase in serious charges from Probation to PTSA is also relatively evenly distributed among race/ethnic groupings.

Cases Disposed of at Arraignment

The total number of cases disposed of at arraignment increases from eight percent during the Probation to eleven percent during the PTSA year. No study has been made of the severity of the charges originally brought against those defendants whose cases were disposed of; nor has any analysis been made of the release recommendations given to these defendants by either agency.

Information Provided by the State

A significant change occurred in the quality of the information which was made available to the two agencies by the State. During the Probation year, the NYSIIS

TABLE 4.5

SEVERITY OF CHARGE COMPARED BETWEEN PROGRAMS
SEPARATED BY RACE/ETHNIC GROUPING

| Severity of Charge: | Race/Ethnic Groupings: | | | | | |
|---------------------------|------------------------|-------------|--------------|-------------|------------------|-------------|
| | Black | | White | | Spanish-Surnamed | |
| | <u>Prob.</u> | <u>PTSA</u> | <u>Prob.</u> | <u>PTSA</u> | <u>Prob.</u> | <u>PTSA</u> |
| A or B Fel. | 14 | 17 | 8 | 10 | 10 | 10 |
| C or D Fel. | 41 | 46 | 39 | 44 | 41 | 46 |
| E Fel. or A Msd. | 36 | 28 | 41 | 38 | 41 | 36 |
| B Misd. or Vio. | <u>8</u> | <u>8</u> | <u>11</u> | <u>8</u> | <u>8</u> | <u>7</u> |
| TOTAL % | 99 | 99 | 99 | 100 | 100 | 99 |
| (n) | (961) | (1248) | (352) | (480) | (402) | (580) |

sheet replaced the police information which previously had been used to document an individual's prior criminal record. For much of the year, NYSIIS sheets were of such poor quality that they could not be read. Thus, Probation investigators often could not determine the number of a defendant's prior felony and misdemeanor convictions or whether a warrant had been issued against him. The quality of the NYSIIS sheet had begun to improve by the time PTSA began its ROR program. PTSA therefore had more complete information concerning prior convictions and outstanding warrants. It is believed that the difference in the quality of the NYSIIS sheets accounts for the difference in the number of warrant cases reported each year. Only four percent of the Probation defendants were reported to have had warrants outstanding against them as compared with 13 percent of the PTSA defendants.

Changes in Police, District Attorney, and Court Procedures

It is possible that police department procedures changed from one year to the next; for example, there may have been increases or decreases in the use of desk appearance tickets* or in the prevalence of so-called "quality" arrests, especially in drug cases.

* A desk appearance ticket operates on much the same principle as the familiar traffic summons. The appearance ticket is issued by a police or other law enforcement officer. It commands an individual to appear in a given courtroom at a given time. It entails an arrest but no arraignment before a judge.

Similarly, there may have been changes in the number of cases dismissed in the complaint room because the ADA concluded that prosecution was not warranted.

Finally, data documenting wide variations in release rates by individual judges suggest that different scheduling of "high release" versus "low release" judges between the two years alone could account for differences in over-all release rates. However, a preliminary analysis of court schedules suggests that the composition of the arraignment part has been essentially similar in these terms over the two years.

4. Agency Performance and Impact

This section explores differences in the performance and impact of the Probation and PTSA programs. It first analyzes the amount and reliability of the information which each agency provides the court. It then compares the differences in the release recommendations * made by the two agencies. These differences are studied in the aggregate and in relation to severity of charge. Finally, the section compares percentages of defendants ROR'd each year, doing so in relation both to severity of charge and agency recommendations.

* The term recommendation will be used throughout this section. It embraces both the PTSA recommendation and the Probation rating.

Information Provided to the Court

It is essential that any ROR program present the court with as much relevant and reliable information as possible. This is so because the court is admonished to make its bail/release decision "on the basis of available information". (See appendix C). Comparison of the two programs shows that PTSA provides the court with information on more defendants than does Probation since PTSA interviews everyone against whom criminal charges are filed while Probation excludes many defendants and many categories of cases. When defendants are investigated by Probation, information is obtained less frequently and verified less often than is the case with PTSA interviews. Finally, information and judgements provided to the court by PTSA (as expressed by PTSA's release recommendations) better predict defendants' subsequent failures to appear in court than do such judgements and information (as expressed in Probation's release recommendations) provided to the court by Probation.

A random sample of PTSA interview forms and Probation investigation reports was tested for completeness and verification with reference to items common to both. The items used were: present and prior address; present and prior employment; school enrollment; family ties; and prior criminal record. The study shows that PTSA produces

twice as many completed interviews as does Probation. Similarly, PTSA produces fewer incomplete forms than does Probation. The PTSA rate for "incomplete" interviews (two percent) is at the level of the number of instances in which defendants have refused to be interviewed (about one percent). Since interview coverage is the joint outcome of agency initiative and defendant cooperation, it is probable that PTSA's results are close to the maximum achievable. This does not appear to be the case for Probation, where "incomplete" interviews are four times as numerous as refusals (nine percent incomplete, two percent refused).

PTSA verifies one or more items on its interview form more than twice as frequently as Probation. Almost 80 percent of the PTSA interviews are at least partially verified and, of the total sample, 35 percent are fully verified* while 34 percent of the Probation interviews are at least partially verified (and, of the total percent, nine percent are fully verified).

The findings on verification in the Brooklyn Probation sample generally are confirmed by a study of a random sample of ROR investigation forms completed in Manhattan in 1971. That study looked at the verification rate of particular items on the investigation forms, basing its

* Full verification is defined as verification of four or more of the items previously identified in the text. If verification of prior criminal record is ignored in the PTSA tabulation, as it should be, since such information is readily available from the NYSIIS sheet, the PTSA full or partial verification rate falls to just below 60 percent.

computations only on those forms which were actually completed (e.g. excluded cases and cases in which the defendant expected to post bail, etc., were not counted) . Questions relating to the length of time a defendant had lived at his present address and with whom he lived were verified most frequently, 41 percent of the time. All other items were verified substantially less frequently. If the PTSA verification rate is compared to the Manhattan ROR verification rate, it can be seen that PTSA achieves full or partial verification twice as frequently.

One index of the quality of the information provided by PTSA and Probation is its ability to predict subsequent failures of defendants to appear in court. Of particular importance is the predictive power of the agency release recommendation. Both programs premise their recommendations on apparently similar point systems. However, when PTSA's point system is applied to Probation investigation forms, and release recommendations derived, it proves to be a better predictor of failures to appear than the Probation release rating.

In the Probation Brooklyn sample, a sub-sample of 154 ROR'd defendants have been re-classified according to the PTSA point system as "eligible" under PTSA criteria or "not eligible" . Table 4.6 A shows how the Probation program actually rated these defendants, and sets out the percentages of defendants who failed to appear in court among recommended

defendants. Table 4.6 B shows how these same defendants would have been recommended under the PTSA point system, showing the percentages of ROR'd defendants who failed to appear in court (FTA) in each of the PTSA - defined eligibility groups.

TABLE 4.6

EFFECTIVENESS OF PROBATION AND PTSA
POINT SYSTEMS FOR RECOMMENDING ROR

(Data from Probation ROR'd Defendants)

4.6A
Probation System

| Probation Recom- mendations: | <u>All Defs. ROR'd</u> | <u>Defs. who FTA</u> |
|------------------------------------|------------------------|----------------------|
| Recommended | 40 | 21 |
| Not Recommended | <u>60</u> | <u>29</u> |
| TOTAL/AVERAGE | 100 | 25 |
| (n) | (154) | |

4.6B
PTSA System

| Alternative PTSA Recom- mendations: | <u>All Defs. ROR'd</u> | <u>Defs. who FTA</u> |
|---|------------------------|----------------------|
| Eligible | 68 | 17 |
| Not Eligible | <u>32</u> | <u>40</u> |
| TOTAL/AVERAGE | 100 | 25 |
| (n) | (154) | |

The tables show that PTSA procedures allow release recommendations for more defendants (68 percent are eligible versus 40 percent actually recommended by Probation) and that fewer defendants eligible by PTSA's criteria actually fail to appear in court: 21 percent of the Probation-recommended ever fail to appear versus 17 percent of the PTSA-eligible.

A comparison of only the right-hand columns of Table 4.6A and 4.6B shows that Probation recommendations "spread" the FTA rate by eight percentage points between recommended and not recommended defendants. PTSA procedures, on the other hand, spread the FTA figures by 23 percentage points.

The Release Recommendation and Court Release Rates

PTSA gives defendants favorable release recommendations almost twice as frequently as does Probation. For the purpose of this analysis, favorable PTSA recommendations include both the positive "recommended" category and the separate "qualified" category; favorable Probation recommendations are taken to include interviews bearing the Probation stamp as well as those on which the rating boxes "yes" and "verified" both have been checked. These two methods of rating favored defendants will be treated as one on the following tables.* All other interviews are categorized as "no label/

* This approach may lead to some overstatement of the number of Probation positive recommendations; however, there is no other appropriate category in which the relatively small number of such cases can be placed..

rating" (in the case of PTSA these are the "blank" and "all other" cases. See Chapter One, page 21.) These include warrant cases, cases in which defendants refused to be interviewed or in which their prior records were unavailable, and Probation's other excludable cases. Table 4.7 shows the number of release recommendations in each category made by each program.

TABLE 4.7

RELEASE RECOMMENDATIONS FOR
ALL CASES BY PROGRAM

| Recommendation: | Program: | |
|-----------------|------------------|-------------|
| | <u>Probation</u> | <u>PTSA</u> |
| Positive | 33 | 43 |
| Qualified * | | 21 |
| No label/rating | 52 | 18 |
| Other | <u>16</u> | <u>18</u> |
| TOTAL % | 101 | 100 |
| (n) | (1983) | (2374) |

NOTE: There is no equivalent in the Probation program of the PTSA category, "qualified". Nonetheless, it is separately listed. This is done because it accounts for a substantial number of recommendations and because, while a positive recommendation, it is not an unequivocal one.

Table 4.7 also shows that the difference in the relative number of PTSA and Probation favorable recommendations is accounted for by the fact that Probation refrains from making any recommendation almost three times as often as PTSA. The table shows that in 50 percent of all cases, Probation fails to give any direction to the court. Yet, as will be seen below, data show that where such direction is offered it is not ignored by the courts. Table 4.8 illustrates this fact, showing PTSA and Probation release recommendations on the basis of severity of charge and then the courts' response to these recommendations as demonstrated by the relative ROR rates. The release rates for favorably recommended defendants is always higher than the rate for negatively rated defendants or those for whom no recommendations were made. (See Table 4.8 on next page.)

A number of other facts also emerge from Table 4.8. PTSA release recommendations remain constant across charge severities;* Probation's do not. They describe a curve, peaking at the severity of C or D felonies. The nature of this curve confirms the impression gleaned from other sources

*The marked decrease in positive recommendations in the B misdemeanor or violation category is accounted for by the increase in the "other" category which is in turn explained by the fact that 25 percent of all those charged with B misdemeanors or violations have a warrant outstanding against them. These cases also include defendants rejected for Uesk Appearance Tickets.

TABLE 4.8

AGENCY RECOMMENDATIONS AND RELEASES COMPARED
BY SEPARATE CHARGE SEVERITY GROUPINGS

| Charge Severity: | Recommendations | | Release Rates | |
|-----------------------------|-----------------|-----------|---------------|-----------|
| | Probation | PTSA | Probation | PTSA |
| A or B Felony | | | | |
| Positive | <u>18</u> | <u>45</u> | 13 | 19 |
| Qualified | | 18 | 8 | 11 |
| No Label/Rating | 58 | 24 | 5 | 5 |
| Other | <u>24</u> | <u>14</u> | <u>2</u> | <u>0</u> |
| TOTAL/AVERAGE | 100 | 100 | <u>6</u> | <u>12</u> |
| C or D Felony | | | | |
| Positive | <u>37</u> | <u>47</u> | 50 | 53 |
| Qualified | | 24 | 24 | 39 |
| No Label/Rating | 53 | 19 | 26 | 24 |
| Other | <u>10</u> | <u>11</u> | <u>22</u> | <u>13</u> |
| TOTAL/AVERAGE | 100 | 100 | <u>35</u> | <u>40</u> |
| E Felony or A Misd. | | | | |
| Positive | <u>35</u> | <u>44</u> | 64 | 68 |
| Qualified | | 21 | 26 | 53 |
| No Label/Rating | 51 | 17 | 38 | 29 |
| Other | <u>17</u> | <u>18</u> | <u>50</u> | <u>13</u> |
| TOTAL/AVERAGE | 100 | 100 | <u>48</u> | <u>49</u> |
| B Misd. or Violation | | | | |
| Positive | <u>29</u> | <u>29</u> | 82 | 84 |
| Qualified | | 21 | 19 | 83 |
| No Label/Rating | 47 | 13 | 63 | 32 |
| Other | <u>25</u> | <u>37</u> | <u>70</u> | <u>38</u> |

TABLE 4.8A

CASE TOTALS IN SEVERITY
OF CHARGE GROUPINGS

Program:

| | <u>Probation</u> | <u>PTSA</u> |
|-------------------------------|------------------|-------------|
| A or B Felony | 221 | 312 |
| C or D Felony | 761 | 1008 |
| E Felony or A Misdemeanor | 710 | 726 |
| B Misdemeanor or Violation | 178 | 171 |
| TOTAL | <u>1870</u> | <u>2217</u> |

that, hampered by insufficient staffing, Probation focused its efforts where they would do the most good - on middle range charge severities (not on the severe charges, where the court is unwilling to ROR many defendants and not on the minor charges where the court is likely to ROR anyway).

The impact of a favorable release recommendation is seen most clearly in the A or B felony category. Twice as many defendants charged with A or B felonies are released by the court under the PTSA program as compared to the Probation program (12 percent versus six percent). All of this increase is accounted for by the release of defendants who were given a positive recommendation by PTSA. (That release rate more than compensates for the fact that the release rate for PTSA defendants in the "other" category was two percent less than that for Probation defendants in that category.)

Interestingly, the release rate for positively recommended defendants is always higher in the PTSA program than it is in the Probation program but the release rate for defendants who were not recommended is always higher in the Probation program. (This is most marked in the E felony or A misdemeanor and B misdemeanor and violation classifications where the release rate for non-recommended Probation defendants is almost twice that of the non-recommended PTSA defendants.)

There is consistently greater "spread" between the release rates of positively and negatively recommended

defendants in the PTSA program than in the Probation program, as is shown by the numbers on Table 4.8 which have been circled. From the spread it appears that judges recognize the PTSA categories as including some recommendations which are clearly positive and others that are clearly negative, and that they treat these recommendations accordingly, releasing significantly more positively than negatively rated defendants. * The existence of such a spread makes it extremely difficult to speak of an aggregate or average rate for the programs (it is four out of ten cases for both PTSA and Probation). The small number of defendants released when PTSA effectively says "don't release" and the relatively high number of defendants released when PTSA effectively says "release" invariably produce a meaningless average figure. Of greater significance is an agency's ability to place defendants in meaningful categories and to predict subsequent failures to appear.

It has already been shown that PTSA does a better job than Probation of placing defendants in categories which have meaning and are accepted by the courts. Rates of failure to appear remain to be compared.

5. Failures to Appear and Agency Recommendations

The positive release recommendations of both programs identify defendants who, if ROR'd, are more likely to appear in

* The circled numbers in Table 4.8 mark the spread between "positive" and "no label/rating". The difference in spread is even greater if "positive" to "other" is compared.

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court for all subsequent scheduled appearances than are other defendant populations; however, as Table 4.9 shows, defendants recommended for release by Probation are twice as likely to fail to appear in court (FTA) as are defendants recommended for release by PTSA.

TABLE 4.9

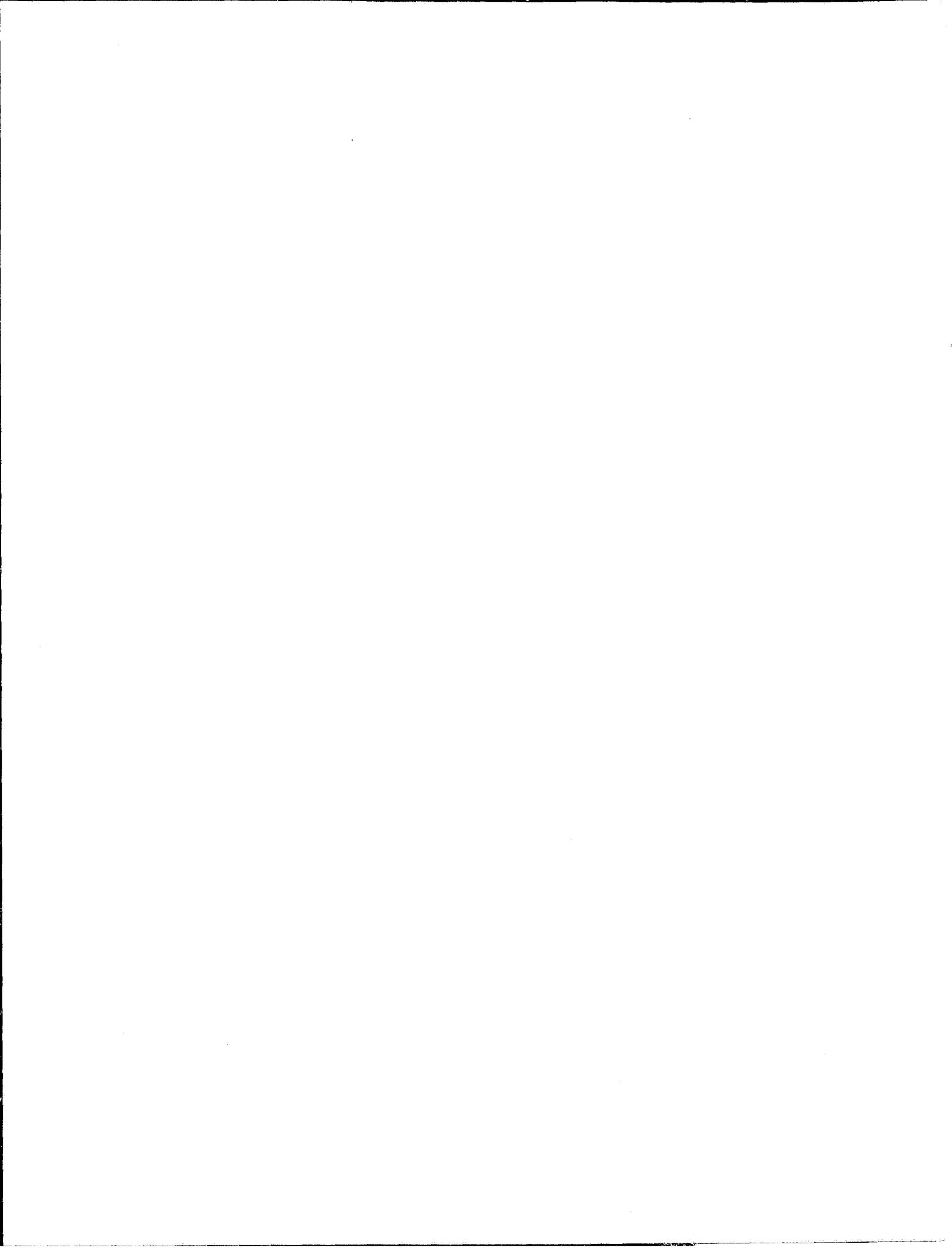
FAILURES TO APPEAR BY PROGRAM AND RECOMMENDATION CATEGORY

| Recommendation: | Program: | |
|-----------------|----------------------|-----------------|
| | <u>Probation FTA</u> | <u>PTSA FTA</u> |
| Positive | 20 | 9 |
| Qualified | | 17 |
| No label/Rating | 28 | 21 |
| Other | <u>19</u> | <u>23</u> |
| AVERAGE | 23 | 13 |
| (n) | (191) | (129) |

Table 4.9 also shows that during the PTSA year the over-all failure to appear rate was almost half that which it was during the Probation year.

* The failure to appear rate used here is obtained by counting those defendants who ever have a bench warrant issued against them during the pretrial period. For Probation, an average of 18 months have passed within which FTA's are counted; for PTSA, only an average of six months have passed. Later tabulation of PTSA FTA's will narrow the differences between the two programs. It is expected, however, that the final comparison will continue to favor PTSA.

The reduction in the failure to appear rate may be attributed to either or both of two factors: PTSA has done a better job than Probation of identifying those defendants whose ties to the community indicate that they will make all necessary court appearances; the PTSA check-in and follow-up procedures, virtually non-existent in the Probation program, influence defendants to make their court appearances.



END