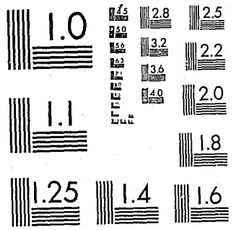

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STATE OF CONNECTICUT

PRETRIAL COMMISSION

75 Elm Street
Hartford 06115

Report

of the

Connecticut Pretrial Commission

to the

General Assembly

February 1, 1980

INTRODUCTION

The Connecticut Pretrial Commission, whose authority is defined in Special Act 78-37 of the Connecticut General Statutes, was established to study and to make recommendations regarding statewide criminal pretrial procedures and services. The legislation which created the Commission was sponsored by the Speaker of the House of Representatives, Ernest N. Abate, then Co-Chairman of the Joint Standing Committee on the Judiciary.

Pretrial Commission members represent both houses of the state legislature and virtually every component of Connecticut's criminal justice system, including the Office of the Chief Court Administrator, the Office of the State's Attorney, the Office of the Chief Public Defender, the Office of Adult probation of the Judicial Department and the Department of Correction. All Commission members serve without compensation.

The work of the Commission has been supported by the Law Enforcement Assistance Administration, under Mr. Ronald S. Brennan of the Adjudication Division of the Office of Criminal Justice, and by the American Justice Institute of Sacramento, California, Mr. John J. Galvin, Director and Mr. Walter H. Busher, Associate Project Director, through participation in the federally funded "Jail Overcrowding and Pretrial Detainee Project".

The Commission has received extensive support from the entire administration and staff of the Connecticut Justice Commission, Mr. William H. Carbone, Executive Director and the particular assistance of Mr. John F. Brooks*, Senior Planning Analyst.

The work of the Commission has been further enhanced by the assistance and cooperation of many other groups and individuals including the following: Chief Phillip R. Lincoln of the Newington Police Department; the Connecticut Chiefs of Police Association, Mr. Peter J. Berry, Executive Director; the Pretrial Services Resource Center of Washington, D.C., Ms. Madeleine Crohn, Esq., Director and Mr. D. Alan Henry, Technical Assistance Associate; Mr. Stephen F. Wheeler and Mr. John C. Hendricks, Co-Directors, Kentucky Pre-trial Services Agency; Ms. Dolly Tuttle, Project Coordinator, Hartford Pretrial Release and Supervision Program; the Criminal Justice Education Center, Ms. Sherry Haller; Director; Mr. Thomas O'Rourke, Chief Bail Commissioner; Ms. Ann Marie Maynard, Administrative Assistant to the Pretrial Commission; and the court personnel of G.A. 13 (Windsor), G.A. 2 (Bridgeport), and G.A. 14 (Hartford).

In addition, this report would not have been possible without the substantial contributions by Ms. Lucy Tine and Ms. Jo-Ann Aguzzi of the Connecticut Justice Commission.

A brief statement of the Commission's findings and recommendations is set forth in the "Summary", at page one of this report. The Commission believes that the effect of these proposals would be to streamline criminal pretrial procedures, to reduce some of the strain on our state's judicial and correctional systems and to deliver pretrial services in a more even-handed, cost-effective manner.

*Presently of the Office of Adult Probation of the Judicial Department.

The Pretrial Commission urges the General Assembly to adopt the recommendations set forth in the following report.

Respectfully submitted,

The Connecticut Pretrial Commission

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TABLE OF CONTENTS

REPORT OF THE CONNECTICUT PRETRIAL COMMISSION TO THE
1980 SESSION OF THE GENERAL ASSEMBLY

SUMMARY

The Problem

Connecticut's criminal justice system is bursting at the seams. Police, prosecutors, judges and corrections officials are struggling to maintain fiscal responsibility and, at the same time, to cope with record-breaking case loads. These problems are magnified at the pretrial level, due to the disproportionate number of cases which are processed and disposed of prior to trial. Pretrial detainees comprise more than one-quarter of the population of the Community Correctional Centers, and are contributing substantially to severe overcrowding in all the state's correctional facilities. Studies show that these individuals are not necessarily more dangerous or less likely to appear for court and that as few as 10%* are ultimately sentenced to serve additional time in prison. Nonetheless, large numbers of accused persons await the final disposition of their cases in prison, at considerable expense to taxpayers, primarily because they do not have sufficient cash or collateral to retain the services of a bondsman. A few individuals are able to participate in release or diversion programs in some of the larger cities, but access to most pretrial alternatives is limited by their location and the lack of reliable, standardized release criteria upon which the courts may base sound release decisions.

In spite of their common problems, no single agency has had the time or the authority to view the pretrial level of the justice system as a whole and to make recommendations for relieving some of the pressures shared by all. The Pretrial Commission was mandated by the General Assembly, under Special Act 78-37, to study "the effectiveness of pretrial programs and techniques with a view to implementing a state-wide criminal pretrial program." The Pretrial Commission's recommendations are aimed at bringing increased efficiency and accountability to the pretrial process. If the Commission's proposals are accepted by the General Assembly, the members are committed to working with the agencies involved at the pretrial level to insure that the proposals are carried out.

The Approach

The pretrial process, the process which begins with an arrest and ends with adjudication, encompasses virtually every facet of the criminal justice system. For this reason, the pretrial phase also offers the best opportunity to make a significant impact on the largest number of people - criminal justice personnel, victims and defendants- and to effect the greatest cost savings to the State.

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*Hartford Pretrial Release and Supervision Project of the Office of Adult Probation of the Judicial Department, November, 1979.

The Pretrial Commission was formed primarily in response to the uneven and insufficient availability of alternatives to pretrial incarceration in our State. In the early and mid seventies there was a proliferation of pretrial programs, primarily in the major urban areas, which offered a structured, inexpensive alternative to individuals who could not afford bail. Most of these programs were forced to cut back or disband in the wake of decreased government spending. More recently, Connecticut's prison population has reached record-breaking levels - more than 300 over capacity, in January, 1980. The severe overcrowding now evident in all correctional facilities has given the Commission's mandate an added sense of urgency.

During the past months, the Pretrial Commission has scrutinized Connecticut's criminal pretrial programs and procedures in order to answer two questions: (1) are the decisions which are made at the pretrial level based upon sound criteria which are applied uniformly throughout the State, and if not, how can uniformity be achieved?; and (2) how can criminal justice resources be mobilized in the most cost effective manner at the pretrial level to achieve the greatest impact at the earliest point in the justice system?

Findings & Recommendations

The Pretrial Commission is not requesting an appropriation from the 1980 Session of the General Assembly.

For those aspects of the Commission's proposals which require funding, the Commission is investigating private funding sources and is also optimistic about receiving Phase II monies through participation in LEAA's "Pretrial Detainee and Jail Overcrowding" project.

1. Restructuring of the Bail Commission

There are roughly 100,000 arrests in Connecticut per year. The Bail Commission processes over 30,000 of these cases, making and recommending release decisions which will determine whether these individuals await trial within the community, or within the confines of a correctional facility at substantial expense to the state. Despite this important responsibility, Bail Commission personnel are not required to meet any educational or occupational qualifications and receive no formal training or clear-cut guidelines in making release decisions. The Pretrial Commission's recommendations will insure that the Bail Commission's release decisions are made according to the same criteria statewide, that high levels of professionalism and accountability are maintained among Bail Commission staff, and that the Bail Commission can fulfill its potential for becoming a more effective information-gathering arm of the courts.

2. The Ten Percent Bail Deposit

The Pretrial Commission's study has shown that many defendants are incarcerated before trial solely because they cannot pay the fee or raise the collateral required by a bondsman, even for relatively low bond amounts. In many cases, there is no evidence that these defendants are more guilty, more dangerous, or less likely to return to court than defendants who are financially able to post bond.

The Pretrial Commission recommends that the 10% bail alternative be available to all misdemeanants and Class D felons who request it, unless the court states its reasons for denying the request. The 10% deposit alternative offers equal opportunity for release to all eligible defendants regardless of economic background, and provides an added incentive for return to court by affording a refund of the deposit upon successful completion of all court appearances. The 10% system will also free overburdened court personnel for more careful consideration of defendants accused of serious crimes, and will relieve the State of some of the unnecessary expense of extended pretrial incarceration.

3. Pretrial Programs

The Pretrial Commission has found that existing pretrial services are not delivered in the most coordinated, cost-effective manner, and that there is also a need for some innovative approaches to the formal adjudication and corrections systems.

The Commission recommends that the revitalized Bail Commission take the initiative in achieving this long-range goal by: (1) establishing liaisons with other criminal justice and social services agencies; and (2) revising the release interview process to permit early identification of needs which can be channelled to existing public or private agencies.

The Pretrial Commission further recommends that the concept of community-based corrections be explored in at least two areas: (1) community service as a more productive alternative to trial and imprisonment; and (2) halfway houses for pretrial detainees.

Finally, the Pretrial Commission recommends that a mediation project be established which will document the extent to which a statewide mediation service could offer a viable alternative to the courts for disputes which do not lend themselves to satisfactory resolution through the traditional adversary process.

REPORT OF THE CONNECTICUT PRETRIAL COMMISSION TO THE
1980 SESSION OF THE GENERAL ASSEMBLY

I. The Pretrial Process-Arrest to Adjudication

The pretrial process is that segment of the criminal justice system which begins with an arrest and ends before the final disposition of a case. The decisions which are made at the pretrial level - to arrest, to set bail, to act as surety on a bond - determine the number of cases which an overburdened justice system must attempt to dispose of in an equitable, cost efficient manner.

The primary decision-makers at the pretrial level are the police, Bail Commissioners, judges and bail bondsmen. Bail Commissioners are officers of the court and are empowered to make unilateral release decisions at the police station. They also make release recommendations to the judges and act as the information-gathering arm of the courts. Bail bondsmen are private businessmen who guarantee to make good a defendant's bond, if the defendant fails to appear in court. A bondsman agrees to act as surety in exchange for a fee, which is generally between 7% and 10% of the value of the bond. In addition, most bondsmen require that collateral be pledged in the value of the remaining 90% or that a friend or relative agree to co-sign the note.

A. The Police Role

The police decide whether or not to arrest an individual for committing an alleged offense and to bring the individual into the justice system. The General Statutes provide that any person arrested for the commission of a misdemeanor may be issued a written summons and complaint (citation) and released on a written promise to appear. C.G.S. Sec.6-49a. Citations are issued infrequently for most misdemeanors other than minor motor vehicle offenses. This is true throughout the state, although citations are used more frequently in some areas than in others. Often the primary reason for not issuing a citation is the lack of a quick, accurate means for identifying offenders, checking for rearrest warrants, etc. Police feel an arrest may be their "one shot" at apprehending an accused, and they may be reluctant to release an individual until a positive identification has been made or the individual has been brought to the station house to be fingerprinted.

Following booking, the police interview the accused and select a release alternative which appears likely to insure that he or she will return to court. The police release decision is based on criteria which include the nature of the offense, prior record, dangerousness and the accused's ties to the community.* Bail interview forms have been generated which are used by the Bail Commissioners and are intended for use by the police. The interview forms need extensive revision and, in any case, are not used consistently by the police.

The amount of information obtained and the extent to which it is verified depends in large part upon the staffing level at the station house. If most of the officers are out on call at the time of the interview, the officer on duty may not be able to spend more than a few minutes speaking with the defendant or making phone calls to verify information or to find someone to drive an intoxicated defendant home.

*Based on questionnaire distributed on behalf of the Pretrial Commission by the Connecticut Chiefs of Police Association.

There are essentially three release alternatives which the police (or Bail Commissioners or courts) may extend to an arrested person: (1) release on a written promise to appear; (2) non-surety bond; or (3) surety bond. C.G.S. Sec.54-63c(a).* A written promise to appear is, as the name implies, an individual's simple promise to return to court for all scheduled appearances. A non-surety bond does not require that any money be posted in advance, but the individual is liable for the full amount if he or she fails to appear. A surety bond requires that the individual deposit the full cash amount with the court or that a bondsman be retained who will guarantee the payment of the bond if the defendant absconds. An accused who fails to appear in court is guilty of a class D felony, if the original charge was a felony, C.G.S. Sec.53a-172, or a class A misdemeanor, if the original charge was a misdemeanor, C.G.S. Sec.53a-173.

The police may consult a Bail Commissioner by telephone regarding bond amount or the advisibility of one release alternative over another. How often and how promptly the Bail Commissioner is called, either before or after the police interview, varies from one part of the state to another and may depend upon the understanding between the Bail Commissioner and the police. Some Bail Commissioners, primarily those who are the sole Bail Commissioner in a G.A., do not wish to be called during the late evening and early morning hours, except in unusual circumstances, for example, in the case of a serious felony charge. In some parts of the state, the police and Bail Commissioners enjoy a cordial relationship and work together as a professional team. In other areas, the police do not have a high regard for the operations of the Bail Commission and prefer not to turn to the Bail Commissioner for assistance. At the same time, police acknowledge that many departments do not have adequate lock-up facilities for dealing with pretrial detainees, and do not have sufficient staff to conduct thorough interviews or to verify information. Some police also acknowledge that the Bail Commission is needed as a back-up to police release decisions which may tend to be conservative because an officer may not wish to appear lenient towards a defendant who may have caused difficulty or even physical harm to a fellow officer.

If the police release the individual on a written promise or non-surety bond, the individual leaves the system until final disposition of the case. If bond is set, the individual will remain in a Correctional Center, for days or months, unless:

1. the bond amount is low enough for the individual to post the full cash amount; or

2. the court will permit a 10% cash deposit to be posted; or

3. a bondsman will agree to act as surety on the bond.

The court rarely allows the 10% deposit. Even when the deposit is permitted, there may be a one to three day wait until the arraignment, in the case of an arrest which takes place on the weekend or before a Monday holiday. If the individual cannot post the full amount, he or she will require the services of a bondsman. The bondsman will not guarantee the bond unless the individual pays the non-refundable fee in advance, between 7% and 10% of the bond amount, and also pledges collateral for the remaining sum.

*In addition, conditions may be placed on the defendant's travels, associations, etc.

B. The Bail Commission's Role

Most arrested persons spend an average of 12 hours or more in a lock-up before being released or being taken to court for arraignment. If the accused is not able to meet the conditions of release following the police interview, the police must "immediately" notify a Bail Commissioner who must "promptly" conduct whatever interview and investigation are necessary to reach an independent decision. C.G.S. Sec. 54-63c. The Bail Commissioner reviews the police decision and, in the majority of cases, recommends a less restrictive alternative, either a change from a surety bond to non-surety bond or written promise (43%), or a reduction in bond (29%).[1] Individuals who have not been released from the police station are brought to court for arraignment on the next court day. Those who were not interviewed by a Bail Commissioner at the station are interviewed at the court house, generally in the morning before arraignment. Bail Commissioners do not release individuals from court, but wait for the judge to accept their recommendation. Therefore, if an arrest takes place late at night or early in the morning, the Bail Commissioner may not go to the police station to conduct an interview because he knows the accused will be coming to the court house in a few hours. At arraignment, the Bail Commissioner makes recommendations which, it is generally agreed, the court accepts in more than 90% of all cases.

If an individual still has not managed to post bond following arraignment, he or she is taken to a Correctional Center. By statute, Bail Commissioners are authorized to make decisions and recommendations regarding conditions of release of arrested persons "pending final disposition of their cases." C.G.S. Sec.54-63b(a). However, it is the policy of the Bail Commission not to conduct interviews at the Correctional Centers. Forty percent of admittees are eventually released from the Centers on bond, with a median delay of 1.7 days.[2] Approximately 47 percent remain incarcerated until final disposition of their case, because they cannot raise the bond amount.[3] Accused persons are entitled to an automatic review of conditions of release after 45 days, and may request further reviews. C.G.S. Sec.54-53a. These reviews are rarely requested and, at any given time, a substantial percentage of the population of the Correctional centers is composed of individuals who have not been sentenced.

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1. Figures are from the 1979 Annual Report of the Chief Bail Commissioner. See Appendix for a summary of the 1969-1979 Annual Reports.

2. Department of Correction, memo dated March 23, 1979.

3. In the remaining 13%, charges were dropped or the conditions of release were revised.

C. Data Collection at the Pretrial Level

A discussion of pretrial procedures is incomplete without mention of the difficulty of obtaining data to document the numbers of individuals who pass in and out of the justice system at this level. Although criminal justice officials were cooperative in sharing information with the Pretrial Commission, it soon became apparent that there are no easily accessible, up-to-date sources of information for answering many of the key questions in the pretrial area, including: (1) total numbers of arrests, with a breakdown by town, offense, etc.[1]; (2) numbers who remain in prison from arrest through trial and who are ultimately sentenced to serve additional time; (3) scope of the bail bonding business underwritten by insurance companies.

The Connecticut Justice Information System (CJIS) has been in the planning stages since 1975. Individual components of the system are in place, but an interlocking, statewide network will not be operating in the near future. Meanwhile, each separate agency —police, courts, Bail Commission, Department of Corrections — attempts to collect data which could be useful to the system at large.

A pretrial agency offers a unique opportunity for demonstrating the need for an information system, inasmuch as the pretrial phase is the point at which all criminal justice functions converge. A revitalized Bail Commission might be the logical initiator of a renewed interest in a statewide data collection system.

II. The Connecticut Bail Commission

A. Administration

The Bail Commission was established by the 1967 Session of the General Assembly to serve as an information-gathering arm of the courts and to determine or to make recommendations at the courts' request regarding the conditions of release of arrested persons. The Bail Commission is administered by the Office of the Chief Court Administrator of the Judicial Department. The Commission's budget is a $317,000 line item within the Department's appropriation.

The Chief Bail Commissioner and two Assistant Chief Bail Commissioners are appointed by the judges of the Superior Court. The judges of the Superior Court also appoint Bail Commissioners to serve in the G.A.'s[2] - in pairs (G.A.'s 1, 2, 4, 6 and 14) or singly (all remaining G.A.'s). Bail Commissioners are appointed for a term of one year, subject to annual renewal. Since the Bail Commission's inception in 1968, approximately 80 Bail Commissioners have been appointed and approximately four have not been reappointed. Traditionally, positions are filled on the recommendation of the resident judge in each Judicial District.

The Chief Bail Commissioner submits an annual report to the Chief Court Administrator concerning the activities of the Commission.

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1. The Uniform Crime Reports publish only partial information, on a quarterly basis.

2. Court Geographical Areas.

Roughly one-third of the 27 member staff have law enforcement experience as sheriffs or police officers. The remainder have varied backgrounds in business and service occupations. Four have college degrees. There are two women Commissioners and two male minority staff, one black and one Spanish-speaking. The majority are men in their fifties and sixties for whom the Bail Commission offers a supplement to social security or other retirement income. The salary range is $8,900 - $10,500 for Bail Commissioners and $7,800 - $9,500 for Assistant Bail Commissioners. The collective bargaining agreement which covers Judicial employees specifies that Bail Commissioners may not be compensated for overtime, although the General Statutes state that they are to be available "at all times" to facilitate pretrial release.

Bail Commissioners receive no formal orientation or in-service training. Informal instruction is provided through conversations with the Chief Bail Commissioner and circulation of the Chief Bail Commissioner's "General Policy". Bail Commissioners who wish to increase their knowledge of criminal justice issues do not receive tuition reimbursement as do other state employees.

Bail Commissioners receive no clerical assistance. At least one Bail Commissioner has no office. One result of the lack of support services is a wide variation in record-keeping techniques, as each Bail Commissioner attempts to devise a system which meets the needs of the G.A. and which can also be maintained without clerical help. Each Bail Commissioner submits quarterly reports to the Chief Bail Commissioner.

The difficult working conditions which are endemic to Connecticut's criminal justice system, as well as low pay, contribute to low morale on the part of some Bail Commissioners. In addition, some feel that other criminal justice officials do not understand the important role which the Bail Commission plays in reducing the state's caseload.

B. Release Procedures

All information provided to the Bail Commission is confidential and is not subject to subpeona. Based on this information, the Bail Commissioner must "promptly" order the person's release on the least restrictive of the following conditions of release which will be sufficient to assure the person's appearance in court: (1) a written promise to appear; or execution of a (2) non-surety bond or (3) surety bond "in no greater amount than necessary." If a surety bond is set, the reasons must be set forth in writing.

The police department must "promptly" comply with the Bail Commissioner's release order. If the department objects to the release order, the State's Attorney may authorize a delay until a hearing is held, C.G.S. Sec.54-63c(b), but this practice is rare. Finally, the accused must be given a copy of the bond or promise to appear which must include notice of the first court appearance and of the penalty for failure to appear.

If an individual fails to appear on a scheduled court date, the "General Policy" provides that the Bail Commissioner must attempt to reach the person by phone. In addition, attempts must be made to reach references given by the accused, and a follow-up letter must be mailed, unless the court orders a rearrest.

If the accused has not met the conditions of release set by the Bail Commissioner, or conditions have not yet been set, the court must "promptly" order the release at arraignment, unless custody is found to be necessary to provide

reasonable assurance of appearance in court. C.G.S. Sec.54-64a.

The court, like the Bail Commissioners, must release the accused upon the least restrictive of the following conditions of release: written promise to appear; non-surety bond; surety bond. Factors which may be considered in determining the appropriate conditions of release and the bond amount, if a bond is required, are set forth in Section 666 of the Connecticut Practice Book:

(1) The nature and circumstances of the offense insofar as they are relevant to the risk of nonappearance;

(2) The weight of the evidence against the defendant;

(3) The defendant's record of previous convictions;

(4) The defendant's past record of appearance in court after being admitted to bail;

(5) The defendant's family ties;

(6) The defendant's employment record;

(7) The defendant's financial resources, character, and mental condition; and

(8) The defendant's community ties.

If a surety bond is set, the defendant's attorney may request the 10% deposit, although this alternative is rarely granted. Therefore, in the case of most individuals for whom surety bond is set, the release decision is, in effect, made by the bondsman who agrees to act as surety.

C. Release Criteria

If an arrested person is unable to meet the conditions of release set by the police, the General Statutes provide that a Bail Commissioner must be called to conduct an interview and investigation in order to make an independent release decision.

In some G.A.'s, many of the face to face interviews between a Bail Commissioner and a defendant take place at the court house on the morning of the arraignment. Therefore, the extent of verification of the information provided by the defendant may depend in large measure on the time which remains before court.

The bail interview form is the basis on which the release decision is to be made. The form was promulgated in 1969 and is a single sheet which contains some of the family and community types of information which research shows constitute the most accurate predictors of return to court.*

*The weighted point scale originated with the Manhattan Bail Project in 1961 in New York City, under the auspices of the Vera Foundation (now the Vera Institute of Justice). Research demonstrated that defendants with roots in the community were more likely to appear for court dates. See Appendix for sample point scale and Bail Commission interview form.

The items on the form are not weighted, thus leaving room for broad variation from one Bail Commissioner to another in balancing the factors to be considered. The Chief Bail Commissioner's "General Policy" provides that the factors to be considered in determining the conditions of release are family and community ties, employment, residence and previous record, and that, "No one factor should carry more weight than another."

In the smaller G.A.'s, where it is likely that the Bail Commissioner knows most of the longtime residents, community ties may be weighted more heavily than prior convictions. In the urban areas, where it is less likely that the Bail Commissioner is acquainted with the accused or his family, prior record may be weighted more heavily.

The "General Policy" echoes the legislative emphasis on non-monetary bail and states:

> Surety or cash bond should be required only when the Bail Commissioner has good reason to believe that the accused will flee the jurisdiction or presents an obvious threat to his own person or other persons. Every effort should be made to avoid setting a surety or cash bond.

The Chief Bail Commissioner's Annual Reports reveal that a surety bond is changed to a non-surety bond or written promise in less than half of all release decisions reviewed by Bail Commissioners.[1] The exact percentage changed to a written promise is not clear because the two items are computed jointly. Many Bail Commissioners view a non-surety bond and a written promise as similar in nature, in that no money changes hands in order to effect a release. Many Bail Commissioners also feel that their primary function is to lower the bond amount set by the police. They may inquire of a defendant how much money he or she can raise, in order to set bail in an amount which would enable the person to pay the bondsman's fee and be released.

III. Bail In Connecticut

A. The Right to Bail[2]

Article VIII of the United States Constitution provides that "excessive bail shall not be required." In the Judiciary Act of 1789, Congress provided that all persons have a right to bail in criminal cases, except those arrested for capital offenses. In those cases, the availability of bail depends upon the nature and circumstances of the offense and of the evidence against the defendant.

1. See Appendix for summary of Annual Reports.

2. See, generally, the definitive work in this area, Freed and Wald, Bail in the United States: 1964, Report to the National Conference on Bail and Criminal Justice, sponsored by the United States Department of Justice and the Vera Foundation, Inc.

The purpose of bail is to insure the defendant's appearance and submission to the court. Reynolds v. U.S., 80 S. Ct. 30 (1977). The concept of bail is based upon the assumption that the threat of forfeiture will outweigh the temptation to break the conditons of release. Bandy v. U.S., 81 S. Ct. 197 (1960). The amount of bail must be "reasonable", Stack v. Boyle, 342 U.S. 1 (1950), but an amount is not unreasonable simply because a defendant cannot raise it, White v. U.S., 330 F. 2d 811 (8th Cir.), cert. den., 379 U.S. 855 (1964).

The provisions regarding bail in the Constitution of the State of Connecticut are more explicit. Article One, Section Eight states:

> In all criminal prosecutions, the accused shall have a right... to be released upon sufficient security except in capital offenses, where the proof is evident or the presumption great...No person shall...be deprived of life, liberty or property without due process of law, nor shall excessive bail be required...

Section 54-63c of the General Statutes mandates a preference for release on personal recognizance over monetary forms of release. The General Statutes further provide that:

> Each person detained in a community correctional center pursuant to the issuance of a bench warrant or for arraignment, sentencing or trial for an offense not punishable by death shall be entitled to bail and shall be released from such institution upon entering into a recognizance, with sufficient surety, or upon posting cash bail... C.G.S Sec.54-53a.

B. Professional Bail Bonding

The professional surety or bondsman replaced the personal surety of feudal England. Under early English law pretrial detention was rare, due to the high cost of confining defendants and to the inability of the jails to hold their charges. In most cases, the defendant was released to a friend or relative who was liable in damages, fines or imprisonment if the defendant failed to appear for trial.

Modifications of the bail system became necessary with the colonization of America. Although communities were relatively stable in England, in America the population was constantly shifting. The practice developed of relying on money to insure appearance, and the professional surety who pledged money or property replaced the personal surety.

C. The Bail Bonding Business in Connecticut: A Dual System

Bail bondsmen play a key role in our state's criminal justice system. Together with the police, Bail Commissioners and the courts, bondsmen have the power to make decisions which determine whether an accused individual will spend weeks or months awaiting trial within his or her community or within the confines of a prison. Most arrested persons are of relatively meager economic means, so if the condition of release is payment of a surety bond, they will require the services of a bondsman.

The bail bonding business in Connecticut is a dual system.[1] There are twenty-six independent or professional bondsmen.[2] According to the Division of Insurance, there are three insurance companies actively involved in underwriting criminal bail bonds in Connecticut, all located outside the State. Approximately 21 agents write bonds for these companies.

1. Independent Bondsmen

Independent bondsmen are regulated by the Special Service Division of the Bureau of State Fire Marshal of the Department of Public Safety. The Department issues licenses renewable annually. The fee for the license is $100. Title 29 of the General Statutes provides that independent bondsmen must be resident electors of good moral character and sound financial responsibility who have not been convicted of a felony. They are required to submit annual reports to the Department. The report must include the dates and amounts of bonds written and dates and amounts of forfeitures.

Independent bondsmen are subject to "Administrative Polices and Rules for Professional Bondsmen" promulgated by the State Police Department in 1965. These regulations provide that the Special Service Division may determine each bondsman's bail limits based upon an examination and evaluation of the applicant's assets and liabilities. Assets which may be evaluated for bonding purposes include real estate, stocks and savings accounts. Assets which may not be evaluated include mortgages, insurance policies, personal properties, and speculative stocks.

The General Statutes establish the fees which independent bondsmen may charge. The maximum fees are $20 for bonds of $300 or less, 7% for bonds from $301 to $5,000, and 5% for bonds over $5,000. The penalty for violation of this or any statutory provision is a fine of not more than $1,000 or imprisonment for not more than two years, or both, and permanent forfeiture of the right to engage in bail bonding. One license has been revoked during the past five years.

2. Insurance Bondsmen

Insurance agents of companies which are authorized to do business in Connecticut and to write surety bonds may furnish bail bonds in criminal proceedings. Insurance bondsmen are regulated by the Licenses and Claims Division of the Insurance Division of the Department of Business Regulation. Agents who wish to write bail bonds are subject to the provisions which are set forth in Title 38 of the General Statutes and which govern all insurance agents. Agents must complete an approved 20 hour course of study in insurance practices and law and must also pass an examination in bail bonding practices. There is a $5 fee for taking the examination and receiving the license.

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1. See Appendix for a comparison of the two systems and for statistics on bail bonding in 1975-1979.

2. To avoid confusion, this group is referred to as "independent" bondsmen. All bondsmen are "professional" in the sense that they write bonds for profit.

Applicants for a license as an insurance agent must furnish satisfactory evidence to the Insurance Commissioner of good moral character and financial responsibility. Insurance bondsmen may charge $20 for bonds up to $300, 10% for bonds from $301 to $5,000 (3% more than independent bondsmen), and 7% on bonds over $5,000 (2% more than independent bondsmen). The license may be revoked for cause shown. There is a $1,000 penalty for violation of the statutes governing insurance agents. There have been no revocations during the past five years. Five licenses have been voluntarily surrendered.

Insurance bondsmen pay their companies a percentage, generally 20%, of the fee charged the defendant. The insurance companies require that agents deposit into a trust account a small percentage of their bond liability. When an agent's liability under the bond is discharged, the agent receives the balance of the fund, minus losses and expenses. The companies do not anticipate losses from their bail bonding operations. Collateral is required on bonds of higher than average amount, or of greater than average risk.* The degree of risk is based on bond amount, charge and other characteristics of the particular defendant. Of the three companies contacted, only one reported a forfeiture paid to the Judicial Department on behalf of an agent within the past five years, in the amount of $7,500.

3. Scope of the Business

The monthly and annual reports filed by independent bondsmen provide an up-to-date source of information regarding that portion of the bail bonding business. In 1978, the 26 bondsmen who submitted information reported that bonds were written totaling $1,081,835. The total for the first 11 months of 1979 was $3,455,050.

Insurance bondsmen are not required to submit to the Insurance Division any information regarding their bail bonding activities. The Insurance Division receives annual reports from the companies whose agents write these bonds, but the annual reports do not contain any statistics pertinent to criminal bail bonding. The Pretrial Commssion contacted the three companies referred by the Insurance Division. The companies reported total bond liabilities of $6,927,219 in 1978 and $8,824,109 in 1979.

Connecticut case law supports the dual bonding system, including the differences in the bondsmen's fees. In State v. Fishman, 2 Conn. Cir. 83 (1963), the court stated that the increased rate for insurance agents is justified by the additional paperwork required by bondsmen writing for an insurance company, and by the necessity of pledging the assets of the company.

It is likely that many defendants do not understand the difference between independent bondsmen and insurance bondsmen, and do not realize that an insurance bondsman charges between 2% and 3% more than an independent bondsman. In any case, a defendant may have no choice if the G.A. in which he or she is arrested is served only by insurance bondsmen. Most bondsmen, both independent and insurance-backed, prefer to do business within a defined territory.

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*See Appendix for an explanation of one company's policy regarding policy valuation.

4. Compromises and Forfeitures

It is generally believed that money bail assures appearance at court in one of two ways:

1. the defendant will come to court to avoid having to pay the full amount of the bond; or

2. the bondsman will make sure that the defendant appears or will return the defendant to court to avoid paying the forfeited bond.

Research and experience refute both views. First, it is well documented that ties to the community, including residence, family and employment, determine return to court, not fear of having to pay money to the court.[1] Second, neither bondsmen nor criminal justice officials can document any substantial contribution by bondsmen in bringing clients to court. Third, bondsmen do not pay more than a small fraction of forfeited bonds. The issue of unpaid bonds has become a major concern to State's Attorneys, judges, and state auditors. With heavy caseloads of serious criminal matters, prosecutors do not have the time or the resources to engage in protracted negotiations with bondsmen who will argue that forfeited bonds should be reduced because of expenses incurred in tracing the defendant. Generally, a bond is compromised (reduced) to 50% or less of the bond amount. However, the civil suits necessary to secure a judgement are time-consuming and, understandably, not a priority of most State's Attorneys.

Unpaid, forfeited bonds represent a substantial loss of revenue to the state. As an example, in Part A of the Judicial District of Fairfield, a total of 22 bonds were forfeited during the calendar year 1979. As of October, 1979, only two of those bonds had been collected, leaving an unpaid balance due to the state of $31,750.[2] During the same period, a total of $54,825 in uncollected bonds was owed the state in Part B in Bridgeport.[3]

The problem of unpaid bonds is the result of amounts forfeited by both independent bondsmen and insurance bondsmen. For example, over a two-year period in G.A. 20 (Norwalk), $16,275 remained unpaid by insurance bondsmen, and $1,650 by independent bondsmen.

Recently, the problem of unpaid bonds has come to the attention of the Auditors of Public Accounts. In the course of a routine audit of the Superior Court at Meriden, one of the Principal Auditors noted the practice of compromising forfeited surety bonds. He observed that, during the fiscal years 1973-1979, forfeited bonds were compromised from $78,968 to $30,408, a 61% reduction. Further research by that office revealed that this practice is common throughout the State.[4]

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1. See Bail in the United States, p.10 supra.

2. Figures from the Office of the State's Attorney, Judicial District of Fairfield, October 25, 1979.

3. Figures from the Office of the State's Attorney, G.A. 20 (Norwalk), December 10, 1979.

4. Figures from the Auditors of Public Accounts, June 30, 1979.

5. The Cost of Bail and the Effects of Pretrial Detention

Early in our nation's history, money bail may have served the purpose of insuring appearance at court. There are no modern studies which support this theory.

The negative effects of pretrial detention are substantial — to the defendants unable to post bond, their families and the community at large. In addition to the obvious financial cost to the state, the individual and family members are subjected to the emotional strain of the separation. Futhermore, there is strong evidence which indicates that pretrial detention has a substantial prejudicial effect on the outcome of criminal cases.[1]

Even though there is no legal basis for preventive detention, it is practiced sub rosa as a means of restraining dangerous behavior by individuals who appear to pose a threat to themselves or others. Studies show that dangerousness cannot be predicted.[2] In any case, preventive detention affects only the poor. Those with money or access to money can easily secure release, regardless of the bond amount.

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1. See, O'Rourke and Carter, "The Connecticut Bail Commission," 79 Yale L.R. 513 (1970), p.11 and following, for a discussion of these studies.

2. See, e.g., "Preventive Detention: An Empirical Analysis", Harvard Civil Rights - Civil Liberties Law Review, vol. 6., no. 2, March 1971.

IV. The Ten Percent Bail Deposit

A. History

The ten percent cash deposit bail system is one of the most significant achievements of the bail reform movement of the past two decades. The ten percent system was first implemented in New York in the late 1950's. In 1958, Professor Caleb Foote of the University of Pennsylvania examined the New York bail system and found that, in some cases, judicial officers were allowing defendants to post 10% of the bail amount with the clerk of the court.[1]

In 1964, Illinois became the first state to adopt the 10% deposit alternative. The Illinois statute permitted the defendant to post 10% of the stated bond and, upon compliance with the conditions of bond (e.g., appearance at court), to obtain a refund of 90% of the deposit.[2] The legislation was drafted by the Illinois State and Chicago Bar Associations. Charles Bowman, Chairman of both bar associations, explained the origins of the statute:

> The genesis of this provision in the Illinois code was bottomed on a very basic principle. The Illinois statute permits professional bondsmen to charge the premium of 10% for all bonds executed with a minimum fee of $10 for those under $100. We reasoned that in the ordinary case, if the accused can raise 10% to pay the bondsmen fee, he can raise it to deposit it with the clerk. In fact, a refund of 90% upon compliance can probably make it easier to raise the 10% among family, relatives or friends.[3]

The immediate response from the bail bond industry was outrage. Bondsmen declared that the "skip rate" would be extremely high, absent financial incentives to encourage court appearances. Bondsmen also predicted that the State would expend large sums of money for extradition of those who jumped bail. The bondsmen's predictions proved to be incorrect. During a two year experimental program conducted in Cook County, Illinois, the appearance rates for participants in the 10% program were as high as the rates for those under surety bonds.[4]

In 1966 bail reform was implemented at the federal level with the enactment of the Federal Bail Reform Act. The act mandates that a judicial officer choose the "least restrictive alternative" necessary to insure the defendant's appearance in court, beginning with release on recognizance. The court may allow the defendant to post a 10% deposit of the bond amount. Following the enactment of Illinois' 10% deposit legislation and the Federal Bail Reform Act, many states adopted similar legislation. Today, 24 states have initiated the percentage deposit alternative either by statute or by court rule.[5]

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1. See Bowman, "The Illinois 10% Bail Deposit Provision", U. ILL.L.J. 35 (1965).
2. Ill. Annot. Stat., Chapter 38, sections 110-115 (1963).
3. From the testimony of Prof. Charles Bowman before the subcommittee on Constitutional Rights and Improvement in Judicial Machinery of the Committee on Bills to Improve Federal Bail Procedures, Conference on Bail and Indigency, University of Illinois Law School, Spring, 1965.
4. Bowman, supra.
5. See Appendix for a list of states which permit the percentage deposits.

The Release Standards of the National Association of Pretrial Services Agencies (NAPSA) discourage the use of any form of monetary bail. Standard V states, "The Use of Financial Conditions of Release Should be Eliminated." The Standards acknowledge that:

> (u)ntil the use of financial conditions is statutorily prohibited the use of money in the form of cash deposits with the court will probably continue to be used when available nonfinancial conditions are not deemed adequate to assure the defendant's appearance in court.[1]

However, the Standards also advocate that:

> (u)nder no circumstances should courts permit an individual or organization to act as surety for the defendant for compensation or profit and legislatures should act to outlaw compensated sureties.[1]

B. The 10% Deposit System in Connecticut

Connecticut has not yet enacted legislation mandating use of the 10% deposit option when requested by the defendant. However, like New York, New Jersey, California, Michigan, Illinois and Kentucky, Connecticut has conducted a limited 10% program.

1. The Hartford Bail Project

From 1971-1974, a 10% cash deposit program was instituted in the Hartford Superior Court. Unlike similar programs, the Hartford experiment provided follow-up supervision of those persons released via the Bail Commissioners. Additional personnel were provided by the Criminal and Social Justice Coordinating Committee through a grant from the Law Enforcement Assistance Administration to evaluate defendants, make release recommendations, and supervise those released. The 10% program was conducted in conjunction with increased emphasis on release on written promise.

From the beginning of the bail project in December, 1971, through the end of 1974, a total of 330 persons were released, 223 on a ten percent cash deposit and 107 on a written promise or nonsurety bond. There were a total of 21 failures to appear - 14 released on ten percent cash bail and 7 released on a written promise. This translates into roughly a 6.4% overall skip rate, a 6.3% skip rate for those released on ten percent, and a 6.5% skip rate for those released on a written promise.[2]

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1. Performance Standards and Goals for Pretrial Release and Diversion: Pretrial Release, p.25, approved by the Board of Directors of the National Association of Pre-trial Services Agencies, July, 1978.
2. For a discussion of the 10% program, see Rice and Gallagher, "An Alternative to Professional Bail Bonding: A 10% Cash Deposit for Connecticut," 5 Conn. L.R. 143 (1972).

2. Origins of the Connecticut Rule

The question of 10% bail was considered by the 1976 Advisory Committee to Revise the Criminal Rules. The Committee was chaired by the Honorable David M. Shea, Judge of the Superior Court, and included representatives from the Office of the State's Attorney, the Office of the Public Defender, the criminal bar and the academic community.

The decision to implement the 10% deposit, and thereby codify existing practice, was voted down within the Advisory Committee. Subsequently, public hearings were held at the Supreme Court in Hartford. Despite testimony against the 10% alternative by bail bondsmen, the Rules Committee voted to include the rule in the 1976 revision, one of few pro-defendant rules to be added over the objection of an Advisory Committee. Professor Leonard Orland of the University of Connecticut School of Law, author of Connecticut Criminal Procedure and a member of the Advisory Committee, characterized the rule as permitting the defendant to "avoid recourse to the oft-criticized bail bondsman."* Connecticut's 10% rule was intended to build upon both the Illinois provisions and ABA standards. Section 1.2 (c) of the ABA's "Standards Relating to Pretrial Release" provides that:

> (r)eliance on money bail should be reduced to minimal proportions. It should be required only in cases in which no other condition will reasonably ensure the defendant's appearance. Compensated sureties should be abolished, and in those cases in which money bail is required the defendant should ordinarily be released upon the deposit of cash or securities equal to 10% of the amount of bail. (emphasis added)

At the time the Standard was promulgated, the 10% rule had not yet been adopted in this State. The discussion of Connecticut law states:

> There are no benefits accruing from the practice of using compensated sureties. Instead, the court should be authorized to release upon the deposit of cash or securities equal to 10% of the amount of bail.

3. Procedural Framework

The 10% option is spelled out in Sections 658 and 664 of the Connecticut Practice Book. Section 658 (3) permits the judicial authority to release a defendant upon the posting of a 10% cash deposit. Section 664 authorizes the posting of a 10% cash deposit by any person "other than a paid surety." Section 664 also permits retention of an administrative fee upon discharge of the bond and requires waiver of the full amount of the bond in case of forfeiture. The administrative fee is not retained in Connecticut.

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*Orland, Connecticut Criminal Procedure, p.42, University of Connecticut School of Law Press (1976).

C. Low Bond Detainees

Recent studies indicate that significant numbers of defendants spend time in Connecticut prisons merely because they cannot afford to pay the bondsman's fee, or because they do not have sufficient assets to guarantee the remaining sum. Figures from the Department of Correction show that, during the first half of 1979, the accused population ranged between 700 and 800, roughly 20% of the total inmate population. In February, 1979, the average bond amount for each pretrial detainee was $5,170. Three inmates were being held on bonds of $25 or less, 5 on bonds of $26-$50, 6 on bonds of $51 to $100, and 16 on bonds of $101 to $200. Eighty-seven inmates, or 11.5% of the total accused population, were being held on bonds of $500 or less, including 30 in Hartford, 23 in Bridgeport and 18 in New Haven.

On February 20, 1979, the total inmate population was 3,536, of which 820 were awaiting trial. On that date, the release of low bond individuals on written promise, non-surety bonds or other non-monetary alternatives would have had the following effect:

- release of those held on $300 and under would have resulted in a 6% reduction in the accused population and a 1.49% reduction in total population;
- release of those held on $500 bond or less would have resulted in an 11.5% reduction in the accused population and a 2.7% reduction in total population;
- release of those held on $1,000 or less would have resulted in a 20.9% reduction in the accused population and a 4.8% reduction in the total population;
- release of those held on $2,000 or less would have resulted in a 29.6% reduction in the accused population and a 6.9% reduction in the total population.

A recent study completed by the Hartford Pretrial Release and Supervision Program of the Judicial Department's Office of Adult Probation surveyed all individuals held in lieu of $500 bond or less at the Hartford Correctional Center during May and June of 1979. Of the 58 individuals, 64% had been charged with misdemeanors or motor vehicle offenses and 36% with felonies.

Twenty-five percent of the defendants had no prior record. Of those with prior convictions, 27% had felony convictions, and 38% had misdemeanor convictions only. Eight of the fifty-eight had been rearrested for failure to appear, of which five were failures to pay a fine. Eleven had other charges pending. Twelve had prior charges for failure to appear, for which the majority had not been prosecuted.

Only six defendants, or 10% of the total number, were ultimately sentenced to serve time in a correctional facility. An additional 10% were still pending in October, 1979. Of the remaining 80%, approximately 38% received a Nolle or unconditional discharge, 27% received probation or a suspended sentence, and 3% were sentenced to time served.

Twenty-four defendants were eventually released prior to final disposition of their cases, after spending an average of 11 days in jail. Twenty managed to post bond, 3 were released on a written promise and one was placed in a diversion program. Of these 24, 5 individuals failed to appear for a subsequent court appearance. One of the five had been placed in a diversion program. The remaining four had been released through bondsmen and had not been rearrested.

D. The Need for the 10% Alternative

The promise of the ten percent deposit system in Connecticut has not been fulfilled. Its potential as an equitable and affordable alternative to bondsmen, particularly for the majority of criminal defendants who are of modest economic means, has yet to be realized. Ten percent bail is rarely requested by attorneys and virtually never granted.*

Some judges and prosecutors see serious drawbacks to increased use of the ten percent deposit. From their point of view, any alternative which will result in an increase in the number of releases is suspect, inasmuch as present release procedures do not inspire confidence.

Many judges feel that the ten percent alternative was not necessarily intended to be used on a large scale, and are not surprised to learn this is the case. They say that the real problem is some judges' insistance on setting bail at excessively high levels. In their view, the ten percent system is merely "window dressing" which obscures this fundamental problem and misleads the public into believing that alternatives are available to enable all defendants to meet bond. One solution, these judges say, is to establish a uniform bail schedule and to insist that all courts adhere to it. The proponents of this approach acknowledge that judges who insist on setting high bond amounts might also refuse to follow a bail schedule.

It is important to understand the particular vulnerability which a judge feels when making release decisions. Especially in times of heightened awareness of "law and order" issues, judges are sensitive to the public's fear of violent crimes committed by defendants who are awaiting trial. This fear may be the result of unfamiliarity with the law governing pretrial release. Citizens may not realize that virtually all defendants are entitled to release on bail and that a judge may not be able to prevent release merely by setting a high bond amount. Lay persons may also be unaware that research shows there are no accurate predictors of violent behavior by criminal defendants. In the face of widespread misunderstanding on the part of the public, judges may not be enthusiastic about release alternatives which may appear to reflect a relaxed attitude toward criminality.

Some prosecutors who oppose increased use of the ten percent system say that, in case of bond forfeiture, they prefer to deal with a bondsman rather than a defendant who cannot be found and who owns no property. However, prosecutors also admit that the collection of forfeited bonds is not a priority item and that bondsmen are reluctant to pay the bonds. An additional consideration from the prosecutors' point of view is that time spent in jail may induce a defendant to plea bargain. If the ten percent system or other release conditions were available to more defendants, some of this leverage might be lost.

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*Estimates from representative G.A.'s indicate that 10% is used perhaps 1-3 times per year per G.A.

Arguments against a legislatively mandated ten percent system fail to take into account several points. First, there is the question of failures to appear, to which the simple answer is -- there is no evidence that expanded use of ten percent bail leads to higher skip rates.[1] Second, high bond amounts are not necessarily the most cost-effective means for inducing the defendant to plea bargain, when balanced against the cost to the state of pretrial incarceration. When combined with the monitoring, notification and information-gathering capability of an upgraded Bail Commission, the ten percent bail system offers a sound alternative for dispensing justice in an equitable, even-handed manner at the pretrial level.

V. Pretrial Services in Connecticut

A. Delivery of Services to Pretrial Defendants

1. The Need for Concentration of Services at the Pretrial Level.

A study of 58 persons held at the Hartford Correctional Center on bonds of $500 or less indicated the following: 46.6% had a tenth grade education or less; 22.4% were suffering from alcohol abuse; 21% were suffering from drug abuse; 22% had histories of psychiatric problems; and 25.9% had no visible means of support.[2]

The relationship between an individual's criminal activity and special needs may be unclear. However, there is no doubt that the one exacerbates the effects of the other, and that in the end, the State assumes the costs of both -- in lost production, welfare assistance, and the expense of operating the criminal justice system. It is arguable that the state's resources are well spent in an attempt to deal with the problems which perpetuate crime, in addition to coping with the end result.

2. Pretrial Services Available in Connecticut

A variety of services are available to criminal defendants and their families through public and private social services agencies in Connecticut. A partial listing of these would include: Community Resources for Justice, a Hartford-based diversion program; Community Return of Stamford, which provides pretrial and re-entry counseling; PTI - N.E.O.N. of Norwalk, which provides vocational counseling and other services; the Chief State's Attorney's Victim/Witness Unit; and Honor Court, an alcohol diversion program.

a. The PREP Council Agencies

Twenty-two agencies have united under the PREP Council umbrella for the purpose of "supporting and promoting a shared responsibility between the private and public sectors for serving criminal justice clients, their families, and the victims of crime."[3] This network provides a base upon which a statewide referral system could be built.

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1. For a recent, comprehensive study of the ten percent alternative, see D. Alan Henry, "Ten Percent", Pretrial Services Resource Center, Washington, D.C., January, 1980.

2. "Pretrial Release and Supervision Project-Low Bond Study," D.A. Tuttle, Project Coordinator, November, 1979.

3. "Prep Council Directory of Services," prepared by the Criminal Justice Education Center, Inc., Hartford, CT, 1980.

b. TASC

The only statewide pretrial program operating in Connecticut is the Treatment Alternatives to Street Crime (TASC) project administered by the Judicial Department's Office of Adult Probation. TASC operates 16 offices throughout the State and makes recommendations to the court regarding the diversion of drug and alcohol addicted defendants. Clients are referred to treatment programs throughout the State and then monitored to insure compliance with release conditions. In the first eleven months of operations, TASC channeled more than 900 referrals, with a retention rate of approximately 50%.

The TASC program has laid the groundwork for becoming the drug and alcohol treatment arm of a statewide pretrial services agency: clear-cut hiring procedures have insured a high level of professionalism among the staff; personnel have begun to develop productive working relationships with the treatment community; TASC administrators have implemented data collection and personnel management techniques which are designed to monitor the effectiveness of release decisions and to insure accountability of staff members.

B. The Need for Coordination of Pretrial Services

1. The Pretrial Commission as a Clearinghouse

Presently, no one state agency is in a position to ascertain whether all the state's criminal justice resources at the pretrial level are being brought to bear in a manner which will have the most impact on the problems which prepetuate crime. The Pretrial Commission could perform this function and seek to determine whether there are untapped resources which could be adapted to meet the needs of pretrial defendants.

Most programs geared specifically for pretrial defendants are concentrated in the major urban areas, so that the availability of opportunities for pretrial release and diversion may depend solely upon whether an individual is arrested in one of the cities or in the more rural eastern and northwestern portions of the state. In addition, programs which are not able to maintain staff in the G.A.'s, must depend upon referrals from State's Attorneys, defense counsel, Bail Commissioners and other court personnel. A statewide network is needed which can match individuals with all available services, quickly and efficiently.

The Pretrial Commission could provide the impetus for establishing a comprehensive referral system which would benefit defendants and programs alike. It is likely that state and private agencies would be willing to cooperate in this effort, inasmuch as it would help assure them of a source of clients. A coordinated approach to delivery of services would also facilitate planning efforts, by highlighting the need for services which might not be apparent from the perspective of a particular program in one area of the State. Finally, an efficient, unified system would present an appealing prospect to potential funding sources.

The pretrial interview could provide the basis for identifying many of the problems which are common among criminal defendants. With proper training and minor adjustments to the interview process, pretrial officers can be trained to spot the more obvious signs of illiteracy, alcohol and drug addiction, and mental health problems. The Pretrial Commission could be established as the "central intake" point in the criminal justice system and, through the assistance of trained volunteers and the cooperation of Connecticut's social services agencies, defendants could then be channeled to existing programs which are designed to meet their special needs.

2. A Regional Approach to a Statewide System

The legislation which established the Pretrial Commission, Special Act 78-37, mandates a study of "the effectiveness of criminal pretrial programs and techniques with a view toward implementing a statewide criminal pretrial program in Connecticut." An immediate step toward that goal would be to work through existing pretrial programs to strengthen services available on a regional basis. To illustrate, some of the strongest release and diversion programs are presently operating in the following areas: Hartford, New Haven, Stamford and Waterbury. These programs could become the focus for analyzing pretrial needs and administering new services in those regions. In other parts of the state, for example, Litchfield Hills and Colchester-Norwich, pretrial services are lacking. In those areas, a new base for delivery of services might be established in the local TASC office, Family Relations office or other central location.

C. The Need for New Programs

1. The Pretrial Interview and Verification of Information

The bail interview - verification process is mandated by statute and is, therefore, neither an extension of the Bail Commissioner's role nor a pretrial service, per se. A discussion of the bail interview is included here because: (1) the interview process is in need of extensive revision for which the statutes do not offer guidance; (2) a thorough pretrial interview can provide the basis for identifying pretrial defendants' special needs and for making referrals to existing social services agencies; and (3) some aspects of the interview process could be upgraded through the use of trained volunteers or student interns provided by those agencies.

Most bail interviews are not structured in a manner which facilitates objective, uniform release decisions. Data items are weighted according to each Bail Commissioner's rule of thumb, a standard which would appear to encourage abuse of discretion. Thorough verification of all information is difficult at present staffing levels and may help to explain the Bail Commissioners' reluctance to recommend release on a defendant's written promise to appear.

Appearance on scheduled court dates is the key to the efficient functioning of the criminal justice system at the pretrial level. Research shows that most defendants will appear as required, if proper release conditions are set, and if they know when to come to court.* Information elicited in a pretrial interview can be used to determine whether an individual has sufficient community ties which would tend to indicate whether he or she will want to expedite matters, or is likely to flee the jurisdiction. A weighted point scale like that developed by the Vera Institute can be adjusted periodically to maintain FTA rates at a level acceptable to courts, prosecutors and others.

With the application of personnel management techniques, the release interview process could be upgraded considerably, even at present staffing levels. Although it is not reasonable to expect that verification efforts can be increased significantly without additional personnel, this process could be a simple matter of making telephone checks, and could be handled by a staff of trained volunteers.

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*See Rice and Gallagher, supra, and D. A. Tuttle, "Hartford Pretrial Release and Supervision Program - Final Report and Analysis of Program Operations," September, 1979.

2. Notification of Court Appearances

A primary reason for failures to appear is confusion regarding court dates. Defendants may be inaccurately classified as "skips," because, for example, they believe they have already completed all court appearances, or appeared at the right time but in the wrong courtroom. In Connecticut, defendants who have unintentionally missed court dates routinely report their failures to appear to the Bail Commissioner. If the Bail Commissioner is convinced that the defendant's mistake was an honest one, no charges are brought for the failure to appear.

A simple notification mechanism, based on a system of mail and telephone reminders, could be implemented with the help of volunteers. Volunteers could also assist in reducing the incidence of failures to appear, by explaining to defendants the importance of completing all court appearances and by arranging transportation if necessary.

3. Mediation and Arbitration

Some criminal justice problems are not amenable to satisfactory resolution through the traditional litigation process. For example, some disputes involving family members, neighbors, and landlords and tenants, might be better handled through a mediation/arbitration process. Mediation/arbitration programs have been highly successful in other states. In Monroe County (Rochester), New York, the Center for Dispute Settlement handles 800 cases per year which involve domestic relations problems, bad checks, trespassing, animal control and similar inter-personal matters. In 90% of these cases, a satisfactory resolution is reached and the charges are dismissed. The program generates some income through fees charged for participation in a course on dispute settlement which is required for those who wish to act as panelists in the mediation process.

When funding is secured, the Pretrial Commission will establish one or more pilot mediation programs, ideally, one in a rural area and one in a major city.

4. Pretrial Diversion and Community Service Alternatives

The combination of pretrial diversion with community service alternatives could unite some of the most desirable features of the traditional criminal justice process and the diversion alternative. The defendant would repay his or her debt to society by contributing a certain number of hours of useful work to the community, but a large investment of criminal justice resources would not be required. Once the recommendation for diversion is accepted, compliance with release conditions could be monitored by program staff. Volunteers working through the Bail Commissioners' offices could coordinate a statewide diversion effort, keep records and provide feedback to the court. There is already considerable interest in community service alternatives in several parts of the state.

5. Halfway Houses for Pretrial Detainees

Halfway Houses are routinely used as a base to facilitate sentenced inmates' re-entry into society. They could also hold pretrial detainees who are not candidates for release on a written promise or other non-restrictive release alternative. In this way, an individual need not completely disrupt his or her employment and family ties. In addition, Halfway Houses could help to relieve the severe overcrowding in the state's correctional facilities. Finally, detention in a Halfway Hosue would seem to be more compatible with the presumption of innocence of a pretrial defendant than is incarceration in a Correctional Center.

VI. Findings and Recommendations

A. Restructuring of the Bail Commission

The Pretrial Commission's study has shown that the Bail Commission has a strong potential for becoming an effective, professional operation. A statewide network of Bail Commissioners is in place, which, with proper administration, can become a more efficient information-gathering, notification and monitoring arm of the courts. An upgraded Bail Commission will provide a sound basis for pretrial release decisions, referrals to treatment programs and diversion to community-based corrections.

One model which Connecticut can look to is the Kentucky Pretrial Services Agency. In 1976, the Kentucky General Assembly outlawed bail bonding for profit and required all trial courts to provide pretrial release and investigation services. The Kentucky statutes spell out the available release alternatives, with emphasis on release on recognizance or upon execution of an unsecured bail bond.* If these methods of release do not appear sufficient to insure the defendant's appearance in court, the judge may order execution of a surety bond or impose other reasonable conditions of release. If a surety bond is required, the defendant may be permitted to post 10% of the amount, in which case 90% of the deposit will be refunded upon completion of all court appearances.

All arrested persons are eligible for a pretrial interview, with a few exceptions. Interviews are held within one hour of arrest in the urban areas. In rural areas there may be a longer delay, but all interviews must be held within 12 hours of arrest. Agency offices in the major urban areas operate seven days a week, 24-hours a day.

When information is received, it is verified and the client's past criminal record is checked. A recommendation to release is based on an objective point scale which stresses family, community and economic ties and which includes a criminal history. Release recommendations are communicated by telephone to the judge on a round the clock basis, and the judges make the final release decision. When the release decision is made, the pretrial office routinely notifies the defendant of each court appearance. If an individual fails to appear at court and cannot be located by the pretrial officer, law enforcement agencies are notified.

The Kentucky pretrial program has become an important and effective component of that state's criminal justice system. In 1979, the Agency interviewed roughly 100,000 individuals. Approximately one-half were released through the agency and failure to appear rates averaged between 3% and 5%, generally agreed to be an acceptable range.

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*See Kentucky Revised Statutes 431.510-550 and Kentucky Rules of Criminal Procedure 4.04.

The cost savings to the state of an upgraded Bail Commisison could be substantial. In 1972, the Monroe County (Rochester), New York Pretrial Release Agency, a program similar to Connecticut's Bail Commission, underwent a cost-benefit analysis which revealed that the program was generating a net savings to the county of $150,000 over and above the cost of the program. These benefits were realized largely though a reduction in jail costs and, to a lesser extent, through a decrease in the number of persons on public assistance. The study found that the impact of the program was equivalent to 75 fewer incarcerations per month. For the program to break even, the study showed that only 28 defendants per month, or one person per day, need be recommended, accepted and monitored.

Based on these statistics, it would appear that the Bail Commission as it presently operates, is more than worth its cost to the state. Its potential for effecting an even greater cost savings has yet to be tapped.

The following summarizes the steps which the Pretrial Commission recommends be taken to assure that the Bail Commission's full potential can be realized:*

1. General Administration of the Bail Commission

   a. Change of name to "Connecticut Pretrial Commission;"

   b. establish advisory body of Pretrial Commission members to work with the Judicial Department to implement the policies contained in this report;

   c. authorize Pretrial Commission to report to the 1981 General Assembly regarding implementation of the new policies contained in this report and accompanying legislation;

   d. implement "sunset" clause terminating the authority of the Pretrial Commission advisory body in 1982.

2. Duties of the Bail Commission

   a. To implement policies and procedures which will insure that release decisions are made in a standardized, objective and uniform manner, including:

      i. promulgation of a revised, weighted interview form; and
      ii. verification of information obtained at the pretrial interview.

   b. to implement policies and procedures which will reflect the statutory preference for non-surety release alternatives;

   c. to work with other components of the criminal justice system, including police, courts, State's Attorneys and others, in order to implement the goals set forth in sections a and b above, at every point in the pretrial process;

*Not all of these recommendations will be included in the Pretrial Commission's proposed legislation.

   d. to encourage efforts, including the Connecticut Justice Information System (CJIS), to establish a uniform data collection and distribution system in this state;

   e. to establish procedures which will insure accountability of Pretrial (old Bail) Commission personnel;

   f. to develop personnel management techniques which will insure that Pretrial (old Bail) Commission staff are available to make release decisions on a 24-hour basis, as mandated by the statutes.

3. Personnel

   a. Implementation of clear-cut hiring procedures;

   b. promulgation of specific job qualifications, including minimum educational requirements or equivalent criminal justice experience;

   c. inclusion of "grandparent" provision to enable present Bail Commisison staff to meet new job qualifications within a given time period;

   d. upgrading of salary scale to be competitive with comparable state positions;

   e. hiring of full complement of staff to which Bail Commission is entitled by statute;

   f. hiring of clerical personnel to assist Bail Commissioners with record-keeping.

B. The 10% Bail Alternative

The Pretrial Commission's study has shown that too many defendants are incarcerated for weeks or months before the final disposition of their case, at great expense to the state, even though the final disposition of their case will not result in additional time in prison. The Pretrial Commission has concluded that these individuals are not incarcerated because they are more guilty, more dangerous, or less likely to return to court than other defendants. The Commission has concluded that they are simply poorer and cannot afford to pay a bail bondsman for the privilege of returning to the community to await the outcome of their case.

The Pretrial Commission recommends that a 10% deposit bond be available to all misdemeanants and Class D felons who request this alternative, unless the court states reasons for denying the request. The Commission's draft legislation will include provisions which will address the problem of forfeited, unpaid bonds.

C. Pretrial Services

The Commission has found that services aimed at breaking the cycle of drug and alcohol addiction, illiteracy, mental health and other crime-related problems are not being coordinated and concentrated at the pretrial level where they are likely to achieve the most positive results. The Pretrial Commission recommends that the General Assembly authorize the following steps towards more efficient use of the state's social services resources:

1. Coordination of Existing Programs

a. Revision of bail interview form and training of pretrial officers to permit identification of defendants' needs early in the criminal justice process;

b. establishment of liaisons with public and private social services in order to, inter alia, determine whether new programs are needed in Connecticut, and to acquire the assistance of volunteers for programs administered by the Pretrial Commission;

c. formulation of a plan for fitting pretrial programs into a statewide network, beginning with a regional approach;

d. work towards integration of the Treatment Alternatives to Street Crime (TASC) program into a statewide pretrial services system, as the referral unit for drug and alcohol abuse and other special needs.

2. New Programs

a. Mediation

The Pretrial Commission has found there is a general consensus among criminal justice officials that substantial numbers of minor criminal matters do not lend themselves to satisfactory disposition through the traditional adversary process. These matters include some intra-family and neighborhood disputes and landlord-tenant matters. The Commission has also found that no attempt has been made to determine whether an innovative, cost-efficient alternative, such as mediation and arbitration, could handle large numbers of cases and eventually be fully integrated into the state's justice system. The Commission is optimistic about securing funding to operate mediation pilot projects in Connecticut. The project would include one program in a large urban area such as Waterbury and, if sufficient funds are available, a second project in a rural area.

b. Diversion to Community Service

The Pretrial Commission has found widespread interest in community service as an alternative to adjudication and incarceration for some criminal matters, including minor property offenses such as vandalism. Community service unites some of the most desirable features of restitution and punishment. The individual agrees to contribute a certain number of hours of useful work to the community. Upon satisfactory completion of the work, the individual will be considered to have repaid his or her debt and charges may be dropped. This alternative requires a minimum investment of criminal justice resources, primarily in record-keeping. Monitoring could be performed by volunteers or staff of the agency which is the beneficiary of the individual's work.

As funding becomes available, the Pretrial Commission will oversee community service programs administered through existing pretrial agencies, for example, Community Return of Stamford and PTI-NEON of Norwalk.

The Pretrial Commission recommends that the General Assembly endorse the concept of pretrial diversion to community service and authorize the Commission to explore the feasibility of implementing the diversion alternative statewide.

C. Halfway Houses for Pretrial Detainees

The Pretrial Commission has found that halfway houses offer a secure, low-cost alternative to incarceration for 200-300 defendants per year who are completing the transition from sentenced status to life within the community. The Pretrial Commission recommends that the General Assembly authorize the Commission to explore the use of halfway houses and other community-based corrections alternatives for pretrial detainees.

SUMMARY OF ANNUAL REPORTS OF THE CHIEF BAIL COMMISSIONER 1969 - 1979

YEAR	TOTAL INTERVIEWS	TOTAL NIGHT & WEEKEND INTERVIEWS	7 AM TO 10 AM BEFORE COURT	AFTER 10 AM DURING COURT	SURETY NOT CHANGED FROM WHAT SET BY POLICE	SURETY INCREASED	SURETY REDUCED	SURETY TO NS OR WPA	TOTAL # REDUCTIONS IN SURETY OR CHANGE FROM SURETY TO WPA OR NS BOND
1969	18,252	+	+	+	+	+	+	+	+
1970	39,743	18,133	8,031	13,579	15,460	+	10,246	14,037	24,236
1971	27,688	12,837	5,485	9,366	10,266	+	6,963	10,459	17,422
1972	32,135	13,698	6,884	11,553	8,972	195	7,878	15,090	22,986
1973	38,981	17,648	8,649	12,684	9,544	139	9,450	19,848	24,837
1974	37,206	16,706	7,206	13,294	9,093	323	9,057	18,824	27,881
1975	40,645	19,317	7,334	13,994	10,914	177	10,672	18,883	29,555
1976	36,617	15,852 (42.14%)	8,847 (23.52%)	12,918 (34.3%)	9,213 (24.49%)	372 (.99%)	10,927 (29.05%)	17,105 (45.47%)	29,337
1977	41,531	19,686 (47.40%)	12,132 (29.21%)	9,713 (23.39%)	8,725 (21.01%)	528 (1.27%)	14,386 (34.64%)	17,892 (43.08%)	32,278
1978	33,365	14,377 (43.09%)	9,930 (29.76%)	9,058 (27.15%)	10,153 (30.43%)	403 (1.21%)	8,688 (26.04%)	14,121 (42.32%)	25,172
1979	31,436	11,511 (36%)	10,236 (33%)	9,689 (31%)	8,184 (26%)	746 (2%)	9,105 (29%)	13,401 (43%)	22,506

*NS - non surety bond

*WP or WPA - written promise to appear

*BC - Bail Commission

*FTA - failure to appear

YEAR	# OF COURT RELEASES APPEARING AFTER BC NOTIFICATION	TOTAL CONDITIONAL RELEASE BY BC	SUPERVISORY CUSTODY	RESTRICTIONS AS TO TRAVEL, ABODE, ASSOCIATIONS, ETC.	REQUIRED TO REPORT TO BC	OTHER CONDITIONAL RELEASE CONDITIONS	TOTAL # FOLLOWUPS BY BC	FOLLOWUPS ON COURT RELEASES	FOLLOWUPS ON BC RELEASES
1969	+	+	+	+	+	+	+	+	+
1970	+	+	+	+	+	+	+	+	+
1971	+	+	+	+	+	+	+	+	+
1972	205	899	503	152	168	76	6,519	282	1,476
1973	527	1,930	1,028	287	362	253	6,184	750	1,143
1074	647	1,774	1,019	255	331	169	7,043	830	1,165
1975	1,104	2,110	1,046	174	510	380	9,206	1,374	1,236
1976	856 (77.89%)	1,898	866	119	395	518	8,387	1,103 (13.15%)	1,369 (16.32%)
1977	1,444 (76.90%)	1,858	881	116	519	342	9,732	1,878 (19.30%)	1,182 (12.15%)
1978	817 (77.96%)	1,022	239	105	517	161	6,905	1,048 (15.18%)	798 (11.43%)
1979	1,258 (84.94%)	1,246	774	99	218	155	7,876	1,481	718

YEAR	TOTAL AMOUNT OF REDUCTIONS IN DOLLARS	TOTAL RELEASED WPA OR NS BY BC	TOTAL FTA ON COURT DATE	TOTAL APPEARANCE AFTER NOTIFICATION	TOTAL SKIPS	% OF TOTAL SKIPS	# OF POLICE RELEASES WP & NS NOT ORIGINALLY APPEARING	# OF POLICE RELEASES APPEARING AFTER BC NOTIFICATION	NS/WPA NOT ORIGINALLY APPEARING
1969	+	17,213	+	+	323	+	+	+	+
1970	14,042,220	14,184	1,012	654	370	2.6%	+	+	+
1971	11,289,105	10,459	781	552	229	2.2%	+	+	+
1972	15,595,621	15,090	1,476	1,190	295	2.0%	4,761	3,509	282
1973	15,770,632	19,848	1,143	868	275	1.7%	4,291	3,191	750
1974	18,180,450	18,824	1,168	791	376	2.0%	5,045	3,636	830
1975	21,671,465	18,883	1,202	901	311	1.7%	6,605	5,198	1,380
1976	18,734,476	17,105	1,521 (8.89%)	1,219 (7.13%)	302	1.77%	6,015	4,500 (74.81%)	1,099
1977	25,770,593	17,892	1,182 (6.61%)	862 (4.82%)	320	1.7%	6,672	5,379 (80.62%)	1,878
1978	16,765,761	14,121	798 (5.71%)	623 (4.46%)	175	1.25%	5,059	4,046 (79.98%)	1,048
1979	20,743,584	13,401	718 (5.35%)	581 (4.33%)	137 (1.02%)	1.02%	5,677	4,561 (80.34%)	1,481

Original Vera Point Scale - Manhattan Bail Project

To be recommended, defendant needs:
1. A New York area address where he can be reached, and
2. A total of five points from the following categories:

Interview	Verified	
		Prior Record
1	1	No convictions.
0	0	One misdemeanor conviction.
-1	-1	Two misdemeanor or one felony convictions.
-2	-2	Three or more misdemeanor or two or more felony convictions.
		Family Ties (In New York area)
3	3	Lives in established family home and visits other family members (immediate family only).
2	2	Lives in established family home (immediate family).
		Employment or School
3	3	Present job 1 year or more, steadily.
2	2	Present job 4 months or present and prior 6 months.
1	1	Has present job which is still available. OR Unemployed 3 months or less and 9 months or more steady prior job. OR Unemployment Compensation. OR Welfare.
3	3	Presently in school, attending regularly.
2	2	Out of school less than 6 months but employed, or in training.
1	1	Out of school 3 months or less, unemployed and not in training.
		Residence (In New York area steadily)
3	3	1 year at present residence.
2	2	1 year at present or last prior residence or 6 months at present residence.
1	1	6 months at present and last prior residence or in New York City 5 years or more.
		Discretion
+1	+1	Positive, over 65, attending hospital, appeared on some previous case.
-1	0	Negative - intoxicated - intention to leave jurisdiction.
		TOTAL INTERVIEW POINTS

REC. NOT REC.

INTERVIEW VERIFIED

RECOMMENDED NOT RECOMMENDED

CCT-168 (JULY 1969) CCIS 11/70

CIRCUIT COURT
STATE OF CONNECTICUT

Confidential - Not Subject to Subpeona
(Conn. Statute 54-63d)

BAIL INTERVIEW FORM

Place of Interview _____
Date of Interview _____
Time of Interview _____

NAME _____ Date of Birth _____ Sex _____

CHARGE(S) _____

FAMILY TIES
Marital Status _____ Residing w/Spouse _____ #Dependents _____

If Minor, living at home? _____ Living with? _____

RESIDENCE
Present Address _____ How Long? _____

Phone Number _____ Length of Time In Area _____

EMPLOYMENT
Present Employer _____ How Long? _____

If unemployed, means of subsistance? _____

DISCRETIONARY FACTORS (Student, Housewife, Old Age, Ill Health, etc.) _____

REFERENCES

Name	Address	Position	Phone	Years Known

PREVIOUS RECORD

Other Case(s) Pending? Yes __ No __ If so, what Court _____ Charge _____

OTHER REMARKS

Defendant released from ( ) Court ( ) Police Station on Written Promise
Defendant released from ( ) Court ( ) Police Station on Non Surety Bond
Of $ _____
Defendant not released from ( ) Court ( ) Police Station on Written Promise or Non Surety Bond for the following reasons: _____

Surety Bond Set At $ _____
Court Date _____

I agree to allow the interviewer to contact the people listed above as my reference if he wishes to verify my ties to the community.

_____
(signature of accused)

_____
(signature of interviewer)

OFFICE USE
( ) Disposed of
( ) Rearrest Warrant Issued
( ) Rearrested

Penalty for Violation of Regulations	1. Revocation of license; 2. $1,000 fine or imprisonment for not more than 2 years or both; 3. permanent loss of right to engage in bail bond bonding.	1. Revocation of licence 2. $1,000 fine
Number of licenses revoked in the past 5 years	One.	0 revoked 5 surrendered voluntarily.

[redacted]

COMPARISON OF INDEPENDENT AND INSURANCE BONDSMEN

	INDEPENDENT	INSURANCE
Number of Agents	26	21
Regulatory Agency	Special Service Division of Bureau of State Fire Marshal of the Dept. of Public Safety	Licenses and Claims Division of the Insurance Division.
Licensing Requirements	Must be resident electors of good moral character & sound financial responsibility; not convicted of a felony. Proof of assets required.	Must complete approved 20 hour course in insurance practices and law and pass examination on bail bonding practices; show proof of good moral character & financial responsibility.
License Fee	$100	$5
Regulatory Provisions	1. Section 29-144-29-152 2. "Administrative Policies and rules for Professional Bondsmen" issued by the State Police, 1965.	Title 38, Chapter 677-- "Insurance Agents, Brokers, Adjusters, Appraisers and Consultants" (No specific provisions governing bail bonding practices.)
Rates	Maximum $20 for bonds $300 or less 7% for bonds $301 to $5,000 5% for bonds over $5,000	$20 for bonds up to $300 10% for bonds $301 to $5,000 7% for bonds over $5,000 (20% of the fee goes to the insurance company.)
Reporting Requirements	Monthly and annual Reports must be filed.	Number and amounts of bonds are reported to individual insurance companies. Company sends general insurance information to the Insurance Department, but no special bail bonding information is included.
Grounds for Revocation of License	Violation of fee regualtions or of any statutory provision (section 29).	For cause shown.

1978

#	Liability	Amount Written	Amount Forfeited	Amount Paid	Amount Outstanding	Other Amounts Paid?
#11	$20,000	$ 17,575	250	250	--	--
#12	465,000	232,235	2,350	600	--	(350)
#13	90,000	--	--	--	--	--
#14	25,000	600	0	--	--	--
#15	950,000	189,900	3,750	700	2,700	--
#16	100,000	23,350	0	--	--	--
#17	60,000	3,500	0	--	--	--
#18	480,000	370,100	27,600	100	--	(27,500)
#19	600,000	377,625	4,100	1,550	--	(100)
#20	235,000	169,235	1,750	800	--	--
	$3,025,000	$554,120	$39,800	$4,000	$2,700	($27,950)

#11 & 12 have same surname and address
#14 & 15 have same surname and address

Criminal Bail Bonding in Connecticut 1978 & 1979*
Independent Bondsmen
1978

#	Liability	Amount Written	Amount Forefeited	Amount Paid	Amount Outstanding	Other Amounts Paid?
#1	$300,000	$196,500	1,850	1,500	--	--
#2	105,000	56,525	5,000	2,225	--	--
#3	128,000	67,900	0	--	--	--
#4	500,000	232,165	400	150	--	--
#5	425,000	252,600	18,300	9,050	--	--
#6	53,000	45,250	0	--	--	--
#7	150,000	144,575	76,750	41,605	58,350	--
#8	50,000	14,400	0	--	--	--
#9	60,000	--	--	--	--	--
#10	95,000	71,920	3,200	1,950	--	--
	$1,876,000	$1,081,835	$105,500	$56,480	$58,350	-0-

5 & 6 have same surname and address
7 & 8 have same surname and address

*Source: State Police, Special Service Division

1979

#	Liability	Amount Written	Amount Forfeited	Amount Paid	Amount Outstanding	Other Amounts Paid ?
#1	$300,000	$211,375	250	200	-	(50)
#2	105,000	64,300	6,150	1,910	-	-
#3	128,000	115,550	0	-	-	-
#4	500,000	336,800	9,300	350	7,800	-
#5	425,000	256,050	7,250	500	-	(6,250)
#6	53,000	20,200	100	-	-	(100)
#7	150,000	148,225	331,200	138,600	60,250	-
#8	50,000	44,400	0	-	-	-
#9	60,000	-	400	400	-	-
#10	95,000	83,770	0	-	-	-
	$1,876,000	$1,280,670	$354,650	$141,960	$68,050	($6,400)

#5 & 6 have same surname & address
#7 & 8 have same surname & address

1978

#	Liability	Amount Written	Amount Forefeited	Amount Paid	Amount Outstanding	Other Amounts Paid?
#21	$ 15,000	--	4,500	1,125	2,450	--
#22	80,000	57,580	0	--	--	--
#23	275,000	--	--	--	--	--
#24	160,000	53,025	500	--	--	(500)
#25	100,000	85,400	4,850	1,550	--	--
#26	215,000	41,450	3,325	3,325	--	--
	$845,000	$237,455	$13,175	$6,000	$2,450	($500)
	$5,476,000	$1,873,410	$158,475	$66,480	$63,800	($28,450)

1979

#	Liability	Amount Written	Amount Forfeited	Amount Paid	Amount Outstanding	Other Amounts Paid?
#21	15,000	14,475	750	-	-	(750)
#22	80,000	58,580	0	-	-	-
#23	275,000	-	0	-	-	-
#24	160,000	50,580	0	-	-	-
#25	100,000	88,175	1,575	300	-	(500)
#26	215,000	102,850	3,550	3,050	-	-
	$845,000	$314,660	$5,875	$3,350	0	($1,250)
GRAND TOTALS	$5,746,000	$3,455,050	$373,325	$151,410	$68,060	($7,650)

1979

#	Liability	Amount Written	Amount Forfeited	Amount Paid	Amount Outstanding	Other Amounts Paid ?
#11	$ 20,000	$ 17,450	$ 0	$ -	-	-
#12	465,000	355,660	0	-	-	-
#13	90,000	-	0	-	-	-
#14	25,000	5,900	0	-	-	-
#15	950,000	219,650	3,000	3,000	-	-
#16	100,000	28,350	No report filed	-	-	-
#17	60,000	2,500	0	-	-	-
#18	480,000	238,650	0	-	-	-
#19	600,000	428,725	7,500	2,950	-	-
#20	235,000	209,185	2,300	150	-	-
	$3,025,000	$1,859,720	$12,800	$6,100	0	0

#12 & 13 have same surname & address
#14 & 15 have same surname & address

AGENCY	Dollar Amounts of Liability	# of Bonds Written	Amounts Forfeited to Judicial Dept. Upon Client's FTA	Amounts Paid by Company to Judicial Department	Amounts Paid by Agents to Judicial Department	Fees Received by Company From Agents
			1977			
A	$ 2,229,900	1,152	No Info	$ 0	No Info	$ 31,219
B	$ 4,698,920	3,297	No Info	$ 0	No Info	$ 65,785
C	No Info	1,210	"No Records"	"No Records"	"No Records"	$ 27,053
			1978			
A	$ 5,385,312	2,764	No Info	$ 7,500	No Info	$ 80,780
B	$ 1,519,900	1,078	No Info	$ 0	No Info	$ 23,802
C	No Info	1,209	"No Records"	"No Records"	"No Records"	$ 24,115
Page Total	$ 13,834,032	10,710	No Info	$ 7,500	No Info	$ 252,754

Insurance Companies Underwriting

Bail Bonding in Connecticut

1975 - 1979

AGENCY	Dollar Amounts of Liability	# of Bonds Written	Amounts Forfeited to Judicial Dept. Upon Client's FTA	Amounts Paid by Company to Judicial Department	Amounts Paid by Agents to Judicial Department	Fees Received by Company From Agents
			1975			
A*	$ 0	0	$ 0	$ 0	$ 0	$ 0
B	$ 3,237,105	2,223	$ 59,200 during 1975 -79	$ 0	$ 36,820 during 1975 -79	$ 44,701
C	No Info	No Info	"No Records"	"No Records"	"No Records"	$ 0
			1976			
A*	$ 0	0	$ 0	$ 0	$ 0	$ 0
B	$ 7,075,178	4,810	No Info	$ 0	No Info	$ 100,157
C	No Info	414	"No Records"	"No Records"	"No Records"	$ 8,244
Page Total	$ 10,312,283	7,447	$ 0	$ 0	$ 0	$ 153,102

*Not doing business in Connecticut in 1975 and 1976.

1979

AGENCY	Dollar Amounts of Liability	# of Bonds Written	Amounts Forfeited to Judicial Dept. Upon Client's FTA	Amounts Paid by Company to Judicial Department	Amounts Paid by Agents to Judicial Department	Fees Received by Company from Agents
A	$ 6,421,469	3,283	No Info	$ 0	No Info	$ 96,818
B	$ 2,378,525	1,216	No Info	$ 0	No Info	$ 35,809
C	No Info	682 in first 6 months	"No Records"	"No Records"	"No Records"	$ 11,001 in first 6 months
Page Total	$ 8,799,994	5,181	No Info	$ 0	No Info	$ 143,628
Grand Totals	$ 32,946,309	23,338	$ 0	$ 7,500	$ 0	$ 549,484

Collateral Valuation Policy for Companies A and B*

Connecticut agents deposit into a trust account a small percentage based on bond liability to indemnify the bonds they write. At such time as all outstanding liability is exonerated any balance remaining after losses and expenses is returned to the agent.

Collateral is often required on individual bonds with greater than average risk. A summary of the guidelines used for collateral follows. The dollar amounts vary with the bond size and such underwriting factors as charge and defendant.

Acceptable Collateral

Collateral may be defined as an item of value given or pledged to the Company to secure a surety bond. Collateral is taken on bonds with greater than average risk to further compel the principal to meet his obligations.

The Company requires that all collateral be taken in the name of the Company and be forwarded to this address along with a properly signed receipt. Cash taken as collateral is deposited in a demand account and agents, defendants, or indemnitors do not collect interest from collateral accounts.

The following is the only collateral which is acceptable to the Company:

1. Cash - includes cashiers checks, money orders, and certified checks.

2. Passbook Savings Accounts - must be submitted with properly endorsed assignment, bank acknowledgement, and blank withdrawal slip.

3. Stocks and Bonds - can be pledged as collateral security by either assignment, endorsement of the instrument, or by completion and execution of a separate form called a stock power. The stock certificate or bond must accompany the related stock power.

4. Real Estate Mortgages - acceptable collateral includes properly executed and endorsed mortgages, second mortgages, trust deeds, quitclaim deeds, or any other document that is acceptable in the state where the property is located. Any document that secures Real Property as collateral should be recorded in the appropriate county and should be accompanied by a written Appraisal and Title Statement.

*Company C did not submit an explanation of policy valuation.

STATE BY STATE ANALYSIS OF PERCENTAGE DEPOSIT LEGISLATION*

Percentage deposit is currently legislatively mandated by the states in two ways:

a. Defendant Option - In this system the defendant in the criminal case may post a percentage deposit of the bail bond amount set, usually 10%, with the courts. Upon satisfaction/adjudication of the case, the deposited monies are returned to the defendant or the third party who posted the deposit. In some jurisdictions an administrative fee, usually 1% of the face value of the bond, is retained by the court.

b. Court Option - This system, sometimes referred to as the "Bail Reform Act model", has a percentage deposit option available to the judicial officer imposing the conditions of release. The judicial officer is not bound to impose this alternative; he/she may specify a surety bond. In some cases the retention of an administrative fee as described above is allowed; in others it is not. The Bail Reform Act for example does not allow for the retention of any administrative fee by the court.

The listing below describes each state, which of the two categories it falls into, the appropriate legislative citation, and any particular qualifiers applicable to that state's legislation.

ALASKA	Court Option, no administrative fee. See Alaska Code §12.30.020(b)(4).
ALABAMA	No percentage deposit option appears in legislation.
ARIZONA	No percentage deposit option appears in legislation.
ARKANSAS	Court option, administrative fee. See Arkansas Rules of Criminal Procedure, Rule 9.2(b)(ii)(1976).
CALIFORNIA	Defendant option, administrative fee See California Penal Code, §1269d. California's recently enacted ten percent option is appicable only in misdemeanor cases and will not take effect until January 1, 1981.
COLORADO	No percentage deposit option appears in legislation.

*From D. Alan Henry, "Ten Percent," Pretrial Services Resource Center, January, 1980.

	In Colorado the state Supreme Court has specifically stated that the current legislation does not allow for any judicial discretion on this question. See State of Colorado v. District Court of the 18th Judicial District, 581 Pacific 2nd 300.
CONNECTICUT	Court option, no administrative fee. P.B.R. Crim. Proc. 1978 §664, 658. The governing legislation in Connecticut may change within the year. The General Assembly of the state has established a pretrial commission to report back with proposed legislation that would improve the pretrial processes in the state.
DELAWARE	No percentage deposit option appears in legislation.
DISTRICT OF COLUMBIA	Court option, no administrative fee. Chapter 13 D.C. Code, §§23-1321(a)(3).
FLORIDA	No percentage deposit option appears in legislation.
GEORGIA	No percentage deposit option appears in legislation.*
HAWAII	No percentage deposit option appears in legislation.
IDAHO	No percentage deposit option appears in legislation.
ILLINOIS	Defendant option, administrative fee. Illinois revised Statute 36, §§110-7, 15.
INDIANA	No percentage deposit option appears in legislation. While no legislative mandate exists for ten percent, court rule has mandated its existence in some jurisdictions such as Indianapolis.
IOWA	Court option, no administrative fee. Iowa Code, §811.2(1)(c).
KANSAS	No percentage deposit option appears in legislation.

* Although not mentioned in the state legislation, ten percent deposit as a court option does exist by local court rule in Cobb County, Georgia.

KENTUCKY	Court option, administrative fee. While other states have accomplished virtually the same thing, i.e., the abolition of bail bondsmen, Kentucky is the only state to have made bail bonding for profit a crime. See Kentucky Revised Statute §§431.520-530.
LOUISIANA	No percentage deposit option appears in legislation.
MAINE	Court option, no administrative fee. Maine Code, Title 15, §942(2)(c).
MARYLAND	Court option, no administrative fee. Maryland Rules of Criminal Procedures 777.
MASSACHUSETTS	No percentage deposit option appears in legislation.
MICHIGAN	Defendant option and court option, administrative fee. Michigan Comp. Laws (annotated) §§765.1-765.31. Michigan allows for a ten percent defendant option for misdemeanors and a judicial option in felony cases.
MINNESOTA	No percentage deposit option appears in legislation.
MISSISSIPPI	No percentage deposit option appears in legislation.
MISSOURI	Court option, no administrative fee. U.M.A.S. §544.455 (1979 Supp).
MONTANA	No percentage deposit option appears in legislation.
NEBRASKA	Defendant option, administrative fee. Nebraska Rules of Criminal Procedure, Article 9, §29-901 and Neb. Rev. Stat. §29-901(3)(a).
NEVADA	Court option, no administrative fee. Nevada General Provisions, §178.502.
NEW HAMPSHIRE	No percentage deposit option appears in legislation.
NEW JERSEY	Defendant option, administrative fee. Supreme Court Rule 3:26-4(a). The defendant-based ten percent option does not exist throughout New Jersey. The Supreme Court rule allows local jurisdictions to choose such an option.

VERMONT	Court option, no administrative fee. Vermont Rules of Criminal Procedure, Title 13, §7553(a).
VIRGINIA	No percentage deposit option appears in legislation.
WASHINGTON	Court option, no administrative fee. Washington Criminal Rule 3.2(a)(4) and JCrR2.09(a)(4).
WEST VIRGINIA	No percentage deposit option appears in legislation.
WISCONSIN	Court option, administrative fee/no administrative fee depending on whether the charge is a misdemeanor or felony. Wisconsin Rules of Criminal Procedure, Chapter 969, §§969.02 and 969.03. Wisconsin has just recently passed (October 1979) legislation which removes surety bonds (i.e., bail bonding for profit) as an option available to the court.
WYOMING	No percentage deposit option appears in legislation.

NEW MEXICO	No percentage deposit option appears in legislation.
NEW YORK	Court option, no administrative fee. New York Rules of Criminal Procedure, §520-10.
NORTH CAROLINA	No percentage deposit option appears in legislation.
NORTH DAKOTA	Court option, no administrative fee. North Dakota Rules of Criminal Procedure, Rule 46(a).
OHIO	Defendant option and court option, administrative fee. Ohio Rules of Criminal Procedure, Rule 46(c)(d). Ohio, similar to Michigan, has a ten percent defendant-based option for misdemeanors and court option in cases of a felony arrest.
OKLAHOMA	No percentage deposit option appears in legislation.
OREGON	Defendant option, administrative fee. Oregon Revised Statute, §135.265.
PENNSYLVANIA	Defendant option, administrative fee, Rule 4006c and Rule 4008. Pennsylvania Supreme Court Rules, similar to New Jersey, allow for local court jurisdictions to set up a defendant-based system.
RHODE ISLAND	Court option, no administrative fee. Rhode Island Rules of Criminal Procedure 12-13-10.
SOUTH CAROLINA	No percentage deposit option appears in legislation.
SOUTH DAKOTA	Court option, no administrative fee. §23A-43-3(3)(1979)
TENNESSEE	No percentage deposit option appears in legislation.
TEXAS	No percentage deposit option appears in legislation.
UTAH	No percentage deposit option appears in legislation.

END