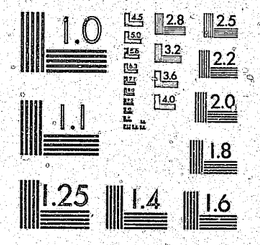

STATE OF CONNECTICUT

PRETRIAL COMMISSION

75 Elm Street
Hartford 06115

Report
of the
Connecticut Pretrial Commission
to the
General Assembly

March 1, 1981

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Introduction

The Connecticut Pretrial Commission was established by a Special Act of the 1978 General Assembly to "study the effectiveness of criminal pretrial programs and techniques with a view to implementing a statewide criminal pretrial program in Connecticut" and to "apply for, receive and expend funds from the Connecticut Justice Commission and other federal governmental and private sources to carry out its duties." The Commission submitted a report to the 1980 General Assembly and its authority was extended for one year by Special Act No.80-71.

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 Chief State's Attorney, the Office of the Chief Public Defender, the Office of Adult Probation of the Judicial Department and the Department of Correction. In addition, the Commission has worked closely with the Connecticut Chiefs of Police Association, Mr. Peter J. Berry, Executive Director. Chief Phillip R. Lincoln of the Newington Police Department attended Commission meetings as the Chiefs' designee during 1980-81.

The work of the Commission has been supported by the Law Enforcement Assistance Administration, under Mr. Nicholas L. Demos, Program Manager, Adjudication Division of the Office of Criminal Justice of the Law Enforcement Assistance Administration and by the American Justice Institute of Sacramento, California, Mr. John J. Galvin, Director and Mr. Walter H. Busher, Project Director, through participation in Phases I and II of the federally funded "Jail Overcrowding and Pretrial Detainee" project.

In addition to those cited in the Commission's 1980 Report, the second year of the Commission's work has been enhanced by many groups and individuals, including: the Pretrial Services Resource Center of Washington, D.C., Ms. Madeleine Crohn, Esq.; Director and Mr. D. Alan Henry, Technical Assistance Associate; Mr. John C. Hendricks and Mr. Steven F. Wheeler, Co-Directors, Kentucky Pretrial Services Agency; Mr. Bruce D. Beaudin, Director, Washington, D.C. Pretrial Services Agency; Ms. Sherry Haller, Director, Criminal Justice Education Center; Ms. Dolly Tuttle, formerly Project Director, Hartford Pretrial Release and Supervision Program; and Ms. Faye White Neilan, Research Analyst to the Pretrial Commission.

Special mention is due the members of the Board of Directors of the newly established Waterbury Mediation Project: Representative Maurice B. Mosley, Chairman; Assistant State's Attorney Arthur M. McDonald; Deputy Assistant State's Attorney Marcia B. Smith, Assistant Public Defender Francis J. Fitzpatrick, Mr. David L. Fraser, Assistant Director of the Connecticut Justice Commission; Mr. Anthony C. Barbino, Director, Waterbury Redirection, Ms. Eunice S. Groark, Esq., Executive Director, Connecticut Bar Foundation; and Ms. Angela C. Grant, Esq., Counsel, Connecticut Pretrial Commission.

Finally, this report would not have been possible without the substantial constributions by Ms. Jo-Ann Aguzzi and Ms. Beverly Jenkins 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 the state's judicial and corrections systems and to deliver pretrial release services in a more even-handed, cost-effective manner.

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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SUMMARY

The Pretrial Commission's Report to the 1980 General Assembly opened with the statements: "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 caseloads."

Those statements stand unchallenged in 1981. For example, during 1979 to 1980 the Judicial Department disposed of 4,230 criminal cases in Part A, compared with 3,750 cases in 1977-78. The Department added 4,676 cases during 1979-1980, compared with 3,811 cases in 1977-78. The Department of Correction is now holding approximately 4,200 inmates[1] in cells designed to hold 3,300, an increase of more than 700 persons over 1979. The Hartford Community Correctional Center is under federal court order to reduce overcrowding.[2] The Department of Correction has submitted a plan for achieving this goal which includes provisions for converting various public facilities into jailspace. However, the plan cannot be expected to accommodate any unanticipated increase in population or the as yet unknown effects of the 1980 sentencing bill.[3]

The problems of Connecticut's overburdened justice system are magnified at the pretrial level due to the large number of cases which are processed and disposed of before trial, and the lack of standardized procedures for dealing with these cases. As an example, the lack of clear-cut procedures for implementing statutorily-mandated release policies has created severe pressures on police, courts and corrections alike.

The cycle begins when many arrested persons who would be eligible for release from the police station remain in custody until the first court hearing. On a holiday weekend, this could be some 12-72 hours following arrest. A lack of sufficient, qualified Bail Commission staff means that release interviews do not take place around the clock as mandated by statute. Most release interviews are conducted hastily at the courthouse on the morning of arraignment with scant time for eliciting and verifying needed information. Thus, release decisions tend to be needlessly conservative and to require money bond, forcing the defendant to clear the additional hurdle of finding a bail bondsman who is willing to do business with him or her.

The net result of a lack of a consistent, efficient release policy is that more than one-fourth of all inmates have not been sentenced. More than 11,000 arrested persons spend some time in jail before sentencing each year, simply because they were assigned a bond amount and now cannot afford to hire a bail bondsman or do not have the required collateral.

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1. As of February 1, 1981.
2. Lareau v. Manson, Civil No. H-78-145, consolidated with Campos v. Manson, Civil No. H-78-199, U.S. District Court, Hartford, Connecticut, December 29, 1980. A similar suit is pending against the Bridgeport Community Correctional Center, Mawhinney v. Manson, Civil No. B-78-251.
3. Public Act No.80-442.

A few individuals are able to participate in release or diversion programs in some of the larger cities. However, access to most pretrial alternatives is limited by their location and the lack of an efficient means for matching defendants with available programs.

Research shows that the majority of pretrial detainees pose no threat of danger or failure to appear at court and that as few as 10% are ultimately sentenced to additional time in prison.* Nonetheless, they remain incarcerated for days or months, and occupy expensive bed space which would otherwise be available for convicted criminals.

I. The Questions

In order to present to the General Assembly a broad picture of the current operation of criminal pretrial programs and procedures, the Pretrial Commission sought answers to these basic questions:

1. Since the key consideration at the pretrial level is to facilitate the orderly functioning of the justice system by insuring the defendant's appearance at court, the Commission asked:

   What are the most effective, equitable and inexpensive means of insuring that an accused will appear for trial, without threatening the security of the community?

2. Aware that Connecticut law has created an extensive framework for pretrial release by Constitution, statute and court rule, the Commission asked:

   Are release alternatives — release on promise to appear, money bail, conditional release and other options — available equally to all eligible defendants?

3. In view of the fact that the state's jail population has increased substantially over the past several years, the Commission asked:

   Is unnecessary pretrial detention contributing to overcrowding in the state's correctional facilities?

4. Aware that Connecticut offers many public and private social services designed to meet the special needs of criminal defendants, the Commission asked:

   How can existing criminal justice resources be mobilized most effectively at the pretrial level to achieve the greatest impact on the largest number of defendants at the earliest point in the justice system?

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

II. The Approach

1. Phase I: Research

A search for the answers to the preceding questions led the Commission members to focus primarily on the bail-setting/bail-bonding process. It was their sense that the release decision, more than any other event in the pretrial process, determines both the quality of justice and the allocation of resources — time, money, and personnel—which will be available to process serious cases to conviction and sentence.

The Commission's research was double-pronged. First, information was gathered documenting Connecticut's present pretrial release system. Secondly, the release schemes of other states were examined to determine how other jurisdictions are coping with the same problems which Connecticut is experiencing. The majority of this research was presented in the Commission's report to the 1980 General Assembly. An update of those findings, together with additional findings, are set forth in the following report.

The Commission's research effort was funded by a small grant under Phase I of the federal Law Enforcement Assistance Administration's "Jail Overcrowding and Pretrial Detainee" project.

2. Phase II: Implementation

In September, 1980, the Connecticut Justice Commission received $250,000 under Phase II of the federal "Jail Overcrowding and Pretrial Detainee" project to put into place the Pretrial Commission's major recommendations. Since that time, representatives of the Pretrial Commission, the Connecticut Justice Commission and the Judicial Department have been working together to revise the Bail Commission interview form and release criteria and to implement other fundamental changes in the pretrial release process.

Phase II funds are also being used to institute programs for the coordination of delivery of services to criminal defendants and for the mediation of minor criminal matters through the Office of the State's Attorney in Waterbury.

III. Findings and Recommendations

The Pretrial Commission is not requesting an appropriation from the 1981 Session of the General Assembly.

The Pretrial Commission respectfully requests that the following legislative proposals be enacted into law so that the Commission's ongoing work will be given permanent effect, and long-overdue pretrial reform measures can be instituted in Connecticut.

1. Proposal: Restructuring of the Bail Commission
   Findings:

There are approximately 100,000 arrests in Connecticut per year.[1] The Bail Commission processes approximately 30,000 of these cases, making and recommending release decisions which determine whether these individuals await the final disposition of their cases 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 specific occupational qualifications and receive little formal training or standardized, objective guidelines in making release decisions.

Recommendation:[2]

The Pretrial Commission proposes passage of a bill which will provide that the Judicial Department will:

(a) set job qualifications to be met by all Bail Commissioners;
(b) develop a system which will enable Bail Commission staff to be available around the clock as specified by the statutes;
(c) implement procedures which will reflect the General Statutes' preference for non-monetary release;
(d) promulgate uniform, weighted criteria to be used to determine pretrial release;
(e) establish data collection, verification and notification procedures which will insure accountability of pretrial release decisions.

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1. Excluding minor motor vehicle offenses. 1979 Uniform Crime Reports.
2. The Pretrial Commission's recommendations concerning the Bail Commission are contained in House Bill No.5565.

Anticipated Results:

Passage of a bill upgrading the Bail Commission will result in sounder release decisions, with an increase in release of defendants who do not pose a risk of dangerousness or non-appearance at court and a decrease in the release of defendants who do pose such a threat. In addition, the bill will have the effect of freeing space in the Community Correctional Centers for use by sentenced offenders.

The implementation of improved management techniques will result in an increase in the number of releases which can be processed and an improvement in the quality of information upon which judges base release decisions. However, it is unlikely that, even at optimum capacity, present Bail Commission staff can satisfactorily interview the more than 44,000 persons who are not now released under conditions set by the police.[1] Therefore, in the foreseeable future it may be necessary to increase the number of Bail Commissioners and to upgrade salary levels.[2]

2. Proposal: Increase in the Use of the Ten Percent Bail Deposit
   Findings:

The ten percent bail bond is presently available by court rule and may be set by the judge, upon motion by defense counsel. The ten percent system permits the defendant to deposit 10% of the bond amount with the court and to receive this money back when the case is concluded. This alternative is rarely granted by the court, due to defense attorneys' experience that it will not be granted in spite of highly favorable results during its intensive use in Hartford in 1971-74 and extensive use in other states.[3]

Recommendation:[4]

The Pretrial Commission recommends passage of a bill which will permit the 10% bail deposit to be used by all misdemeanants and Class D felons who request it, unless the Court states reasons for denying the request. Under the bill, ten percent bail could be set by any authority who presently sets conditions of release - police, Bail Commissioner or judge. The option will not be granted in cases where the prosecution or court objects on grounds relating to the person's appearance in court, and the objection is upheld.

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1. There is conflicting data regarding the number of police releases. Compare charts on pages 18 and 20.
2. Currently there are 26 Bail Commissioners, two Assistant Chief Bail Commissioners and a Chief Bail Commissioner. Bail Commissioners are paid between $10,000 and $12,000 per year. See page 11 below for further details regarding Bail Commission positions.
3. See pages 32 through 36 below for further discussion of the 10% system.
4. The Pretrial Commission's recommendations concerning the 10% bail system are contained in House Bill 5564.

The ten percent 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.

Anticipated Results:

It is expected that the combined result of a more effective Bail Commission and expanded use of the 10% deposit will mean a reduction in the pretrial jail population of approximately 26.35% during the first year of operation.[1]

3. Proposal: To Expand Alternatives to Court Processing and Pretrial Incarceration
Findings:

The Pretrial Commission has found that Connecticut offers a variety of community services geared towards criminal defendants, but that these services are not always delivered in the most coordinated, cost-effective manner. The Commission has also found that there is a need for some innovative approaches to the formal judicial and corrections systems.

Judges, prosecutors and other officials are aware that most criminal defendants are in need of services, ranging from health care to job training, many of which are available in the community. Officials are also aware that the traditional adjudication process is not the most effective means for handling many types of cases. However, court personnel have no efficient mechanisms for linking defendants with needed services nor for processing cases by alternative means such as mediation or community service restitution.

Under Phase II of the federal "Jail Overcrowding and Pretrial Detainee" project, the Pretrial Commission and the Connecticut Justice Commission have been working with the Judicial Department to devise means for coordinating the delivery of services to criminal justice clients in the four major cities.[2] In addition, a program for the mediation of minor criminal matters has begun in the Office of the State's Attorney in Waterbury. The mediation service will process minor criminal matters, in particular those involving ongoing personal relationships, in an informal dispute resolution forum. The research design for both of these programs is specifically result-oriented and includes provisions for determining the effectiveness of the programs, including court appearance rates and cost-benefit comparison with incarceration and other pretrial alternatives.

Recommendation:

The Pretrial Commission recommends that the General Assembly continue to monitor these programs, with a view towards incorporating portions into the state budget at a later date, should they prove successful.[3]

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1. "Jail and Prison Overcrowding: An Interim Report," submitted by the Governor's Task Force on Jail and Prison Overcrowding, March, 1981.
2. Hartford, New Haven, Bridgeport and Waterbury.
3. General oversight could be provided by the Governor's Task Force on Jail and Prison Overcrowding.

REPORT OF THE CONNECTICUT PRETRIAL COMMISSION TO THE 1981 SESSION OF THE GENERAL ASSEMBLY

I. The Pretrial Process-Arrest to Adjudication[1]

Summary

The pretrial process is that segment of the criminal justice system which begins with an arrest and ends with the final disposition of a case. The decisions which are made at the pretrial level - to arrest, to set money 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 and judges. 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 at arraignment and act as the information-gathering arm of the courts. Bail bondsmen are private businessmen whose function is 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 non-refundable fee, which is generally between 5% and 10% of the value of the bond.

In theory, bail-setting authorities may select from a wide range of release conditions. In practice, three primary release alternatives are used:

1. written promise to appear;[2]
2. non-surety bond;
3. surety (money) bond.

These conditions of release may be set by the police, Bail Commissioner or judge. Other conditions, such as release upon compliance with specific restrictions or release under a 10% deposit bond, may be set only by a judge.

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. If money bond is set, the amount may be met in several ways:

a. The person may deposit the entire cash amount, in which case the amount will be refunded upon final disposition of the case.

b. If the judge permits, the person may deposit 10% of the bond amount with the clerk, in which case the 10% will be refunded upon final disposition of the case. (The 10% alternative is rarely requested, because it is the experience of defense attorneys that the court will likely deny the request.)[3]

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1. See chart page 18.
2. In other states this form of release is termed "release on (personal) recognizance."
3. See pages 32 through 36 for further discussion of the 10% deposit system.

c. The person may hire a bail bondsman (surety) upon payment of a non-refundable fee of between 5% to 10% of the bond amount and the pledge of sufficient property to secure the remainder. Most arrested persons for whom money bond is set must hire a bondsman in order to effect release.

An accused who fails to appear in court is guilty of a Class D felony, if the original charge was a felony,[1] or a Class A misdemeanor, if the original charge was a misdemeanor.[2]

The first opportunity for release occurs when the individual is brought to the police station and a police officer sets conditions of release. If the police set money bail in an amount which the person cannot meet, a second interview is mandated by statute.[3] At this interview a Bail Commissioner must review the conditions of release with a view towards effecting release on terms, preferably non-financial, which will insure the person's appearance at court.

If the Bail Commissioner does not conduct an interview at the police station or does not reduce the bond sufficiently, the person will remain in police custody, or on occasion be transferred to a Community Correctional Center (jail), until arraignment in court on the next regular court day.

A third opportunity for release occurs on the morning of arraignment, generally one to three days following arrest. At that time, the Bail Commissioner may interview those who were not interviewed at the police station. At the arraignment, the Bail Commissioner will, in most cases, make a release recommendation to the judge, with opportunity for response from the prosecutor and defense counsel. The judge makes the final release decision.

If the defendant cannot obtain release under the conditions set by the court, he or she will be taken to jail until the bond money can be raised, an average of 4 days, or until final disposition of the case, an average of 29.1 days.[4] The General Statutes provide for one automatic bail review after 45 days in jail and the possibility of further reviews after each subsequent 45 day period.[5] These reviews are rarely requested by the accused or defense counsel.[6]

As the preceding summary indicates, an individual who is arrested in Connecticut is entitled to at least three opportunities for pretrial release:

1. by the police, following arrest; and
2. by a Bail Commissioner, after it becomes apparent that the arrested person cannot afford the bond amount set by the police; and
3. by a judge at arraignment on the next court day following arrest.

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1. Conn. Gen. Stat. Sec. 53a-172, (Revised to 1981).
2. Conn. Gen. Stat. Sec. 53a-173, (Revised to 1981).
3. Conn. Gen. Stat. 54-63d(a), (Revised to 1981).
4. Department of Correction "Study of Hartford Jail Releases", 1979.
5. Conn. Gen. Stat. 54-53a, (Revised to 1981).
6. This is due largely to the fact that, as presently written, it is unclear who is authorized to invoke the statute. The Department of Correction has from time to time attempted unsuccessfully to obtain the release of pretrial detainees by means of the statute. On these occasions the court made it clear that the Department is not the proper party to invoke the statute's provisions.

In practice, the decision-making roles of the three bail-setting authorities are blurred. Available data cannot document the three distinct, objective reviews for which the statutes provide. The first and second steps are often indistinguishable because there is no face to face Bail Commissioner interview at the station house. The Bail Commissioner may not promptly review the police decision, may not review the decision at all,[1] or the review may simply consist of a telephone conversation with a police officer. Thus, the police decision may include input from the Bail Commissioner, but the arrested person does not receive the benefit of a separate review.

On the morning of arraignment, the Bail Commissioner may interview at the courthouse those who were not interviewed at the police station. The Bail Commissioner can now release from the courthouse those who are being recommended for release on a written promise or who can pay the bond which is set. However, for the sake of convenience, most defendants are presented to the judge to be arraigned at this time. In most instances, the judges accept the Bail Commissioner's recommendation, so the second and third steps in the process blend into one.

One reason for the lack of a clear-cut division between pretrial decision-makers can be traced to the founding of the Bail Commission in 1967. The legislation which established the agency did not provide guidelines for the selection or training of personnel, the setting of standardized, objective release criteria or the role of Bail Commissioners vis-a-vis the police and courts.[2] These guidelines were not developed subsequently by the courts or the Bail Commission.

Over the years Bail Commissioners have become unsure of their place in the release process and have tended to see themselves as merely an extension of the police or courts, rather than as independent, professional judicial officers. Consequently, release decisions have tended to be overly conservative and have resulted in the unnecessary incarceration of accused persons.

A. The Police Role

The police decide whether or not to arrest an individual for allegedly committing an offense, thus bringing 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) at the point of arrest and released on a written promise to appear.[3] Statewide, citations are issued for only 6% of misdemeanors other than minor motor vehicle offenses, although they are used more frequently in some areas than in others.[4] Often the primary reason for not issuing a citation is the lack of a quick, accurate means of identifying offenders in the field and checking for rearrest warrants. Police feel an arrest may be their "one shot" at apprehending an accused, and 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.

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1. There is a conflicting data regarding the number of Bail Commissioner reviews. See chart page 20.
2. The development of these guidelines would be required by one of the Pretrial Commission's bills, House Bill 5565.
3. Conn. Gen. Stat. Sec. 54-1h, (Revised to 1981).
4. Based on questionnaire distributed on behalf of the Pretrial Commission by the Connecticut Chiefs of Police Association in the fall of 1979.

Following booking, the police are to interview the suspect "to obtain information relevant to the terms and condition of...release from custody, and...to seek independent verification of that information where necessary."[1] The police release decision is generally based on criteria which include the nature of the offense, prior record, dangerousness and the accused's ties to the community.[2] When money bail is set, some police departments follow the practice of setting the amount at a certain percentage of the potential fine for that offense. Other departments have a minimum bond amount for all felony arrests. Approximately 32% of all arrested persons are released by police on a written promise. An additional 20%[3] are able to post bond. The remaining forty-two percent are not able to effect release.

The amount of information obtained by the police 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 the accused's address and other community ties or to find someone to drive an intoxicated defendant home.

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 an informal understanding between the Bail Commissioner and the police. Some Bail Commissioners, in particular those who are the sole Bail Commissioner in a G.A.,[4] 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 overly conservative because of a lack of sufficient information or 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.

1. Conn. Gen. Stat. 54-63c(a), (Revised to 1981).
2. Based on questionnaire distributed on behalf of the Pretrial Commission by the Connecticut Chiefs of Police Association in the fall of 1979. See Appendix.
3. Together with the 6% released on citations, this accounts for all arrested persons for whom the police set conditions of release. There is some disagreement regarding the number of police releases. See pages 18 and 20.
4. Court Geographical Area.

B. The Bail Commission's Role

1. Background

The Bail Commission was established by the 1967 Session of the General Assembly to serve as an information-gathering arm of the courts, to make unilateral release decisions and 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 Chief Bail Commissioner submits an annual report to that office.

The Chief Bail Commissioner and two Assistant Chief Bail Commissioners are appointed by the judges of the Superior Court who also appoint Bail Commissioners to serve in the G.A.'s, 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.[1] Traditionally, there has been input from the resident judge in each Judicial District regarding appointments.

There are no formal job descriptions or qualifications for Bail Commission staff. Some 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 one-third of whom the Bail Commission offers a supplement to Social Security or other retirement income. The Bail Commission's budget is a $341,000 line item within the Judicial Department budget. The salary range for employees is $10,259 - $12,041 for Bail Commissioners and $9,162 - $10,410 for Assistant Bail Commissioners. The collective bargaining agreement which covers Judicial Department 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.[2]

Bail Commissioners receive no formal orientation or in-service training. According to the Chief Bail Commissioner, new personnel spend their first two weeks working under the direct supervision of the Chief Bail Commissioner or an Assistant Chief Bail Commissioner. Informal instruction is provided through conversations with the Chief Bail Commissioner and circulation of the Chief Bail Commissioner's "General Policy".

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.[3] Each Bail Commissioner submits daily and quarterly reports to the Chief Bail Commissioner.

1. Other personnel have been lost through natural attrition.
2. Conn. Gen. Stat. Sec. 54-63b(b), (Revised to 1981).
3. Data collection is not standardized, with the exception of the defendant's name, criminal history, if any, and conditions of release.

2. Release Criteria

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." These items are reflected on the Bail Commission's interview form, but are not weighted or ranked in any manner.

The lack of standardized release criteria leaves room for broad variations from one Bail Commissioner to another in balancing the factors to be considered. 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 or the nature of the charges may be weighted more heavily. A random sampling of Bail Commission interview forms from three G.A.'s revealed no correlation between the conditions of release set by the Bail Commissioner and the defendant's background or rate of return to court.

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 financial conditions of release (surety bond) are changed to non-financial conditions (written promise or non-surety bond in less than half of all release decisions reviewed by Bail Commissioners.* A partial explanation of this result may be that some Bail Commissioners feel their primary function is simply to lower the bond amount set by the police, regardless of whether this results in the defendant's release.

3. Release Procedures

The Bail Commissioners' function in the pretrial release process is clearly spelled out in Section 54-63c(a) of the General Statutes. Their mandate can be divided into roughly three components as indicated below:

*See Appendix for a summary of the Chief Bail Commissioner's Annual Reports. 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.

If the arrested person has not posted bail, the police must immediately notify a Bail Commissioner.

1. The Bail Commissioner must be available at all times and must promptly conduct whatever interview and investigation may be necessary to reach an independent decision.

2. The Bail Commissioner must order the person's release on the first of the following conditions found sufficient to assure his or her return to court, regardless of the person's financial resources:

   a. written promise to appear;
   b. non-surety (money) bond; or
   c. surety (money) bond, in no greater amount than necessary.

3. If the Bail Commissioner determines that surety (money) bond is required, the reasons must be stated in writing.

Twenty-seven percent of those entitled to a Bail Commission interview do not receive one.[1] In addition, the majority of interviews, (64%) do not take place promptly following the police release decision, but are held at the courthouse on the morning of arraignment, an average of between 12 and 36 hours following arrest.[2] In the hurry to complete interviews and present defendants to the court, there is generally little time for verification of the information supplied by the arrested person.

The interview process is not designed to elicit sufficient information upon which to base an objective release decision. The bail interview form, the basis for the release decision, is a single sheet which calls for some of the family and community ties information which research shows constitutes the most accurate predictors of return to court.[3] However, the form has not been updated since it was originally promulgated in 1969 and, in any case, is rarely filled out completely.

Finally, the statutory emphasis on non-financial release is not reflected in the release decisions. Based on 1979 figures, only 43% of Bail Commissioner interviews resulted in a change from money bond to written promise or non-money bond. In addition, 29% resulted in a lowering of the bond amount, but nearly half of these individuals cannot afford the lower bond. An additional 26% of bond amounts were not changed and 2% were increased.

Finally, when money bail is the condition of release, Bail Commissioners do not state the reason for selecting this alternative. In their view the reason for setting money bond should be apparent from a review of the other items on the form.

1. Difference between number released by police, according to the questionnaire distributed by the Pretrial Commission, and number interviewed by Bail Commissioners, according to the 1979 Report of the Chief Bail Commissioner.
2. 1979 Report of the Chief Bail Commissioner. See Appendix for summary of Annual Reports.
3. Form is reproduced in Appendix. The form is in the process of being revised. At this writing, it is not clear whether the new form will incorporate standardized release criteria or whether subjective criteria will continue to be used.

At arraignment, the Bail Commissioner makes a recommendation to the court which, it is generally agreed, is accepted 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."[1] However, it is the policy of the Bail Commission not to conduct interviews at the Correctional Centers. It is unclear whether this policy is the result of a decision by Bail Commission or corrections officials.

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, but this practice is rare.[2] 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 Bail Commission's "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. Some courts have eliminated the follow-up letter, due to heavy caseloads.

Connecticut defendants receive one notification of the first court appearance, noted on the same sheet as that stating defendant's conditions of release. Most criminal cases involve more than one court appearance. However, there are no procedures for notifying persons of these subsequent proceedings, although research shows that most failures to appear are a result of honest confusion regarding court dates.[3]

1. Conn. Gen. Stat. Sec. 54-63b(a), (Revised to 1981).
2. Conn. Gen. Stat. Sec. 54-63d(b), (Revised to 1981).
3. See, for example, pp.18-19, Second Annual Report of the Kentucky Pretrial Services Agency (1977-1978) Administrative Office of the Courts, Frankfort, Kentucky.

C. The Court's Role

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 release at arraignment upon the least restrictive of the following conditions of release: written promise to appear; non-surety bond; surety bond.[1] Factors which may be considered in determining the appropriate conditions of release and the bond amount, if a bond is found to be 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.[2]

Recent changes in the structure of Connecticut's judicial branch have had an impact on the court's role in the pretrial release process. The court merger in 1978 created a more efficient one-tier court system and also created some unanticipated problems. Prior to the merger, the sufficiency of the evidence in serious felony cases was reviewed by the Court of Common Pleas in order to determine whether the matter warranted transfer to the Superior Court for trial. Without this screening mechanism, the pressure on the courts has increased in two ways. First, a small number of cases which formerly would have been dropped for lack of evidence are now routinely transferred from Superior Court Part B to Part A. More important, a mechanism for obtaining pretrial release has been lost. Previously, defense counsel would often agree not to request the probable cause hearing in exchange for reduction of the client's bond to an affordable amount. Now counsel feel an important bargaining tool has been lost and with it the opportunity both to screen out weak cases and to facilitate pretrial release.

1. Conn. Gen. Stat. Sec. 54-64a, (Revised to 1981).
2. As noted above, this alternative is rarely requested, due to the reluctance of many judges to grant it.

Employed defendants of moderate means face a double bind. They may be denied public counsel because they hold jobs at the time of arrest, even though they have insufficient funds to hire a private attorney or to post bond. One study indicates that as many as 53% of defendants lose their jobs while held in jail on bond and thus become eligible for a Public Defender.[1] Meanwhile, they have lost their jobs, but must now wait until their next court appearance to be assigned counsel.

Improved screening by Bail Commissioners would result in decreased pretrial incarceration of low risk defendants and could also speed the identification of those eligible for defender services.

D. The Department of Correction's Role

The Department of Correction plays a largely passive role in the pretrial process. The Department merely receives those who are unable to effect release through the police, Bail Commissioners or courts, and has no part in determining who is released.

An arrested person who cannot afford bail will be detained in jail until he or she can raise the bond money or the case is concluded. If bond money can be acquired, corrections officials are empowered to accept the funds and to release the defendant.[2]

Department of Correction figures show that forty-three percent of detainees are eventually released, after an average of 4 days in jail. Approximately 47 percent remain incarcerated until final disposition.[3]

Accused persons are entitled to one automatic bail review after 45 days in jail. These reviews are rarely requested and, as of February 2, 1981, 54.6% of the Correctional Center's population was composed of individuals who have not been sentenced.

E. Data Collection at the Pretrial Level

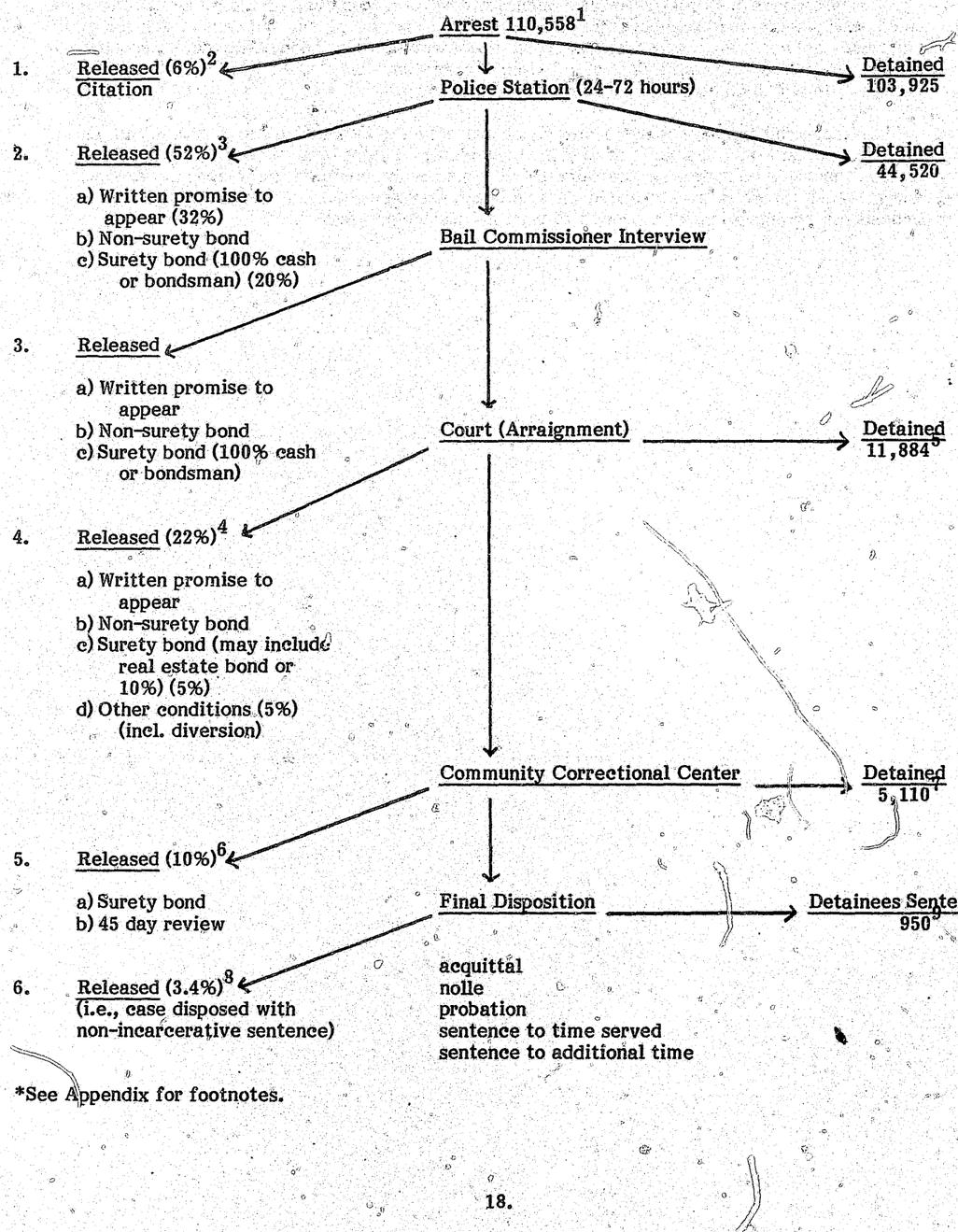
A discussion of pretrial procedures is incomplete without mention of the difficulty of obtaining data to document the numbers of individuals who pass in and out of the justice system at this level. Although criminal justice officials were cooperative in sharing information with the Pretrial Commission, 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, and other factors;[4] (2) the scope of the bail bonding business, both independent and insurance branches, with documentation of amounts forfeited and paid to the state by bondsmen whose clients default.

1. D.A. Tuttle, "Pretrial Release and Supervision Project - Low Bond Study", November, 1979.
2. Conn. Gen. Stat. Sec. 54-53, (Revised to 1981).
3. The remaining 10 percent is accounted for by federal prisoners (8%-9%) and those held in hospitals (1%).
4. Arrest information is available from the Uniform Crime Reports only on a quarterly basis and does not include statistics on all offenses from all towns.

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 Correction — attempts to collect data which could be useful to the system at large.

A pretrial agency offers a unique opportunity for demonstrating the value of an information system, inasmuch as the pretrial phase is the point at which all criminal justice functions converge. A revitalized Bail Commission could be the logical initiator of a renewed interest in a statewide data collection system and the starting point for a cohesive, planning-oriented approach to criminal justice problems.

Pretrial Release in Connecticut*



*See Appendix for footnotes.

Pretrial Release in Connecticut
(Explanation of Chart)

The chart on the opposite page illustrates the opportunities for pretrial release which are provided by Connecticut law, together with the number released and detained at each point.

The chart reflects the separate opportunities for pretrial release set forth in the General Statutes. In practice, these decision making points tend to overlap, as do the figures documenting release at each stage. For example, a police release decision often takes into account the Bail Commissioner's opinion solicited through a telephone conversation. In addition, the courts do not keep separate records of judges' release decisions versus Bail Commissioner's release recommendations made to the court at arraignment and both are recorded as "Bail Commission" decisions.

It is important to understand the meaning of "released" and "detained" within the context of Connecticut's criminal justice system. The distinction is similar to the difference between "can be released" and "may be released". In Connecticut initially all arrested persons have conditions of pretrial release set, whether money bond or other conditions. Thus, in theory, any arrested person will be "released", if he or she can afford the bond. Anyone who is "detained" is not being denied permission to leave, but is simply unable to pay the bondsman's fee or to find sufficient collateral to secure the remainder of the bond.

The chart begins with the number of those arrested in 1979 for all offenses other than minor traffic violations.

The percentages in the left hand column represent the portion of those arrested who are released at each point in the pretrial process. Approximately 6.6% of all releases cannot be accounted for, based on available data.

The figures in the right hand column show the number of those not released and who remain in police or Department of Correction custody because they cannot afford to pay the bond which is set. Each succeeding figure represents the same pool of arrested persons, minus those who have been able to effect release at a preceding stage. For example, of those arrested, 950 persons (see bottom figure) were never able to make bond and were ultimately sentenced to serve additional time.

BAIL COMMISSION REPORT
STATE TOTALS - 18 CIRCUIT COURTS

CIRCUIT COURT	TOTAL* BAILABLE OFFENCES	TOTAL POLICE RELEASES	%	NO FAILED TO APPEAR	NO FAILED TO APPEAR
1	1558	559	36	102	17
2	1685	369	22	65	18
3	607	212	32	11	5
4	669	345	52	45	22
5	278	63	23	9	14
6	1270	485	38	131	27
7	622	197	31	19	10
8	486	299	62	42	14
9	442	308	70	45	15
10	1126	545	48	59	11
11	321	172	53	16	9
12	985	709	71	42	6
13	221	162	73	6	4
14	1910	1022	54	254	25
15	659	235	36	37	16
16	323	232	72	27	12
17	427	329	77	41	12
18	350	259	74	10	4
STATE TOTALS	13,936	6,502	47%	961	15%

* PERIOD - APRIL 1, 1973 to MAY 31, 1973

II. The Right to Bail

A. Federal Law and Policy[1]

The United States Constitution addresses the issue of bail only briefly. Article VIII of the Constitution states simply 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.

The purpose of bail is to insure the defendant's appearance and submission to the court.[2] The concept of bail is based upon the assumption that the threat of forfeiture will outweigh the temptation to break the conditions of release.[3] The amount of bail must be "reasonable",[4] and some courts have designated as a "fundamental right" an arrested person's interest in pretrial release.[5] However, a bond amount is not unreasonable simply because a defendant cannot raise it.[6]

The Supreme Court is divided on the factors, including dangerousness, which may constitute grounds for setting or denying bail.[7] Overall, cases give greater weight to community ties criteria than to other factors such as criminal record or the nature of the charges against the defendant.[8]

1. See, generally, the definitive work in this area, Freed and Wald, Bail in the United States Report to the National Conference on Bail and Criminal Justice, sponsored by the United States Department of Justice and the Vera Foundation, Inc., 1964, Goldkamp, Two Classes of Accused, Ballinger Publishing Company, 1979, and Thomas, Bail Reform in America, University of California Press, 1976.
2. Reynolds v. U.S., 80 S. Ct. 30 (1959).
3. Bandy v. U.S., 81 S. Ct. 197 (1961).
4. Stack v. Boyle, 342 U.S. 1 (1951).
5. See Ackies v. Purdy, 322 F. Supp. 38,41 (S.D. Fla. 1970) and Pugh v. Rainwater, 557 F.2d 1189 (5th Cir., 1977).
6. White v. U.S., 330 F. 2d 811 (8th Cir.), cert. den., 379 U.S. 855 (1964).
7. A line of cases which includes Carlson v. Landon, 342 U.S. 524 (1952), supports this rationale. Stack v. Boyle, supra, opposes it.
8. See, for example, White v. U.S., supra.

For the past thirty years, a variety of policy sources have been emerging to fill the gap left by the Supreme Court's passive stance with regard to bail issues. These standards represent the views of most professionals and practitioners in the field and are uniform in their support of non-restrictive, non-financial conditions of release.

In the 1950's Professor Caleb Foote of the University of Pennsylvania conducted studies in New York documenting abuses in the administration of bail and the use of pretrial detention.[1] His research led to the bail reform movement of the 1960's, including further research and the pioneer release on recognizance projects of the Vera Institute in New York City.[2]

The National Bail Conference, held in Washington, D.C. in 1964, led directly to the Federal Bail Reform Act of 1966.[3] The Act includes provisions which mandate that a judicial officer choose the "least restrictive alternative" necessary to insure the defendant's appearance in court. When money bond is set, the judicial officer may permit the defendant to deposit 10% of the bond amount with the court. The Bail Reform Act also lists ten criteria which are to determine the pretrial release decision. The criteria include the nature of the offense and record of prior convictions and court appearances, as well as the accused's employment, family and community ties.

The American Bar Association's Standards Relating to Pretrial Release clarify and refine the position of the Federal Bail Reform Act. The standards echo several of the same themes, including the likelihood of court appearance as the guiding rationale for release decisions and a preference for non-restrictive, non-financial conditions. The ABA standards also include a detailed list of suggested release criteria and carefully restrict the role of dangerousness in bail determinations.

The Uniform Rules of Criminal Procedure (URCP) of the National Conference of Commissioners on State Laws address pretrial release in a manner similar to the American Bar Association Standards. The URCP stress a preference for the use of citations or summonses rather than police custody for minor offenses. In addition, the Rules reflect the ABA Standards' preference for release under the least restrictive alternative.

The National Association of Pretrial Services Agencies (NAPSA) has also promulgated Release Standards which reflect familiar bail reform themes and specifically discourage the use of money bail. NAPSA standards state:

> Under 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.[4]

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1. See, for example, "Compelling Appearance in Court: Administration of Bail in Philadelphia," (102 U. Penn. L. R.) 1031(1954).
2. See, for example, Alexander, et al., " A study of the Administration of Bail in New York City," 106 U. Penn. L. R. 685(1958) and Ares, Rankin and Sturz, "The Manhattan Bail Project: An Interim Report on the Use of Pretrial Parole," 38 N.Y. U. Law R. 67(1963).
3. 18 U.S.C. 1346-1352.
4. Performance Standards and Goals for Pretrial Release and Diversion: Pretrial Release Standards, p.25, approved by the Board of Directors of the National Association of Pretrial Services Agencies, July, 1978.

B. Connecticut Law and Policy

The provisions regarding bail in the Constitution of the State of Connecticut are more explicit than those set forth in the United States Constitution. 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...

The Connecticut General Statutes have created additional rights which must be accorded arrested persons. Section 54-63c states that any arrested person who is not released by the police must be "promptly" interviewed by a Bail Commissioner with a view towards release under the least restrictive statutory alternative. The Bail Commissioner must order a release on the "first" condition of release found sufficient to provide assurance of return to court. The release alternatives, in order of statutory preference, are:

1. release on a written promise to appear;
2. release on a non-surety (money) bond "in no greater amount than necessary;"
3. release on a surety (money) bond "in no greater amount than necessary."

The Bail Commission's Annual Reports indicate that release practices do not reflect the General Statutes emphasis on non-monetary release, in that less than one-half of defendants interviewed by Bail Commissioners are released on a written promise or non-surety bond. However, the statutes have not specified that procedures must be developed in order to insure that this mandate can be carried out.*

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* See Appendix for a summary of the Bail Commission's Annual Reports. See page 11 for a detailed discussion of the Bail Commission's mandate and see page 9 for an explanation of conflicting data regarding the number of Bail Commissioner interviews.

III. Professional Bail Bonding

In the United States 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 poorly built 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 took place following 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 to the court replaced the personal surety.

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

In Connecticut, as in most states where money bail is used, bail bondsmen play a key role in the criminal justice system. Police, Bail Commissioners and judges determine conditions of release. However, if a money bond is set, the bondsman makes the actual release decision, because in most cases there are no practical alternatives for raising the bail money.

The bail bonding business in Connecticut is a dual system.[1] There are twenty-five 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 23 agents write bonds for these companies.

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.

The dual nature of bail bonding presents certain difficulties in regulating the industry. In some cases, legislation has been enacted which affects the two components unequally. For example, the 1980 General Assembly passed a law tightening the penalties for delay in the payment of forfeited bonds.[3] It would appear that this statute affects only independent bondsmen, in view of the fact that the State Police, who must enforce the provision, have no authority to regulate insurance bondsmen and routinely refer complaints against insurance bondsmen to the State Insurance Division.

1. See pages 27-28 for a comparison of the two systems and page 53 for statistics on bail bonding during 1975-1980.
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.
3. Conn. Gen. Stat. Sec. 29-147a, (Revised to 1981).

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 Policies 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.

Title 29 also establishes 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. In addition, all bondsmen generally require collateral in the value of the remainder of the bond amount.

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. Three licenses were revoked in 1967. None have been revoked since that time.

Independent bondsmen, like insurance bondsmen, are not required to act as surety in a given instance, and may set their own criteria for determining whether they will do business with a particular defendant.

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 write bail bonds are subject to the provisions which are set forth in Title 38 of the General Statutes and which govern insurance agents generally. All insurance agents must complete an approved 20-hour course of study in insurance practices and law. Agents who wish to underwrite bail bonds must also pass an examination in bail bonding practices. There is a $5 fee for taking the examination and receiving the license.

Applicants for a license as an insurance bail bond agent must furnish the Insurance Commissioner with satisfactory evidence 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. Insurance bail bonding is termed a "no risk" enterprise and the companies do not anticipate losses from their bail bonding operations. If a bond is forfeited, the agent, not the company, is expected to bear the loss. 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.

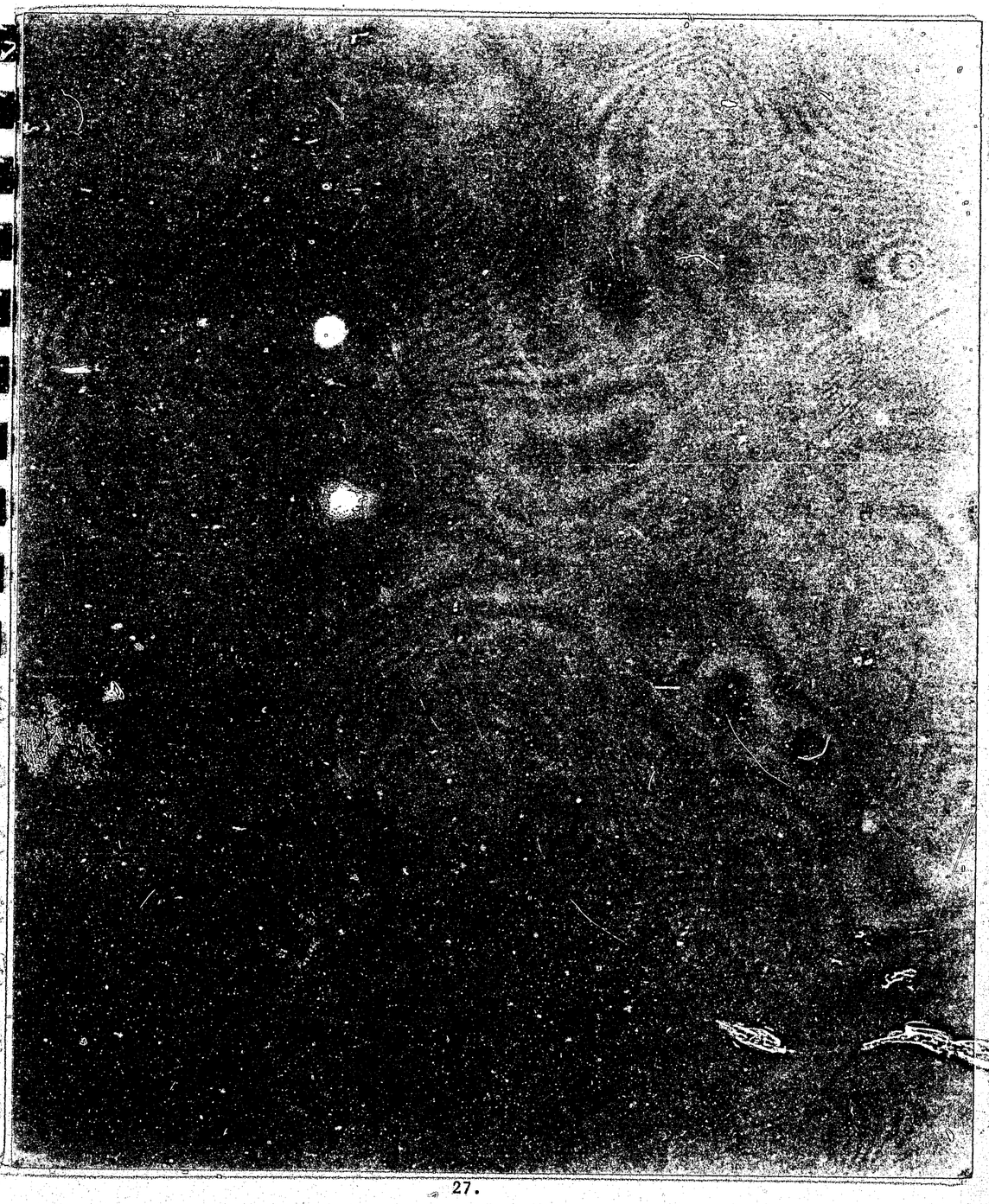
B. Scope of the Business

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, for example, 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. They reported total bond liabilities of $6,927,219 in 1978 and $8,824,109 in 1979.

It is likely that many defendants do not understand the differences 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 area 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.

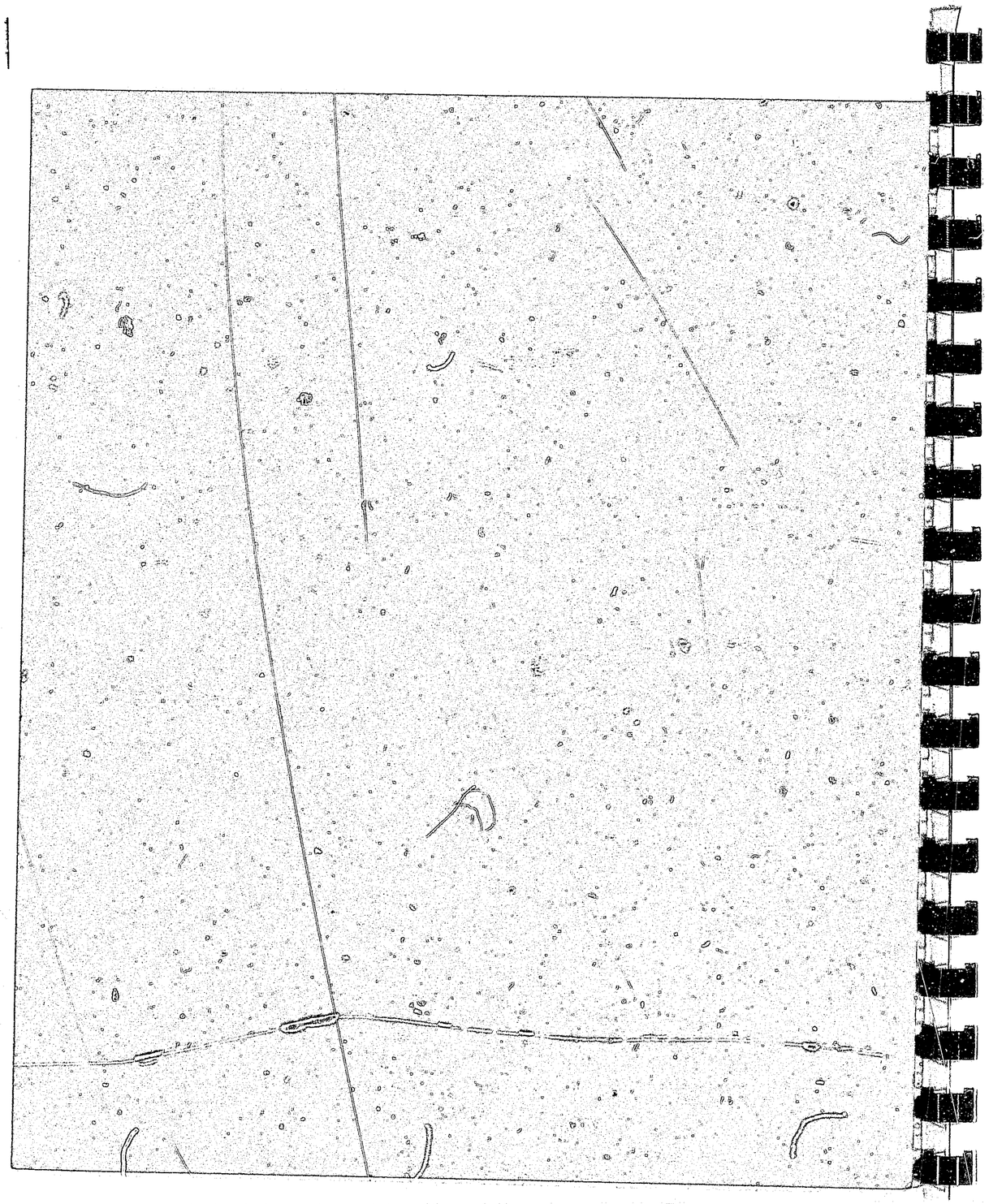
*See Appendix for an explanation of one company's policy regarding the valuation of assets which are pledged as collateral for bail bonds.



Comparison of Independent and Insurance Bondsmen

	Independent	Insurance
No. of Agents	25	23
Regulatory Agency:[1]	Department of Public Safety Bureau of State Fire Marshal Special Service Division	Insurance Division Licenses and Claims Division
Licensing Requirements:[2]	Must be resident electors of good moral character and 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 exam on bail bonding practices; show proof of good moral character and financial responsibility.
License Fee:	$100	$5
Rates:		
0 - $300	$20	$20
$301 - $5000	7%	10%
$5000 - over	5%	7%
		(20% of the fee goes to the insurance company.)
Grounds for Revocation of License:	Violation of fee regulations or of any statutory provision (Section 29).	For cause shown.
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 bonding.	1. Revocation of license 2. $1,000 fine

Number Revoked:	3 in 1967	0 (5 surrendered voluntarily in past 5 years.)
1. Regulatory Provisions:		
	1. Section 29-144 to 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.)
2. Reporting Requirements:		
	Monthly and Annual Reports must be filed.	Number and amounts of bonds are reported to individual insurance companies. Companies send general insurance information to the Insurance Division. No bail bonding information is required to be submitted.



C. Compromises and Forfeitures

It is generally believed that bondsmen insure appearance at court in one of two ways:

1. the defendant will come to court to avoid forfeiting the collateral pledged to the bondsman; or

2. the bondsman will make sure that the defendant appears in order to avoid having to pay the forfeited bond to the court.

Both views are false. 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. The civil suits necessary to secure a judgment against a bondsman are time-consuming and, understandably, not a priority of most State's Attorneys. Generally, the prosecution compromises (reduces) the bond to 50% or less of the bond amount, to avoid time and expense of court action.

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 cannot be attributed to one type of bondsman exclusively, but 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.[4] Further research by that office revealed that this practice is common throughout the state.

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1. See, e.g., 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.

D. Low Bond Detainees

In spite of the right to release accorded by federal and state law, recent figures indicate that significant numbers of defendants spend time in Connecticut jails before trial. In view of the fact that bond is set for the vast majority of defendants, these persons are in jail merely because they cannot afford to pay the bondsman's fee or do not have sufficient assets to guarantee the remaining sum.

Data from the Department of Correction show that, in July, 1980 the accused population was 1,125, or approximately 56% of the total population of the Correctional Centers. This figure represents an increase of 35% from the figure cited in the Pretrial Commission's 1980 Report.

Five hundred ninety-three pretrial detainees, or nearly 52%, are currently being held on bonds of $5,000 or less. Approximately 14% are held on bonds of $500 or less, up from the 11.5% figure cited in the Commission's 1980 Report. Thirteen individuals are being held on bonds ranging in amount from $30 to $100.

On July 15, 1980, the release of low bond individuals or a written promise, non-surety bond or 10% bond would have had the following effect on the population of the state's Community Correctional Centers:

- release of those held on $300 bond or less would have resulted in a 5.5% reduction in population;
- release of those held on $500 or less would have resulted in a 13.6% reduction;
- release of those held on $1,000 or less would have resulted in a 22.6% reduction; and
- release of those held on $2,000 or less would have resulted in a 30.4% reduction.

A study by the Judicial Department's Office of Adult Probation revealed that only a small percentage of those held during the entire pretrial period are ultimately sentenced to an additional period of incarceration.* The study surveyed all those held in lieu of $500 bond or less at the Hartford Community Correctional Center during May and June of 1979. Of the 58 persons held, 64% had been charged with misdemeanors or motor vehicle offenses and 36% with felonies.

Twenty-five percent of the detainees had no prior record. Of those with prior convictions 27% had felony convictions and 37% had misdemeanor convictions only. Eight of the 58 had been rearrested for a failure to appear in court, of which 5 were failures to pay a fine. Eleven had other charges pending. Twelve had prior charges for a failure to appear, for which the majority had never been prosecuted.

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* D.A. Tuttle, "Low Bond Study," supra.

Only 6 defendants, 10% of the total held, were finally sentenced to serve additional time in a correctional facility. Another 10% were still pending in October, 1979, four months later. Of the remaining 80%, roughly 38% received a Nolle or conditional discharge, 27% received probation or a suspended sentence, 3% were sentenced to time served and 12% received other sentences.

Twenty-four defendants were eventually released prior to final disposition of their cases, after an average of 11 days in jail. Twenty were able to post bond, 3 were released on their written promise and one was released to the custody of a diversion program. Of these 24, 5 later failed to appear on a scheduled court date. One of the five had been placed in a diversion program. The remaining four had been released to bondsmen and had neither been returned by the bondsmen nor rearrested by the police.

E. 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. Furthermore, 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 an attempt to restrain 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.J. 513 (1970), p.11 and following, for a discussion of these studies.
2. See, e.g., "Preventive Detention: An Empirical Analysis", 6 Harvard Civil Rights - Civil Liberties Law Review 291 (1971).

IV. The Ten Percent Bail Deposit[1]

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 Foote 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, rather than requiring a deposit of the full amount.

In 1964, Illinois became the first state to adopt the 10% deposit alternative.[2] 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.[3] 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 statutes permit professional bondsmen to charge a 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 bondsman fee he can raise it to deposit it with the clerk. In fact, the refund of 90% upon compliance would probably make it easier for him to raise the 10% among family, relatives or friends.[4] (emphasis added)

The immediate response from the bail bonding 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 court appearance rates for participants in the 10% program were as high as the rates for those under surety bonds.[5]

Since the enactment of Illinois' 10% deposit legislation and the 10% provisions of the Federal Bail Reform Act, many states have adopted similar legislation. Today, 26 states have initiated the percentage deposit alternative either by statute or by court rule.[6]

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1. For the most recent, comprehensive study of the ten percent alternative, see D. Alan Henry, "Ten Percent Deposit Bail", Pretrial Services Resource Center, Washington, D.C., January, 1980.
2. See Bowman, "The Illinois 10% Bail Deposit Provision", U. ILL.L.F. 35 (1965).
3. Ill. Annot. Stat., Chapter 38, sections 110-115 (1963).
4. From the testimony of Professor Charles Bowman at the hearing on "Federal Bail Procedures" before the Subcommittees on Constitutional Rights and on Improvements in Judicial Machinery of the U.S. Senate Judiciary Committee on S.2838, S.2839, and S.2840, 88th Congress, 2nd Session, August 4, 5, and 6, 1964. p.164.
5. Bowman, supra.
6. 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 and urge the use of the 10% system as an alternative. Standard V states, "The Use of Financial Conditions of Release Should be Eliminated." The Standards 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]

However, the Standards also advocate 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.[2]

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 and other states, Connecticut has conducted a limited 10% program.

1. 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.

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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 11, 1978.
2. Supra.

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."[1] 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 section which discusses the relevant 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.

2. 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, but provides no specific guidelines for determining its use.[2] 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.

1. Orland, Connecticut Criminal Procedure, p.42, University of Connecticut School of Law Press (1976).
2. Judges are to apply the same factors as those listed in Section 666 of the Practice Book as guidelines for setting any money bond. Those factors are set forth at page 15 of this report.

3. The Hartford Bail Project

From 1971-1974, a 10% cash deposit program operated in the Hartford Superior Court, in conjunction with an increased emphasis on release on written promise.[1] Unlike similar programs, the Hartford experiment also provided follow-up supervision of those persons released by the Bail Commissioners. Additional personnel were provided by the Criminal and Social Justice Coordinating Committee (now the Hartford Institute of Criminal and Social Justice) through a grant from the Law Enforcement Assistance Administration to evaluate defendants, make release recommendations, and provide notification of court dates.

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. The failure to appear rates translate 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. These figures compare favorably with failure to appear rate of 7.25% for those released by the Bail Commission during 1971-74.

C. 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, due primarily to their experience that the court will not grant it.[2]

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.

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

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' insistence 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. Efforts to promulgate a bail schedule have been unsuccessful in Connecticut and even the proponents of this approach acknowledge that judges who insist on setting high bond amounts would likely 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 partially the result of unfamiliarity with the law governing pretrial release. Citizens may not realize that virtually all defendants have a constitutional right to have bail set and that a judge may not be able to prevent release merely by setting a high bond amount. They may not understand that various officials set conditions of release but, if the condition is money bail, the bondsman makes the release decision by agreeing to do business with the defendant. Lay persons may also be unaware that it is impossible to accurately predict 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 cases 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 bondsmen themselves are reluctant to pay forfeited bonds and that the collection of these bonds is not a priority.[1] 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 would be lost.

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.[2] 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.

1. Note that the Pretrial Commission's proposed 10% bill includes a provision for handling for forfeiture of 10% bonds.
2. See D. Alan Henry, "Ten Percent Deposit Bail", Pretrial Services Resource Center, Supra., p.11.

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 and under 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.[1]

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 at least 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 offers 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."[2] This network provides a base upon which a statewide referral system can be built.

1. D.A. Tuttle, "Low Bond Study", supra.
2. "Prep Council Directory of Services," prepared by the Criminal Justice Education Center, Inc., 410 Asylum Avenue, 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. A Role for The New Bail Commission[1]

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 perpetuate crime. An upgraded Bail 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 informal 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 Bail 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 or region of the State. Finally, an efficient, unified system would present an appealing prospect to potential funding sources, both public and private.[2]

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1. During Phase II of the federal "Jail Overcrowding and Pretrial Detainee" project, the Judicial Department has taken some steps towards developing an upgraded role for the Bail Commission.
2. In fact this has already proved to be the case. See the "Summary" for a discussion of federal funding secured through the Connecticut Justice Commission for the upgrading of pretrial services statewide.

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 spot the more obvious signs of illiteracy, alcohol and drug addiction and mental health problems. With 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. 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.

The bail interview is not currently structured in a manner which facilitates objective, uniform release decisions. Factors such as residence and criminal record 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 conservative nature of the Bail Commissioners' release decisions.

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.[1] Information elicited in a pretrial interview can be used to determine whether an individual has sufficient community ties to indicate whether he or she will want to expedite the court process or is more likely to flee the jurisdiction. A weighted point scale like that developed by the Vera Institute[2] can be adjusted periodically to maintain appearance rates at a level acceptable to courts, prosecutors and others.

With the application of basic management principles, the present release interview process could be upgraded considerably, even at present staffing levels. Although it is not reasonable to expect verification and notification efforts to be increased significantly without additional personnel, this process is a simple matter of making telephone or mail contacts and could be handled by a staff of trained volunteers or student interns.

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1 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. See Appendix for sample Vera point scale.

VI. Findings and Recommendations

A. Restructuring of the Bail Commission

The Pretrial Commission has concluded that the Bail Commission has a strong potential for becoming an effective, professional pretrial agency. 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, as well as criminal justice planning.

1. Two Models - Kentucky and Rochester

Two models which Connecticut can look to are the Kentucky Pretrial Services Agency and the Monroe County (Rochester) Pretrial Release Agency. In 1976, the Kentucky General Assembly outlawed bail bonding for profit and required all trial courts to provide pretrial release and investigation services.[1] The Kentucky statutes spell out available release alternatives, with emphasis on release on recognizance or upon execution of an unsecured bail bond.[2] 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 certain exceptions. Interviews are held within one hour of arrest in the urban areas. In rural areas there may be a longer delay, but the law requires all interviews to 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 for release is based on an objective point scale which stresses family, community and economic ties and which includes criminal history. Release recommendations are communicated by telephone to the judges on a round the clock basis, and the judges make the final release decision. Following the release decision, 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.[3] In 1979, the Agency interviewed roughly 100,000 individuals. Approximately one-half were released through the agency. Failure to appear rates averaged between 3% and 5%, generally agreed to be in the low to moderate range.[4]

1. See Kentucky Revised Statutes 431.510-550 and Kentucky Rules of Criminal Procedure 4.06.
2. See Kentucky Rules of Criminal Procedure 4.04.
3. Kentucky's urban jails are overcrowded with post-trial detainees, in part because of court and legislative population ceilings. At the same time, the ratio of pretrial post-trial detainees has been reversed dramatically over the last three years, according to the Kentucky Pretrial Services Agency.
4. Compare with Connecticut Bail Commission rates which have ranged between 5% and 8% during the past five years. See Appendix for Summary of Bail Commission's Annual Reports.

The cost savings to the state of an upgraded Bail Commission 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 through 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.

2. Components of a Revitalized Bail Commission

The following summarizes the steps which the Pretrial Commission recommends be taken to insure that the Bail Commission's full potential can be realized:[1]

1. General Administration of the Bail Commission

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

2. Duties of the Bail Commission

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

      i. promulgation of a revised, weighted interview form, which will reflect the statutory preference for non-financial release; and

      ii. verification of information obtained at the pretrial interview.

   b. to develop a system for notifying defendants of court appearances in advance of scheduled dates;

   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;

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

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

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 Commission staff to meet new job qualifications within a stated 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 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 than other arrested persons 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 bill includes provisions which 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' special needs early in the criminal justice process;

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

c. 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 court 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-effective alternative, such as mediation, could handle large numbers of cases and eventually be fully integrated into the state's justice system.

Mediation and 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.

The Commission has secured funding to operate a pilot mediation project in the City of Waterbury through the Office of the State's Attorney. The program is expected to be fully operational by April, 1981 and will process 600-800 cases per year at peak capacity.

b. Diversion to Community Service

The Pretrial Commission has found widespread interest in community service restitution 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. Unlike monetary restitution, this alternative requires a minimum investment of criminal justice resources in record-keeping and collections. Monitoring could be performed by volunteers or staff of the agency which is the beneficiary of the individual's work.

With the federal and private funds secured through the efforts of the Pretrial Commission, community service programs are scheduled to begin operation through two existing pretrial agencies, Community Return of Stamford and PTI-NEON of Norwalk, and in other selected urban locations.

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

c. Halfway Houses for Pretrial Detainees

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

APPENDIX

Footnotes to Pretrial Release Chart (page 18)

1. 1978 Uniform Crime Reports. Figure does not include arrests for minor traffic violations and other non-indexed crimes.

2. Based on questionnaire distributed to Connecticut's 95 municipal police departments (responses received from 72) on behalf of the Pretrial Commission by the Connecticut Chiefs of Police Association, fall, 1979.

3. Based on questionnaire distributed by the Connecticut Chiefs of Police, supra. A separate study by the Office of Adult Probation of the Judicial Department revealed similar figures: 34% released on a written promise; 17% able to afford bond; 49% unable to afford bond and therefore detained. D.A. Tuttle, "Low Bond Study," November, 1979.

4. 1979 Annual Report of the Chief Bail Commissioner.

5. Department of Correction. Figure represents number of arrested persons who spent some time in a Correctional Center in 1979-80.

6. Department of Correction, 1980.

7. Department of Correction, 1980.

8. D.A. Tuttle, "(Connecticut) Jail Population Study", 1980.

9. Department of Corrections, "Study of Hartford Jail Release," 1979.

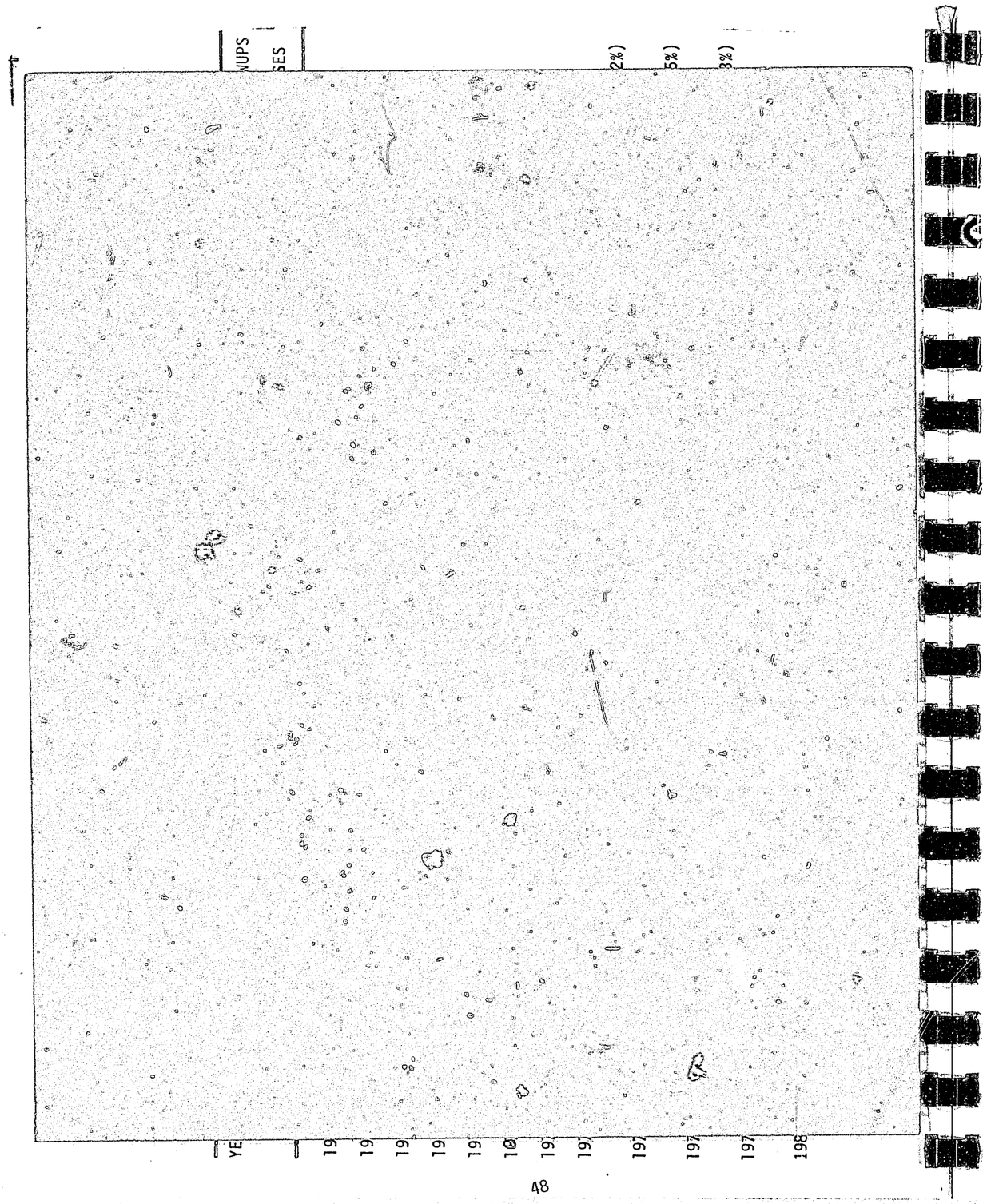
SUMMARY OF ANNUAL REPORTS OF THE CHIEF BAIL COMMISSIONER 1969-1980

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
1980	29,046	9,743 (34%)	9,510 (33%)	9,793 (33%)	7,301 (25%)	580 (2%)	9,984 (35%)	11,081 (38%)	21,065

*NS - non surety bond
*WP or WPA - written promis- to appea
*BC - Bail Commission
*FT. - failure to appear

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
1980	21,518,504	10,811	900 (8.32%)	745 (6.89%)	155	1.43%	6,083	4,889 (80.37%)	1,622

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
1974	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
1980	1,401 (86.37%)	425	163	55	95	112	8,605	1,622	900



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 Subpoena
(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

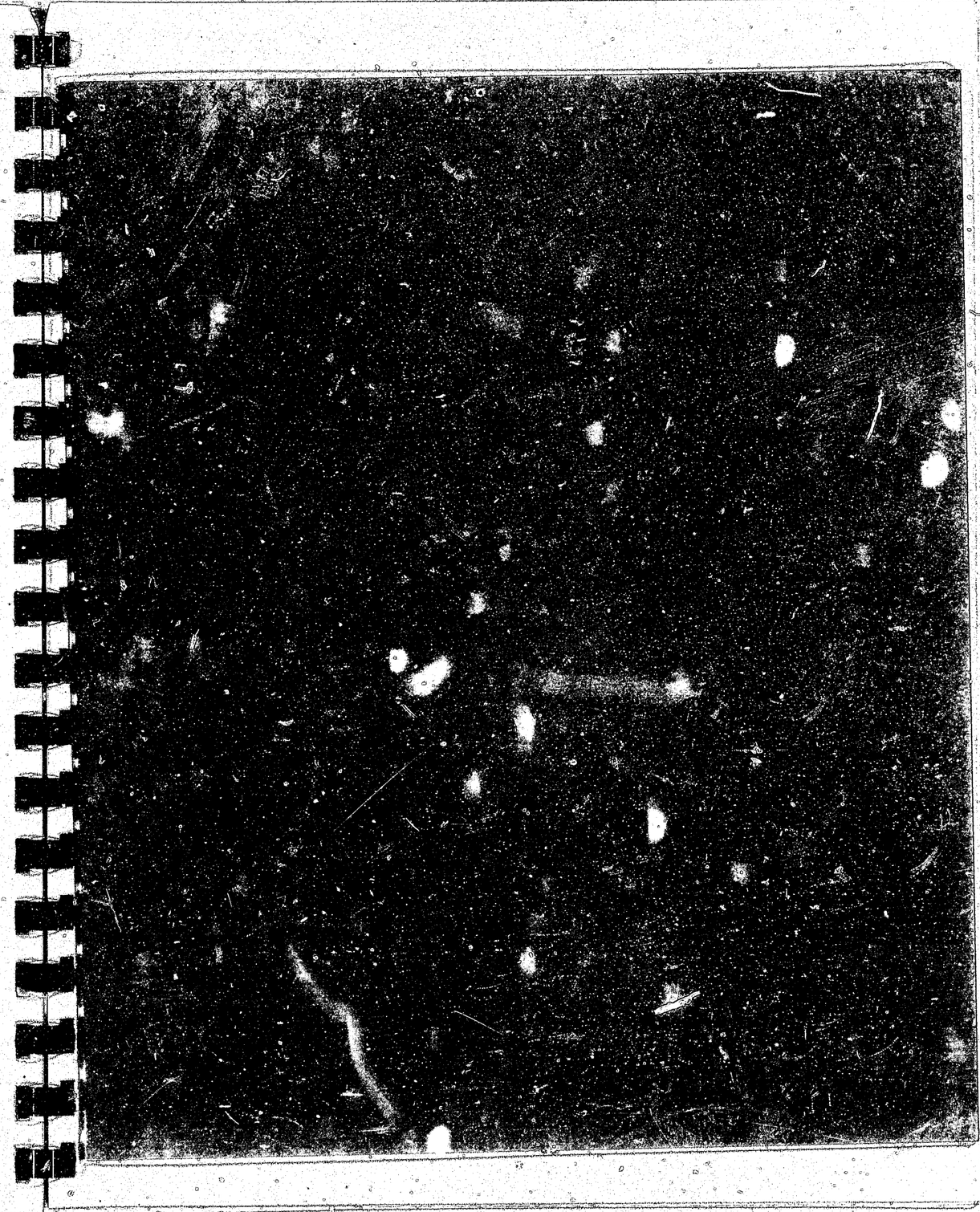
Criteria Considered By Police for Pretrial Release Decisions[1]

Factor	Percent of Police Departments Considering Factor
Nature of degree of charges	100%
Danger to others and self	88
Risk of FTA[2]	87
Length of residence in community	85
General community ties	81
Prior criminal record	75
Mental condition of defendant	72
On probation/parole (if known)	69
Likelihood of violation of law if released	65
Prior record of court appearances (if known)	65
Family ties	62
Employment, employment history	60
Prior arrest	59
"Not oppressive but sufficient" bail	59
General consideration of pretrial dangerousness	57
Age	53
Character	49
Past Conduct	49
Reputation	40

1. Based on a survey of 72 Police Departments conducted by the Connecticut Chiefs of Police Association on behalf of the Pretrial Commission in the fall of 1979.

2. Failure to Appear (for a scheduled court appearance)

Factor	Percent of Police Departments Considering Factor
On pretrial release for previous charges	40
Possible penalty	34
Addiction to drugs or alcohol	32
Person to assist accused in attending court	26
Defendant's financial resources	22
Probability of guilt/or conviction	12
Personal behavior and attitude	1.5



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

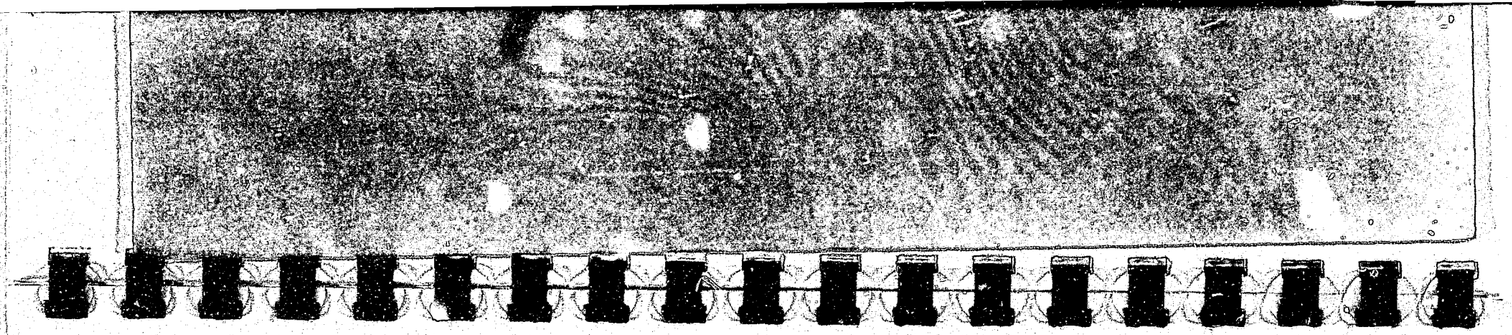
* 1980 Information is currently unavailable.

**Source: State Police, Special Service Division

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



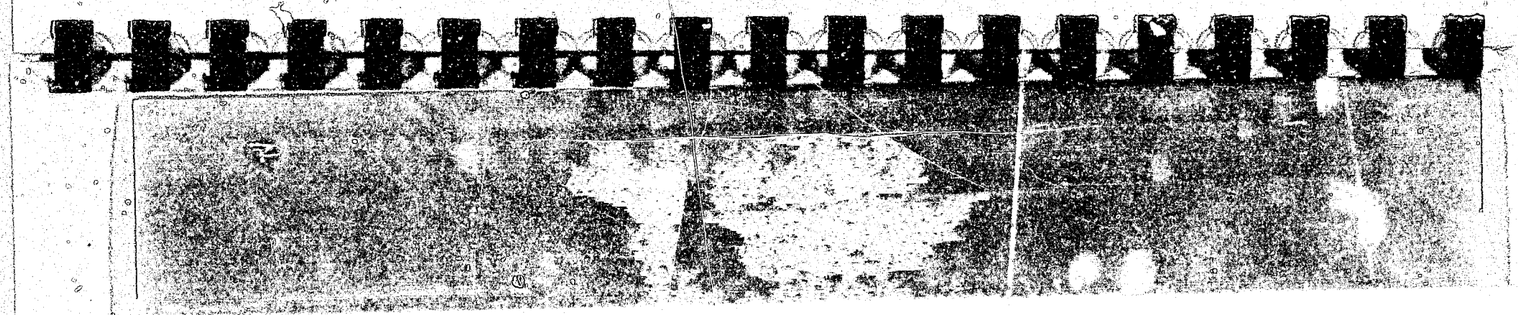
1978

#	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 ?
#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



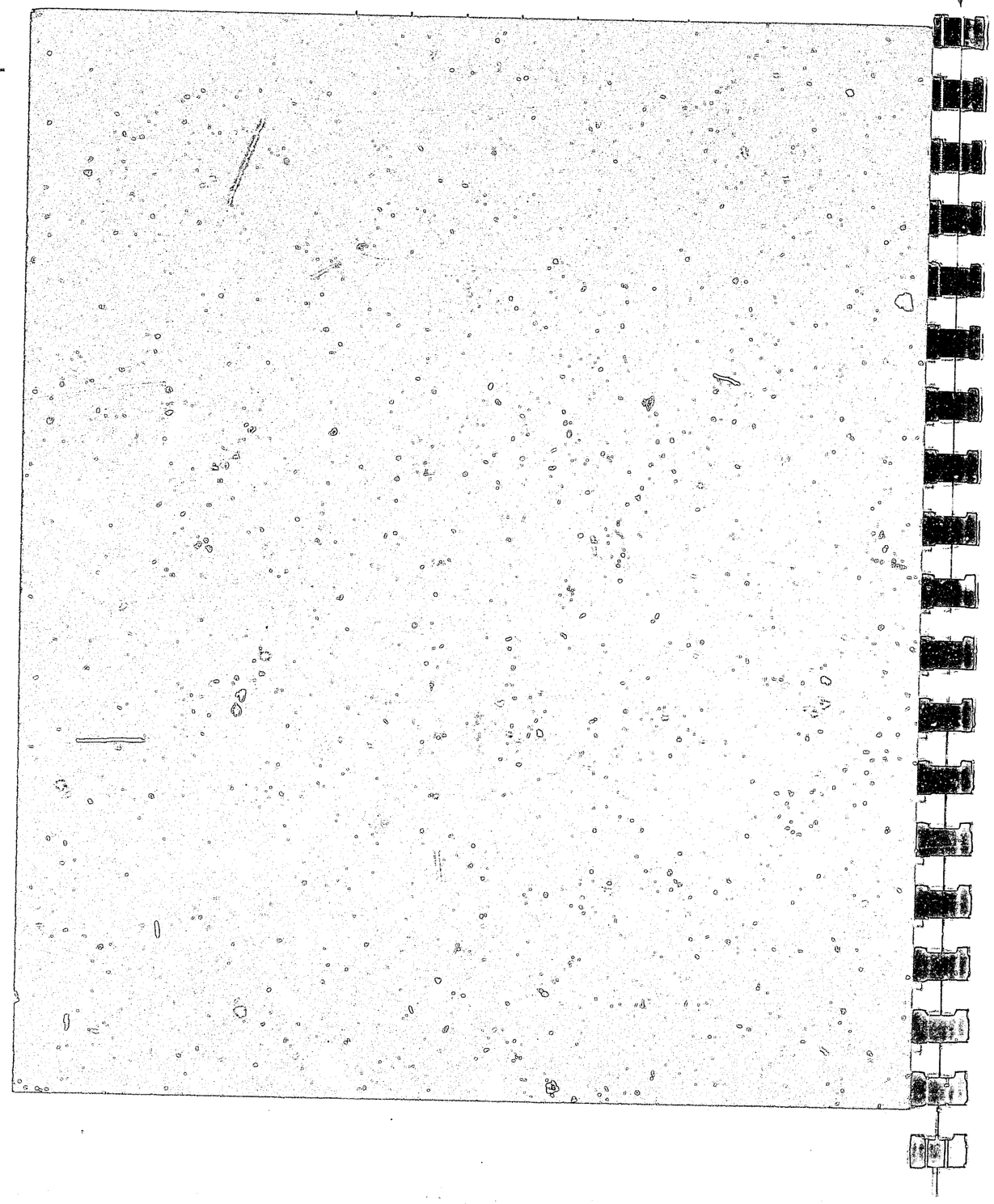
1979

#	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

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)



Insurance Companies Underwriting

Bail Bonding in Connecticut

1975-1980

Bail Bonding	Insurance Company A[1]	B	C
1975			
Amounts Forfeited to Judicial Department for failure to appear (FTA)		$ 59,200[2]	no records kept
Amounts Paid to Judicial Department by Company:			
by agent:		$ 86,000[3]	no records kept
		0	no records kept
Dollar Amounts of Bonds written:		$3,237,105	not available
# Bonds Written:		2,223	not available
Fees paid by agents to company		$ 44,701	0
1976			
Amounts Forfeited to Judicial Department for FTA:		(see above)	no records kept
Amounts Paid to Judicial Department by Company:			
by agent:		0	no records kept
		(see above)	no records kept
Dollar Amounts of Bonds Written:		$7,075,178	not available
# Bonds Writ'en:		4,810	414
Fees paid by agents to Company:		$ 100,157	8,244

1. Not licensed in Connecticut until 1977.
2. Figure represents amount reported by one of the company's two agents for the years 1975-1979.
3. Figure represents amount reported by the two agents for the years 1975-1979.

1977

Bail Bonding	A	Insurance Company B	C
Amounts Forfeited to Judicial Department for FTA:	no records kept	(see above)	no records kept
Amounts Paid to Judicial Department by Company:	0	0	no records kept
by agent:	$ 56,250	(see above)	no records kept
Dollar Amounts of Bonds Written:	$2,229,900	$4,698,920	not available
# of Bonds Written:	1,152	3,297	1,210
Fees paid by Agents to Company:	$ 31,219	$ 65,785	$ 27,053

1978

Amounts Forfeited to Judicial Department for FTA:	no records kept	(see above)	no records kept
Amounts Paid to Judicial Department by Company:	$ 7,500	0	no records kept
by Agent:	$ 131,250	(see above)	no records kept
Dollar Amounts of Bonds Written:	$5,385,312	$1,519,900	not available
# Bonds Written:	2,764	1,078	1,209
Fees paid by agents to Company:	$ 80,780	$ 23,802	$ 24,115

1979

Bail Bonding	A	Insurance Company B	C
Amounts Forfeited to Judicial Department for FTA:	no records kept	(see above)	no records kept
Amounts Paid to Judicial Department by Company:	0	0	no records kept
by Agent:	$ 187,500	(see above)	no records kept
Dollar Amounts of Bonds Written:	$6,421,469	$2,378,525	not available
# Bonds Written:	3,283	1,216	682 (1st 6 mos.)
Fees paid by agent to Company:	$ 96,818	$ 35,809	$11,007 (1st 6 mos.)

January 1 to July 1 1980

Amounts Forfeited to Judicial Department for FTA:	no records kept	not available	0
Amounts paid to Judicial Department by Company:	not available	not available	0
by Agent:	not available	not available	not available
Dollar Amounts of Bonds Written:	not available	not available	$502,945
# Bonds Written:	not available	not available	359
Fees paid by agents to Company:	not available	not available	$ 10,489

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.

Review of Collected Surety Bond Forfeitures[1]

G.A.	GROSS	COMPROMISED	PAID	FISCAL YEARS[2]
1	$ 92,500	$ 38,575	$ 53,925	1977, 1978, 1979
2	77,600	50,900	26,700	1979, 1980
3	4,200	975	3,225	1977, 1978, 1979
4	10,200	6,600	3,600	1976, 1977
5	3,000	1,900	1,100	1977, 1978
6	47,900	34,227	13,673	1979, 1980
7	42,085	26,525	15,560	1977, 1978, 1979
8	NOT AVAILABLE			1976, 1977
9	7,450	1,050	6,400	1978, 1979, 1980
10	5,500	1,650	3,850	1978, 1979
11	NOT AVAILABLE			1977, 1978
12	4,400	2,295	2,105	1978, 1979
13	29,400	5,200	24,200	1977, 1978, 1979
14	NOT AVAILABLE			1977, 1978
15	21,070	9,525	11,545	1976, 1977, 1978
16	20,400	8,050	12,350	1976, 1977
17	9,500	6,150	3,350	1979, 1980
18	NOT AVAILABLE			1977, 1978
19	NOT AVAILABLE			1978, 1979
20	NOT AVAILABLE			1979
21	NOT AUDITED			
TOTAL	$375,205	$193,622	$181,583	

Source: Auditors of Public Accounts, November, 1980

1. Includes only those bonds guaranteed by professional bondsmen.
2. Includes most recent data available.

Review of Outstanding Surety Bond Forfeitures

G.A.	BOND AMOUNT	NUMBER OF BONDS	OLDEST DEBT	AS OF JUNE 30*
1	$ 8,300	14	11 months	1979
2	10,275	42	24	1980
3	4,000	5	22	1979
4	9,900	30	37	1977
5	0	0	0	1978
6	39,000	53	17	1980
7	31,900	46	14	1979
8	6,000	3	12	1977
9	19,800	18	31	1980
10	0	0	0	1979
11	0	0	0	1979
12	20,100	14	11	1979
13	7,100	5	2	1979
14	74,565	139	21	1978
15	6,550	12	32	1978
16	8,650	18	12	1977
17	4,700	7	21	1980
18	0	0	0	1978
19	1,000	1	1	1979
20	18,875	32	7	1979
21	———	NOT AUDITED	———	
TOTAL	$270,715	439		

Source: Auditors of Public Accounts, November, 1980.

*Most recent data available.

Review of Surety Bond Forfeitures for Middletown, Connecticut, G.A. #9

July 1, 1980

Fiscal Years	1977	1978	1979	1980	Total
Forfeiture:	$1,300	$21,050	$25,300	$16,250	$63,900
Collected:	700	4,100	1,350	250	6,400
Reinstated:	0	13,500	18,150	5,000	36,650
Compromised:	600	200	250	450	1,050
Outstanding* as of June 30, 1980	0	3,250	5,550	11,000	19,800

*Includes six-month stays of execution

Source: Auditors of Public Accounts.

Review of Surety Bond Forfeitures for

Norwalk, Connecticut

G.A. #20

FISCAL YEAR	FORFEITURE
1979	$17,400.00*
1980	$43,600.00
Total	$61,000.00

*Figure represents the total amount of bonds forfeited for only part of the 1979 fiscal year (November 1978 to July 1979).

Source: Assistant State's Attorney, Norwalk, Connecticut.

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 applicable 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.

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.

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.