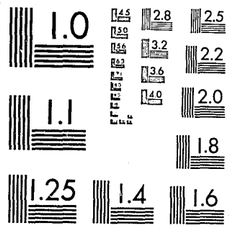

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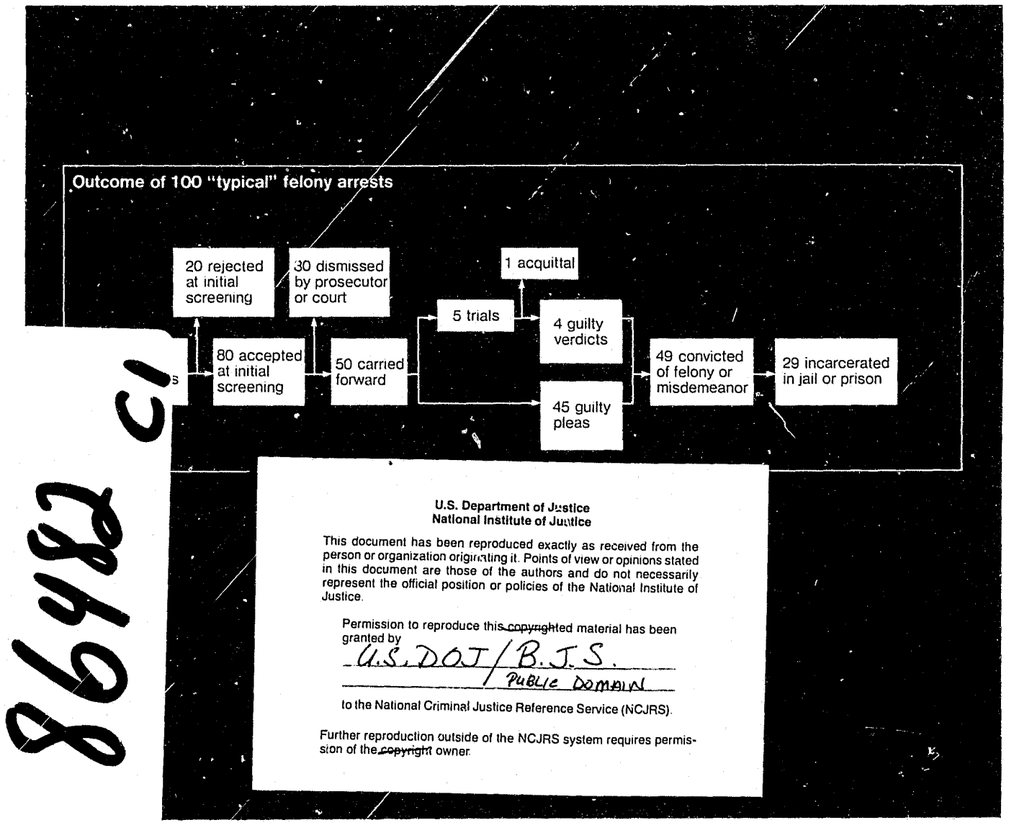
The Prosecution of Felony Arrests, 1979



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The Prosecution of Felony Arrests, 1979

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NCJ-86482

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U.S. DEPARTMENT OF JUSTICE

Bureau of Justice Statistics

Steven R. Schlesinger
Director

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Contents

Overview

This report is the second in a series of statistical descriptions of felony case processing in prosecutors' offices across the country. The first report, entitled A Cross-City Comparison of Felony Case Processing, looked at felony prosecution in 13 jurisdictions in 1977.[1] The current study includes 14 jurisdictions and analyzes data for felony cases that reached a final disposition in 1979.

The purpose of this report is to begin to fill in the gap that exists in criminal justice statistics and our understanding of what happens to criminal cases between the point of arrest and sentencing to prison. In 1979, the police arrested close to 1.3 million adults for serious crimes. But statistics on new imprisonments show that only 131,047 persons were committed to State and Federal prisons. Very few felony arrests--about 10 out of every 100--result in a defendant's being sent to prison.

The FBI's Uniform Crime Reports record the number of crimes known to the police and the number of crimes for which an arrest is made. At the other end of the system, National Prisoner Statistics provide data on State and local prison populations. Until recently, however, little information has been available on what happens in between. Data for this study and the one that preceded it were made available by the participating jurisdictions from a computer-based management information system called PROMIS®.[2] PROMIS is used by prosecutors, courts, and other justice agencies to track the progress of cases and defendants through their offices and was designed specifically to provide systematic information on what happens between police arrest and sentencing to prison.

[1]Kathleen Brosi (INSLAW, 1979). The third study, which will present data from 28 jurisdictions, will be published in 1984. All three studies have been sponsored by the Bureau of Justice Statistics.

[2]PROMIS (Prosecutor's Management Information System) was developed by INSLAW in the early 1970's under funding from the Law Enforcement Assistance Administration, which for more than a decade continued to support the development of the system and its transfer to State and local courts, prosecutors, and law enforcement agencies across the country. PROMIS is a generalized tracking and management information system that enables justice agencies to monitor the movement of cases and defendants through intricate legal and administrative processes. PROMIS is a registered trademark of INSLAW, Inc.

Outcome of 100 "typical" felony arrests

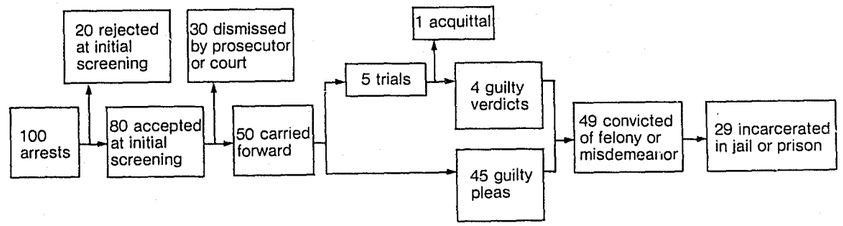


Exhibit 1

The findings of the first study in this series can be succinctly summarized as follows:

- Most arrests result in the rejection or dismissal of the charges against the defendant;
- Of those cases that are prosecuted, most result in pleas; and
- Very few cases go to trial.[3]

Based on data from the jurisdictions participating in the 1977 and 1979 studies, an overview of what happens to felony arrests is presented in exhibit 1. Of every 100 felony arrests the police make, 20 are rejected by the prosecutor at screening and another 30 are later dismissed. Forty-five defendants plead guilty, four are found guilty at trial, and one is acquitted. Of the 49 found guilty, 29 are sentenced to incarceration either in a local jail or a State prison.

The prosecutor, of course, is not the only law enforcement official responsible for the numerous decisions that determine the final disposition of a felony arrest, but no one would deny that prosecutors exercise enormous power and discretion in determining the outcome of a felony arrest. In most jurisdictions the prosecutor alone has the authority to determine if a case will be prosecuted or to decide if charges will be reduced to a less serious crime. Prosecutors' decisions on what pleas to accept and when to insist on a trial also are critical in determining what happens to defendants accused of felony crimes. In analyzing criminal case processing in a prosecutor's office, this report focuses on four major decision points:

1. screening (or intake) of those cases that are eligible for prosecution,
2. post-filing dismissals (the decision of the prosecutor or judge to terminate a case that had been accepted for prosecution),
3. the trial stage (the process by which a final disposition is reached, particularly the decision-making involved in choosing between going to trial or accepting a plea), and
4. sentencing (the final action with respect to the case and the decision of greatest interest to the defendant).[4]

In continuing the examination of the relationship between office characteristics and case outcomes begun in the Cross-City study, we will be looking at, in particular, how the offices in our study are organized to handle the flow of cases at each of these decision points and at the policies that guide the exercise of prosecutory discretion at those points. We will also look at case-processing times, an issue that spans all of these processing points.

It is hoped that presenting case-processing statistics across jurisdictions and examining the reasons for differences in those data will contribute to the understanding of how State and local criminal justice systems operate. In addition, looking at these same statistics for different time periods can reveal how changes in policy and operating procedures affect case outcomes.

The following 14 jurisdictions participated in this study:

- Cobb County, Georgia
- Geneva, Illinois (Kane County)
- Golden, Colorado (First Judicial District)
- Indianapolis, Indiana (Marion County)
- Kalamazoo County, Michigan
- Los Angeles County, California
- Louisville, Kentucky (Jefferson County)
- Manhattan, New York
- Milwaukee County, Wisconsin
- New Orleans, Louisiana (Orleans Parish)
- Rhode Island
- St. Louis, Missouri
- Salt Lake County, Utah
- Washington, D.C.

Exhibit 2 presents information about the kinds of cases presented to each jurisdiction for screening, the point in the overall adjudication process at which the prosecutor takes responsibility for cases, the kinds of cases filed and in what court, and the felony arrests for which data are entered into PROMIS. Differences among the jurisdictions in case-load characteristics and how they use their PROMIS systems will limit the

[3] Brosi, A Cross-City Comparison.

[4] Although sentencing is traditionally considered a judicial function, some prosecutors take an active interest in sentencing and some even involve themselves in parole hearings for incarcerated offenders.

Case-processing characteristics of jurisdictions

Jurisdiction	Point of Entry	Case Population Screened	Filing Options	Felony Cases in PROMIS
Cobb County, GA	F arrests taken to State court for bond hearing; after routine processing and virtually no screening are passed on to F prosecutor	F arrests passed on by State court	Cases may be accepted as F and filed in criminal court, rejected outright, or referred back to the M prosecutor	All F arrests received from M prosecutor and screened
Geneva, IL	Immediately after arrest; no police screening	All F and M arrests	Accepted F and M filed in county court and handled by F prosecutor	Accepted F cases
Golden, CO	Immediately after arrest; some police screening	F and M arrests not screened out by police	Accepted F and M filed in district court and handled by F prosecutor	All F arrests screened
Indianapolis, IN	Immediately after arrest; some police screening	F and M arrests not dropped by police	Accepted F filed in criminal court and handled by F prosecutor; accepted M filed in municipal court and handled by a separate division of the F prosecutor's office	All F arrests screened including a substantial number referred for misdemeanor prosecution (no disposition)
Kalamazoo, MI	Immediately after arrest; no police screening	All F and M arrests	Accepted F and M cases filed in district court and handled by F prosecutor	Accepted F cases
Los Angeles, CA	Immediately after arrest; substantial police screening	F arrests not dropped or diverted by police for M prosecution	Accepted F; under Sec 17(b)4 of penal code may keep some M and refer others to city prosecutors	All F arrests screened including a substantial number referred for M prosecution
Louisville, KY	After bind over to grand jury from district court preliminary hearing (90%) or by direct submission to the commonwealth's attorney by complainants (10%)	F arrests for which probable cause is found at preliminary hearing and direct submissions by complainants	Not applicable; cases bound over from district court cannot be declined (although they may be dismissed after indictment)	F cases indicted by the grand jury
Manhattan, NY	Immediately after arrest; no police screening	All F and M arrests	F arrests may be filed and disposed as M in the criminal court or indicted and disposed as F in the supreme court. M arrests must be filed and disposed in the criminal court	All F arrests screened
Milwaukee, WI	Immediately after arrest; no police screening	All F and M arrests	All accepted F and M filed in criminal court	Rejected F arrests and accepted F cases
New Orleans, LA	Immediately after arrest; no police screening	All F and M arrests	Accepted F and M filed in criminal court; selected M (either originals or reductions) may be referred to city prosecutor	All F arrests screened
Rhode Island	Immediately after arrest; no police screening	All F and M arrests	Accepted F and M filed in superior court and district court, respectively	F cases filed by bill of information
St. Louis, MO	Immediately after arrest; no police screening	All F and serious M arrests	Accepted F and serious M filed in circuit court	Accepted F cases
Salt Lake County, UT	Immediately after arrest; no police screening	All F and some M arrests	Accepted F and some M	Rejected F arrests and accepted F cases
Washington, DC	Immediately after arrest; no police screening	All F and serious M arrests	Accepted F and M filed in superior court	All F arrests

KEY:
F = felony
M = misdemeanor

Exhibit 2

extent to which data for each jurisdiction can be presented throughout the analysis.

The chapters that follow address—
- attrition at initial case screening by the prosecutor and after cases have been accepted for prosecution (i.e., dismissals),
- the incidence of guilty pleas and trials,
- sentencing, and
- case-processing times.

Appendix A presents demographic characteristics and a flow chart of the case-processing steps in each jurisdiction. Appendix B provides data on case-processing patterns in each jurisdiction for eight crime types: homicide, sexual assault, robbery, burglary, assault, larceny, weapons, and drug-related offenses. These data supplement the text data, which are generally aggregated for all felony cases under consideration.

Case attrition

Screening and the decision to charge

The first decision a prosecutor makes about a felony arrest is what the charge will be or whether to charge at all. Typically, after the police take a suspect into custody, an assistant prosecutor will review the facts of the crime provided by the police, witnesses, and victim(s)—either directly or indirectly through the police. Other information about the defendant, such as criminal history, relationship to the victim, and alcohol or drug use at the time of the incident, is also typically considered. The prosecutor must then decide whether to charge the defendant with the felony charge brought by the police, a lesser felony crime, or a misdemeanor. The prosecutor may also conclude that he cannot prove "beyond a reasonable doubt" that the suspect committed any crime at all, and reject the entire case.

The decision made at this point is of enormous consequence to what ultimately happens to the defendant.[1] If the case is rejected, the defendant may be free only a few hours after being taken into custody by the police; if charged with a misdemeanor, the defendant's potential sentence in most states cannot exceed a term of one year in a local jail; but if charged and convicted of a felony, the defendant could spend a year or more in a State penitentiary.

Legal scholars have long debated the potential for abuse of the discretionary powers the prosecutor exercises at the time of charging. When Mr. Justice Jackson made his famous statement, "the prosecutor has more control over life, liberty, and reputation than any other person in America,"[2] he was speaking of the affirmative abuses of the prosecutor's power to bring charges, that is, the irreparable damage that an innocent individual may suffer when charges are brought against him and later dismissed. Conversely, Kenneth Culp Davis, in his inquiry into the discretionary aspects of justice, points out that "what a prosecutor does negatively," that is, the decision not to charge certain persons or certain crimes, involves as much if not greater discretionary power. The discretion not to charge is, in Professor Davis's words, "almost always final and even less protected."[3] In contrast to other prosecutory decisions, the decision not to charge is rarely subject to court review. The large majority of the court challenges to the exercise of this discretion have held that such decisions are immune from review.[4]

In all of the jurisdictions included in this report, prosecutors screen felony arrests, but, as seen in exhibit 2, the point at which screening occurs varies among jurisdictions.[5] In some jurisdictions, such as Manhattan, St. Louis, and Milwaukee, the prosecutor reviews virtually all felony arrests made by the police. In other jurisdictions, the police may do some prescreening before cases are presented to the prosecutor. In 1979, for example, the police in Los Angeles decided themselves to drop 17 percent of felony arrests and to refer another 31 percent to the city prosecutor for misdemeanor prosecution.[6] In still other jurisdictions, screening does not take place until after a lower court filing or even a preliminary hearing. In Cobb County, felony arrests are routinely filed in the lower court by magistrates and then referred to the prosecutor for screening. In Louisville, Ky., the commonwealth's attorney does not have an opportunity to review most cases (about 90 percent) until after they have been bound over to the grand jury. Up to the point of grand jury presentment, these cases are handled in the lower court by county attorneys. Only about 10 percent of the cases screened are brought directly to the commonwealth's attorney by complainants. Even so, in 1980, the commonwealth's attorney in Louisville set up a screening unit—the Plea Bargain Reduction Unit—to review bound-over cases and recommend a course of action before the grand jury presentment. The unit cannot decline to present a bound-over case to the grand jury, but it can identify prior to the grand jury hearing what the proper charges should be or recommend that no indictment be returned.

In most jurisdictions screening occurs shortly after arrest. By law in California, cases must be brought to arraignment within 48 hours after arrest, and screening occurs before this initial court hearing. The Manhattan district attorney's policy is to screen and send all accepted cases to arraignment within 24 hours after arrest. The major exception to this pattern is New Orleans, which has 10 days to screen cases before formal charges must be filed.

Jurisdictions differ in the administrative arrangements they have devised for screening cases. Washington, D.C., Los Angeles, Kalamazoo, and New Orleans have special units that screen cases and then pass the accepted cases on to other units or individual attorneys for handling at later stages in the case-disposition process. Other jurisdictions screen cases so that a single attorney handles a felony case from initial screening to final disposition.

In Manhattan, the task of screening is shared by the six trial bureaus on a rotating basis. Senior attorneys from each bureau are responsible once every six days for staffing the "Complaint Room" screening process. All felony arrests brought by the police on a given day are first

[1] Joan Jacoby in her study of the prosecutor's charging policies has argued that the charging decision to a large extent shapes the way in which subsequent case decisions will be made. The Prosecutor's Charging Decision: A Policy Perspective (Washington, D.C.: Government Printing Office, 1977).

[2] Journal of the American Judicature Society, vol. 24 (1940): 18-19.

[3] Kenneth C. Davis, Discretionary Justice: A Preliminary Inquiry (Baton Rouge: Louisiana State University Press, 1969): 188-98, 207-14.

[4] See, for example, Powell v. Katzenback, 359 F. 2d 234 (D.C. Cir 1965).

[5] It is interesting to contrast this pattern with that found by William F. McDonald in his study of police-prosecutor relations. In only one-half of the surveyed jurisdictions with populations over 100,000 was the prosecutor solely responsible for screening and initial charging. In the other jurisdictions, initial charging was performed by the police. William F. McDonald, et al., "Police-Prosecutor Relations in the United States," Institute of Law and Criminal Procedure, Georgetown University Law Center (Washington, D.C., 1981).

[6] Criminal Justice Profile 1979, Los Angeles, State of California (Sacramento: Department of Justice, Bureau of Criminal Statistics and Special Services).

reviewed by a Complaint Room supervisor, who gives the most serious felonies to the senior felony assistants for more thorough screening. Cases that will be handled as misdemeanors are reviewed by less experienced assistants. The critical decision of which cases to indict is typically made in the Complaint Room. If a felony assistant decides to send a case to the grand jury, he or she will handle the case at all further stages until final disposition. Most indictable cases are sent to the grand jury within 72 hours. The circuit attorney's office in St. Louis has a similar rotation scheme for screening and handling felonies.

The outcome of the screening process varies considerably among the offices included here (see exhibit 3). In part, these differences may stem from differences in arrest quality among the various police departments that bring arrests for screening. In part, they reflect differences in institutional and organizational arrangements. And in part, they reflect differences in office policies (whether implicit or explicit) as to the way cases are to be handled.

The effect that institutional arrangements for the prosecution of felony arrests have on the outcome at screening is most obvious in two jurisdictions, Los Angeles and Indianapolis. In each city almost one-quarter of the cases screened are referred for other prosecution. In Los Angeles, if the district attorney determines that a felony arrest should be prosecuted as a misdemeanor, in most instances he relinquishes jurisdiction over the case and refers it to the city attorney for prosecution in municipal court, the misdemeanor court in California.[7] In Indianapolis, the prosecuting attorney does not lose jurisdiction over felony arrests prosecuted as misdemeanors; they are transferred to a separate division within the office and are

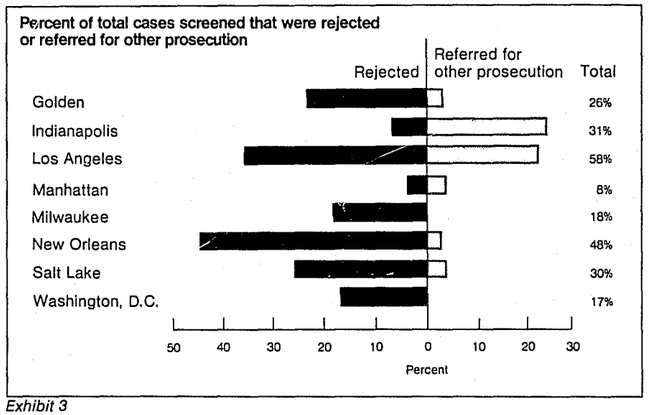


Exhibit 3

prosecuted in municipal court, the lower court of Indiana.[8]

Apart from such institutional and administrative arrangements, office policy toward what is required before a case will be accepted can also affect screening decisions. In the two jurisdictions with the highest rejection rates, New Orleans and Los Angeles, office screening policies are quite rigorous.

In both jurisdictions key witnesses are contacted by the screening assistants before charges are filed to make sure they can be located and are willing to appear in court when they are needed. In New Orleans some victims and witnesses are required to come to the district attorney's office for interviews before a charging decision is made.

In Los Angeles screening is performed by attorneys with an average of 10 years of experience, and screening assignments last from 6 months to a year. Similarly, in New Orleans senior attorneys are promoted to the task of screening, and those assignments hold for a considerable period of time. The 10 days the New Orleans prosecutor has to file charges allows for a very thorough screening process. Of the five attorneys who are assigned to general screening, each spends one day a week picking up cases to screen and then spends the rest of the week (or up to 10 days) doing follow-up work, such as contacting witnesses, obtaining lab reports, ordering line-ups, and obtaining police reports before charges are filed.

One effect of a rigorous screening policy is that crimes that are in essence private disputes are prevented from taking up costly court time and resources. A number of studies have shown that many crimes against persons involve individuals who have had some kind of prior relationship. At the time of the incident, police intervention may be necessary to quell a potentially explosive situation. But by the time the case is brought to court, the victim often no longer wants to prosecute.[9] With experience, prosecutors learn to identify such cases early and can prevent them from getting into the court system only to be dropped later in the proceedings.

Thus it is not surprising that in jurisdictions where large numbers of cases are rejected it is often crimes involving attacks on persons that are less likely to be accepted than crimes in which theft is the motivation. In New Orleans, where the overall fraction of cases rejected is about 45 percent, the fraction for assault is 59 percent and for sex crimes 58 percent. The percentages rejected for burglary and larceny, in contrast, are 37 and 39 percent, respectively.[10] (The problem that prior-relationship cases present for the court is discussed in greater detail in the section below on reasons for case attrition.)

St. Louis is another jurisdiction where procedures for early identification of such cases have been institutionalized. The circuit attorney has a strict policy of not reviewing police arrests unless the victim and witnesses are brought by the police to the circuit attorney's screening room. There victims and witnesses are carefully interviewed and the consequences of filing court charges thoroughly explained. This provides witnesses with an opportunity to indicate their willingness or unwillingness to proceed with prosecution before formal court charges are filed.[11]

The decision to nolle or dismiss a case after filing

Not all case attrition is the result of the prosecutor's decision to reject a case at screening. In fact, in some jurisdictions attrition occurs primarily after charges have been filed. At a number of decision points subsequent to screening, the prosecutor may decide to nolle or dismiss a case. Judges also may decide to dismiss cases in the post-filing stage. Technically a "nolle prosequi" means that a case is dropped on the sole authority of the prosecutor. A dismissal, on the other hand, requires the action of a judge either to approve the prosecutor's action or as initiator of the dismissal.

A useful way to view case attrition from a cross-jurisdictional perspective is to look at the relative importance of the two major points at which attrition occurs. Exhibit 4 indicates for six jurisdictions the percentage of total case attrition that occurs as a result of rejection at screening and the percentage that occurs due to a post-filing dismissal or nolle. In Manhattan, the vast majority of cases that are dropped are dropped after charges have been filed (89 percent). New Orleans represents an opposite pattern. Eighty-six percent of case attrition in New Orleans occurs at screening. In the other jurisdictions, case attrition is more evenly divided between rejections and dismissals. In two jurisdictions, Milwaukee and Salt Lake, the relative occurrence of rejections and dismissals is almost equal.

Prosecutors typically view dismissals as a fraction of total cases filed rather than as a fraction of all cases presented by the police for prosecution. Exhibit 5 shows the percent of post-filing dismissals for all jurisdictions included in this report. On average, across all jurisdictions, 28 percent of cases filed are ultimately dismissed. The high dismissal percentage (45%) in Cobb County illustrates the effect of the automatic filing in the lower court by magistrates before prosecutory screening. Because of the magistrate system, the Cobb County prosecutor cannot technically reject cases before filing. Instead, cases that are considered inappropriate for prosecution are returned to the lower court for dismissal.

The lowest proportions of dismissal, at about one-half the overall average, occurred in Kalamazoo, Louisville, New Orleans, and Rhode Island. In these four jurisdictions substantial pre-screening occurs before the filing decision. New Orleans has strict screening requirements, and in Kalamazoo, Rhode Island, and Louisville, the felony cases included here are those that survived to the indictment stage. By the time cases reach the point of indictment or a preliminary hearing on a felony charge, a sizable number of felony arrests have either already been dropped or have been reduced to misdemeanors.

In Manhattan, for example, 19 percent of the adult felony arrests led to a grand jury indictment in 1978. In Los Angeles, which does not routinely

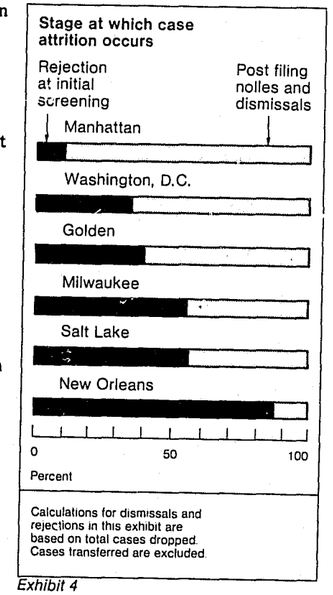


Exhibit 4

Percent of filed cases that were dismissed and nolled

Jurisdiction	
Kalamazoo	14 %
Louisville	14
New Orleans	14
Rhode Island	15
Indianapolis	17
Milwaukee	19
Los Angeles	25
St. Louis	29
Salt Lake County	30
Manhattan	35
Washington, D.C.	41
Geneva	44
Cobb County	45
Golden	45
Average	28 %

Exhibit 5

[7] Under California law several serious crimes may be charged either as felonies or misdemeanors. California prosecutors call such cases "wobblers," and which court or prosecutor has jurisdiction can vary.

[8] At the time of this study, the disposition of cases transferred to municipal court was not being recorded in PROMIS. Recently, the prosecuting attorney of Indianapolis instituted a program to track the disposition of these cases.

[9] See, for example, Kristen M. Williams, The Role of the Victim in the Prosecution of Violent Crime (Washington, D.C.: INSLAW, 1978) and Felony Arrests: Their Prosecution and Disposition in New York City's Courts (New York: Vera Institute of Justice, 1977).

[10] See Appendix B. Percentages include cases diverted.

[11] The PROMIS data for St. Louis do not include cases rejected. The circuit attorney's office estimates that 30 to 40 percent of arrests are declined prosecution.

use a grand jury but files felony charges by information after a preliminary hearing, 21 percent of cases were "held to answer" after a preliminary hearing on a felony charge in 1979. After this point in felony case processing, relatively small numbers of cases are dismissed. Exhibit 6 shows the proportion of cases dismissed after a grand jury or preliminary hearing in seven jurisdictions. The average dismissal proportion is 15 percent.

Obviously, the proportion of attrition will vary depending on the point in the system from which it is measured. Generally, the more inclusive the measure, the higher the proportion of attrition. Total measures of case attrition from felony arrest to final conviction on either a felony or misdemeanor charge are presented for five jurisdictions in exhibit 7. The average proportion of case attrition in these five jurisdictions is 48 percent, and among the five the variation in proportion of attrition is quite low—from a low of 43 percent in Manhattan to a high of 54 percent in New Orleans.

Percent of cases dismissed after grand jury or preliminary hearing

Jurisdiction	
Los Angeles*	13 %
Kalamazoo	14
Louisville	14
Manhattan	15
Rhode Island	15
Cobb County	16
St. Louis**	19
Average	15 %

*PROMIS data augmented by California OBTS data.
**PROMIS data augmented by management reports.

Exhibit 6

Percent of felony arrests resulting in attrition

Jurisdiction	
Manhattan*	43 %
Cobb County	45
Los Angeles**	46
Washington, D.C.	53
New Orleans	54
Average	48 %

*PROMIS data augmented by management reports.
**PROMIS data supplemented by California Offender-Based Transaction Statistics. Estimate includes the results of cases prosecuted as misdemeanors in municipal court by city prosecutors.

Exhibit 7

Reasons for case attrition

With close to half of all felony arrests being disposed either by rejection or dismissal, an obviously important question is why so many arrests fail to result in a conviction. Judges, prosecutors, and police need to know to what extent and in what ways their own actions (or inactions) contribute to case attrition. At the same time, the public needs to understand the extent to which the conviction of certain types of cases is often out of the control of court officials.

Exhibit 8 shows the reasons for rejection of felony arrests, as documented by the screening prosecutors in each of seven jurisdictions. In five of the seven jurisdictions, witness problems and evidence-related deficiencies accounted for half or more of the rejections at screening. Witness problems are typically more common for crimes against persons than for crimes against property. This is true even for robberies, which are more likely to involve defendants and victims who are strangers than are assaults. Crimes involving theft of property, such as burglary and larceny, are more likely to involve problems of evidence (see Appendix B).

Patterns of dismissal reasons, presented in exhibit 9, are somewhat more varied and more reflective of specific jurisdictional practices than are patterns of rejection reasons. Almost 40 percent of the dismissals (17 percent of all cases filed) in Golden, Colo., for example, represent cases that are either "combined" or diverted. In Golden, diverted cases are those for which prosecution is deferred for 3 months to 2 years. If the defendant successfully completes a diversion program or probation, the case is then dismissed. Though such cases are technically dismissals, in the view of the district attorney the diversion outcome for certain cases is more appropriate than conviction.

"Combined" cases also are not necessarily unsuccessful prosecutions. They represent dismissals of cases for defendants with more than one active case. Typically, one case is dismissed, but a plea of guilty is obtained in another. In this situation a case is dismissed but the defendant is still convicted. In addition to Golden, a substantial fraction of the dismissals in Geneva, Ill., Indianapolis, and Salt Lake take this form. A variation of this practice occurs in Manhattan, where pleas are taken on two cases but one sentence is imposed to "cover" both crimes. In this instance, the fraction of cases dismissed is not affected.

Whether such practices are taken into account or not, evidence and witness reasons still account for a majority of dismissals in 7 of the 11 jurisdictions in exhibit 9. When dismissal and rejection reasons are combined (exhibit 10), a majority of the cases in 9 of the 11 jurisdictions drop out because of some combination of these two reasons. This pattern is the same as that reported in the Cross-City Comparison report using data for 1977 and, as noted there, the same as that reported in the Missouri Crime Survey of 1926.[12]

Witness and evidence problems

Part of the problem of case attrition has to do with the nature of different types of crimes. As suggested above, certain violent crimes, such as assault and rape, tend to be more difficult to prosecute because so many of them involve defendants who are acquainted with or related to their victims. In looking at the relationship between arrestee and victim in an earlier study of PROMIS data, Williams found that of 3,826 arrests for violent crime in the District of Columbia, 13 percent involved family members, 44 percent involved friends or acquaintances, and 43 percent involved strangers. A non-stranger relationship was particularly predominant among homicides (75 percent), assaults (75 percent), and sexual assaults (61 percent).[13]

Whatever the crime type, however, when the offender knows the victims the fraction of cases convicted tends to be lower. A recent INSLAW study of the role of the police in producing arrests that lead to conviction found markedly lower proportions of conviction across crime types when a prior relationship existed. The study, which involved seven of the jurisdictions included in this report, found that when the victim and defendant were friends or acquaintances, cases ended in conviction only half as often as cases involving strangers. When a

[12] The Missouri Crime Survey (1926; reprint ed., Montclair, N.J.: Patterson Smith, 1968).

[13] Williams, The Role of the Victim: 22-23.

Declination reasons at screening

Jurisdiction	Number of declined cases	Witness	Evidence	Office policy	Due process	Combined with other case	Diversion	Other
Golden	49	18.4 %	20.4 %	44.9 %	2.0 %	0	4.1 %	10.2 %
Indianapolis	155	12.3	40.0	19.4	3.2	0	0	25.2
Los Angeles	19,197	11.3	70.2	7.1	7.4	0	.8	2.7
Manhattan	1,062	26.2	50.1	13.2	6.1	0	.3	4.1
New Orleans	3,315	30.5	40.1	11.9	10.2	0	7.3	0
Salt Lake	702	19.5	64.8	10.4	2.1	0.3 %	1.0	1.9
Washington, D.C.	1,442	15.5	22.4	12.3	0.6	0	0.1	49.2

Exhibit 8

Dismissal reasons

Jurisdiction	Number of dismissed cases	Witness	Evidence	Office policy	Due process	Combined with other case	Diversion	Other
Cobb County	1,356	58.4 %	19.0 %	12.2 %	1.3 %	5.0 %	1.8 %	2.3 %
Geneva	406	22.5	21.8	8.9	7.2	30.7	5.2	3.7
Golden	774	12.9	9.7	6.5	10.1	19.5	17.4	23.9
Indianapolis	254	21.3	31.1	5.5	3.1	20.5	1.6	16.9
Los Angeles	5,514	25.9	6.0	22.0	4.8	10.8	9.2	21.4
Louisville	206	32.0	24.3	12.6	7.3	2.4	6.8	14.6
Manhattan	8,597	45.3	18.3	28.3	3.8	0	1.7	2.5
New Orleans	552	15.4	33.0	18.8	6.5	7.2	7.6	11.4
St. Louis	945	32.6	18.6	12.1	0.7	2.0	0.2	33.3
Salt Lake	560	16.6	15.5	4.5	2.5	57.0	2.9	1.1
Washington, D.C.	2,781	81.2	16.6	0	0	0	0	2.1

Exhibit 9

Percent of attrition due to witness and evidence problems

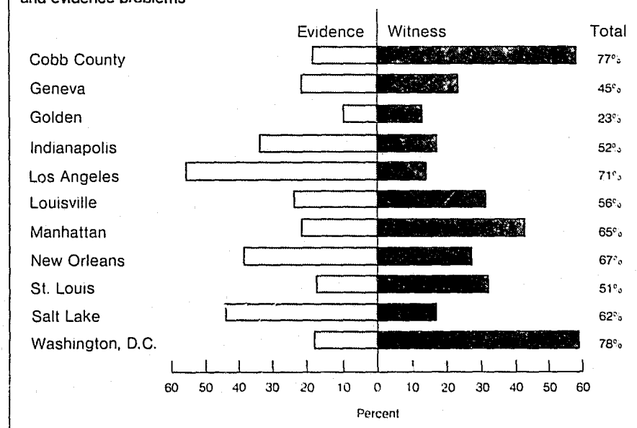


Exhibit 10

Percent of arrests resulting in conviction in New Orleans, by victim-defendant relationship and crime*

Crime	Family		Friend or acquaintance		Stranger	
	No. of arrests	% convicted	No. of arrests	% convicted	No. of arrests	% convicted
Robbery	14	7 %	142	21 %	446	37 %
Violent	200	16	616	19	456	35
Property	88	19	603	37	1,709	53
All other	60	31	186	48	550	51
All offenses	362	19	1,547	30	3,161	48

*PROMIS data, 1977-78; includes only cases in which the relationship between victim and defendant was recorded in PROMIS.

Exhibit 11

family relationship existed, cases ended in conviction from "less than a quarter as often to just under half as often" as cases involving strangers.[14] As an example, the results of this analysis for robbery, violent, and property crimes in New Orleans are shown in exhibit 11.

The most crucial element of evidence in the prosecution of such cases is the testimony of the victim witness. If the victim decides (as the memory of the incident fades and the former relationship is repaired) that he no longer wishes to prosecute, the prosecutor's key evidence is in essence lost. This situation accounts, in part, for the high proportion of witness problems associated with rejections and dismissals. In the Williams study cited above, complaining witness problems accounted for 61 percent of the rejections of violent crimes involving non-strangers and 54 percent of the dismissals.[15]

Other kinds of victim-witness problems also present prosecutors with situations over which they may have little control. Cases involving victimizations of derelicts and intoxicated persons, for example, may not be prosecutable because the victim cannot be located or is unfit to testify at trial. Victims of drug-related robberies, solicitation for prostitution, and other offenses involving potential victim culpability may well be reluctant to pursue prosecution because of fears of self-incrimination. Also, victims who fear reprisal or are reluctant to become involved with the criminal justice system often give the police a false name and address or simply fail to appear in court.[16]

Another problem in trying to prevent case attrition because of evidence and witness problems is that gathering evidence and managing witnesses are not solely the responsibility of the prosecutor, but rather a joint function prosecutors share with the police. This is not merely an administrative arrangement but has to do with the way the best evidence is gathered and crimes are most likely to be solved. Most reported crimes are solved,[17] that is, an arrest is made, because a witness calls the police and is able to provide them with sufficient information to identify a suspect soon after the crime has occurred.[18] Also, the best evidence for prosecuting a case is that gathered at the crime scene rather than as the result of investigative work.[19] Thus, the strength of a prosecutor's case is highly dependent on the police—on the evidence gathered and the witnesses identified by police at the scene of the crime.

In examining the police contribution to successful prosecution, INSLAW found that, regardless of the type of offense, having at least two witnesses significantly increased the chance of obtaining a conviction. The authors speculate that "the value of witnesses lies largely in their ability to corroborate the facts about the offense. The testimony of a single witness is not always enough to convict. Many cases that have only a single witness are deemed insufficient for prosecution and are rejected. One lay witness may cloud the facts, causing doubt in the minds of those evaluating the merits of the case. With two witnesses saying similar things, the element of corroboration is present enhancing the probability both that the case will be prosecuted and that it will end in conviction."[20]

The study also found that cases in which physical evidence was recovered were more than 2-1/2 times as likely to result in a conviction (p. 16) and that "arrests made between one and 30 minutes of the offense were more likely to result in conviction than arrests made later (one-half to 24 hours)" (p. 19). The authors inferred that "time's influence on the proportion of conviction exists primarily because a shorter delay increases the probability of evidence recovery, and perhaps because it enhances the probability of obtaining witnesses" (p. 19).

[14] The seven jurisdictions are Cobb County, Indianapolis, Los Angeles, Manhattan, New Orleans, Salt Lake City, and Washington, D.C.; Brian Forst, et al., Arrest Convictability as a Measure of Police Performance (Washington, D.C.: INSLAW, 1981): Executive Summary: 12.

[15] Williams, Role of the Victim: 28.

[16] The inability of prosecutors to locate witnesses because the information collected by police at the crime scene is frequently inaccurate or incomplete was documented in Frank J. Cannavale and William D. Falcon (ed.), Witness Cooperation, INSLAW (Lexington, Mass.: Lexington Books, 1976).

[17] McDonald, et al., "Police-Prosecutor Relations": Part IV, Ch. 5: 2.

[18] Albert J. Reiss, The Police and the Public (New Haven: Yale University Press, 1971).

[19] Peter Greenwood, Jan M. Chaiken, and Joan Petersilia, The Criminal Investigation Process (Lexington, Mass.: D.C. Heath, 1977); Brian Forst, Judith Lucianovic, and Sarah J. Cox, What Happens After Arrest (INSLAW, 1977): 34-41.

[20] Forst, et al., Arrest Convictability, Executive Summary: 48.

Percent of arresting officers with 50% of arrests resulting in convictions vs. no arrests resulting in convictions, by jurisdiction

Jurisdiction	% of arresting officers with— 50% of arrests resulting in convictions	No arrests resulting in convictions
Cobb County	12.3 %	29.2 %
Indianapolis	17.0	37.4
Los Angeles	19.1	21.0
Manhattan	7.9	18.2
New Orleans	10.8	23.6
Salt Lake	14.0	25.1
Washington, D.C.	12.4	16.9

Source: Brian Forst, et al., Arrest Convictability as a Measure of Police Performance, INSLAW (Washington, D.C.: National Institute of Justice, 1982).

Exhibit 12

The most interesting finding of the study was that in all seven of the jurisdictions a small fraction of the arresting officers—from 8 to 19 percent—accounted for 50 percent of the arrests that ended in conviction. (Actual percentages are shown in exhibit 12.) This central finding, that a few officers appear to be better at producing convictable arrests, was confirmed even after such factors as officer assignment and the inherent convictability of the arrest type were held constant.

Interviews with samples of high- and low-conviction officers in Manhattan and Washington revealed that they generally responded similarly to most questions asked, with important exceptions. The high-conviction officers indicated they took more steps to locate additional witnesses; they were also able to "list more procedures and techniques for obtaining evidence that proves a crime was committed and for proving that the victim was at the scene (or that the suspect and victim came in contact)" (p. 38); and they were more likely to suggest "confronting the suspect with the evidence" as a useful approach for interrogation (p. 39).

While such studies suggest there are several things the police can do to prevent unnecessary case attrition, it would be grossly misleading to conclude that attrition is primarily a police problem. Both the low- and high-conviction officers interviewed in the INSLAW study said "they were interested in learning the outcome of their arrests, but that no formal procedures for learning outcomes existed" (p. 34). Another study of police-prosecutor relations by the Georgetown University Law Center similarly found that prosecutors frequently complain that the police provide them with too little information but also that prosecutors rarely make a systematic effort to provide feedback regarding case disposition or to educate the police about the specifics they need.

A particularly interesting finding of the Georgetown study was that police have a good general idea of the kinds of information prosecutors need but that police and prosecutors differ on what they consider to be sufficient detail for prosecuting a case. The authors developed a decision simulation study to address the question: "To what extent is the reported failure of the police to supply the prosecutor with certain information due to a fundamental difference between police and prosecutors in their respective perceptions of what is needed to make prosecutory decisions?" In the simulation, senior police officers were told to imagine they were being asked by junior officers about what charging decision to recommend to a prosecutor in a robbery case. In advising the junior officer, the senior officer could select from a folder containing 44 index cards as many items of information (by title) he thought he needed to make his recommendation. The same simulation was conducted with senior prosecutors, who were asked to advise hypothetical junior prosecutors. Analysis of the simulation results revealed that prosecutors required 40 percent more items of information than the police before a charging decision could be made.[21]

[21] McDonald, "Police-Prosecutor Relations," Part IV, Ch. 5: 40-59.

Guilty pleas and trials

The statistics presented in the previous chapter show that many, if not most, cases are disposed without a conviction. In those jurisdictions in which all felony arrests made by the police could be traced to a final disposition, close to 50 percent were either rejected by the prosecutor at screening or dismissed after filing by the prosecutor or judge. This chapter will focus on cases that are carried forward and result in guilty pleas or trials.

Guilty pleas

The most common disposition of cases not rejected or dismissed is a plea of guilty. Exhibit 13 shows the percentage of filed cases disposed by a guilty plea in 14 jurisdictions. In all jurisdictions a majority or close to a majority of all filed cases were disposed by a plea.

Another way to look at the prevalence of guilty pleas is to calculate the percentage of all convictions resulting from a plea of guilty. This calculation is shown in exhibit 14. From this perspective, an average of 92 percent of all convictions in the 14 jurisdictions were the result of a guilty plea. In no jurisdiction did less than 80 percent of convictions result from a guilty plea.

Recognition of this fact—that the vast majority of convictions are the result of a guilty plea rather than a verdict of guilty—has, since the mid-1960's, fostered a vigorous national debate over the nature and propriety of the guilty plea process. At the center of this debate is the role the prosecutor plays in obtaining guilty pleas through plea bargaining.

The conventional view of plea bargaining holds that in order to avoid going to trial in the majority of cases prosecutors are willing to reduce the seriousness or number of charges against a defendant in exchange for a plea of guilty.

The most strident critics of plea bargaining have tended to equate justice with the adversariness associated with formal trials and have viewed the lack of trials in and of itself as evidence that defendants' constitutional rights are being

Percent of filed cases disposed by plea

Jurisdiction	Percent	Cases filed*
Geneva	48 %	913
Golden	49	1,739
Washington, D.C.	51	6,857
Cobb County	52	3,322
Salt Lake	56	1,852
Los Angeles	61	22,258
Manhattan	63	25,233
St. Louis	64	3,388
Louisville	66	1,496
Indianapolis	67	1,491
New Orleans	70	3,894
Milwaukee	74	2,689
Kalamazoo	79	710
Rhode Island	79	3,367

* Excluding transfers

Exhibit 13

Percent of convictions that were guilty pleas

Jurisdiction	Guilty pleas	Number of convictions
Louisville	81 %	1,221
Indianapolis	85	1,182
New Orleans	87	3,131
Washington, D.C.	89	3,884
Milwaukee	89	2,250
Salt Lake	90	1,139
Los Angeles	91	14,811
Kalamazoo	94	597
Geneva	95	466
Golden	95	872
St. Louis	95	2,293
Manhattan	96	15,694
Cobb County	96	1,778
Rhode Island	97	2,752
Average	92 %	-

Exhibit 14

denied. Conviction without trial has further been thought of as a relatively recent aberration. In the not too distant past, these critics would contend, a better system prevailed in which defendants were routinely found guilty at public trials over which a judge presided, and a jury determined guilt after hearing arguments as to the defendant's guilt and innocence.

The most common and popularly held explanation for the current predominance of guilty pleas stresses the pressure of heavy case loads that have accompanied the rise in urban crime over the last several decades. Given the enormous volume of cases with which the court must contend, the only way to dispense any justice at all, it is argued, is to induce the mass of defendants to plead guilty in return for a promise of leniency. If most defendants were not induced to plead guilty but instead were to demand a trial, the courts would be hopelessly jammed and the administration of justice would break down.[1]

Increasingly the case-load explanation and the view that plea bargaining is a recent aberration from a once ideal system are being seriously questioned. Milton Heumann, in a study using data on court dispositions in Connecticut over a 75-year period (1880 to 1954), has presented evidence that suggests that the ratio of trials to total convictions has not changed appreciably since the latter part of the 19th century. The percentage of convictions obtained by a trial from 1880 to 1910 was about 10 percent, about the same as that observed in the early 1950's. The 10:1 ratio is almost exactly the same as that frequently cited today and virtually the same as that calculated in this report. Heumann also compared for the same period the ratio of trials to convictions in three high-volume courts with that of three low-volume courts. Again, he found that in both the high- and low-volume courts the trial ratio varied little from the overall mean of 1 trial for every 10 dispositions of guilt.

Consistent with the findings of Heumann in Connecticut, other investigations by legal historians suggest that at least by the late 19th century guilty pleas were a common method of case disposition in other parts of the United States.[2] Although there was a time when most criminal matters were settled by trial, this appears to have been as long ago as the 18th century. John H. Langbein, a professor of law at the University of Chicago who has studied the trials of this earlier era, suggests they were vastly different from the trials of today. A jury trial of the early 18th century was a summary and not an adversary proceeding, and as many as 12 to 20 trials were completed per day in a single court. Ironically, Langbein believes it was the institution of adversary reforms—most importantly, the common law of evidence, the exclusionary rule, and advent of counsel for the defense and state—that led to the decline of trials. In his view, trials gradually became such complex, protracted affairs that they "could no longer be used as the exclusive disposition proceedings for cases of serious crime."[3]

Another work that questions conventional notions about plea bargaining is Malcolm Feeley's study of guilty dispositions in New Haven, Connecticut. Feeley suggests that most pleas are not in fact true bargains, that is, that the major focus of plea discussions is not to obtain a concession for the defendant. Based on observation of plea discussions, the author typifies most so-called "negotiations" as actually informational discussions about the facts and circumstances surrounding the crime. Once the facts are "settled" (in other words, once an agreement on the crime committed is reached), the nature of the penalty is a foregone conclusion. Discussions regarding concessions in return for a plea are the exception rather than the rule. Feeley argues, in effect, that plea bargaining as it is conventionally defined is not a sufficient explanation for how cases are resolved by the court.[4]

The issue of concessions is particularly important, for it is this aspect of plea bargaining that has led a number of its critics to characterize it as coercive. The National Advisory Commission on Criminal Justice Standards and Goals, for example, in calling for the abolition of plea bargaining to protect the constitutional rights of the defendant, stated:

> ...negotiations between prosecutors and defendants—either personally or through their attorneys—concerning concessions to be made in return for guilty pleas should be prohibited.[5]

It is significant that the commission did not say that defendants should be prevented from entering pleas of guilty but objected to prosecutors' granting concessions in exchange for pleas.

Many members of the official legal community have taken a pragmatic view of the general problem of plea bargaining as well as the particular problem of coercion. The American Bar Association (ABA) in its Standards for Criminal Justice did not ignore the dangers of plea bargaining but did recognize that it is a fact of life in almost all courts today and attempted to spell out the roles of prosecutors and defense in an effort to regulate but not eliminate plea bargaining.[6] Also, Chief Justice Burger, in proposing changes to the Federal Rules of Criminal Procedure, noted that "there is increasing knowledge of both the inevitability and the propriety of plea agreements." He recommended that plea bargaining be recognized as "an essential component of the administration of justice." "Properly administered it is to be encouraged."[7]

Several years ago the Federal Rules of Criminal Procedure were amended to eliminate the prior prohibition on plea bargaining via the so-called Rule 11. Rule 11 pays special attention to the issue of coercion and, to ensure that pleas are voluntary, requires "addressing the defendant in open court, determining that the plea is voluntary and not the result of force or promises apart from a plea agreement."[8]

Despite the controversy that has surrounded plea bargaining and the confidence with which the various positions have been stated, there have been relatively few empirical analyses of how the guilty plea process typically operates in jurisdictions around the country. Similarly, there have been few attempts to measure the frequency and magnitude of the concessions extended to those who plead guilty.

One attempt to fill this gap is the Georgetown University Law Center's survey of plea bargaining in 30 jurisdictions. This survey shows that the nature of plea bargaining is much more varied and intricate than the usual notion of a prosecutor granting charge reductions would suggest. In some jurisdictions, judges play a key role; in others they virtually never or rarely participate in plea discussions. They also noted that not all jurisdictions engaged in what has been termed explicit bargaining. Explicit plea bargaining in the Georgetown study was defined as "overt negotiations between two or three actors (prosecutor, defense attorney, and judge) followed by an agreement on the terms of the bargain." Implicit bargaining, on the other hand, "involves an under-

[1] A review of the case-load argument and its centrality to explanations of plea bargaining is contained in Milton Heumann, Plea Bargaining (University of Chicago Press, 1978): 24-33. Whil the case-load argument is critical to most explanations of plea bargaining, a number of othe factors have also been advanced as important. Sociologists and political scientists, in particular, have argued that the situation is a result of the "bureaucratic" or "organizational" concerns of key court participants. One theory posits that attorneys (both prosecutors and defense attorneys) prefer the certainty of a conviction by plea as opposed to the uncertainty of a trial and to avoid trial—an event they cannot control—are willing to cooperate and accommodate one another. See Abraham S. Blumberg, Criminal Justice (New York: New Viewpoints, 1979). A variant of this argument is that participants in courtroom processes have a limited capacity for conflict (in other words adversariness and trials) and therefore develop cooperative routines for disposing of cases. See James Eisenstein and Herbert Jacobs, Felony Justice (Boston: Little, Brown and Co., 1977).

[2] Lawrence M. Friedman, "Plea Bargaining in Historical Perspective," Law and Society Review 13, no. 2 (1979).

[3] John H. Langbein, "Understanding the Short History of Plea Bargaining," Law and Society Review 13, no. 2 (1979): 265.

[4] Malcolm M. Feeley, The Process is the Punishment (New York: Russell Sage Foundation, 1979). Feeley's study was of the lower or misdemeanor court in New Haven, but it is common in many jurisdictions for as many as 80 percent of felony arrests to be disposed in the lower courts.

[5] National Advisory Commission on Criminal Justice Standards and Goals, Courts (Washington, D.C: 1973): 42.

[6] American Bar Association, Standards for Criminal Justice, "Pleas of Guilty," Vol.. 3, Ch. 14 (1980).

[7] Santabello v. Net, 404 U.S. 257, 260 (1971).

[8] Quoted in Conrad G. Brunk, "The Problem of Voluntariness and Coercion in the Negotiated Plea," Law and Society Review 13, no. 2 (1979): 528.

standing by the defendant that a more severe sentence may be imposed for going to trial rather than pleading guilty." The kinds of concessions are also quite varied, including charge reduction by the prosecutor, agreements by the prosecutor as to what sentence to recommend (or merely an agreement to remain silent at sentencing or to keep the victim away from the sentencing hearing), promises by judges to impose specific sentences, and even judicial promises to sentence to particular institutions. As the authors noted, the variety of concessions offered appears to be limited only by the "imagination of the participants" involved. The survey did not attempt to determine statistically the magnitude or frequency of concessions in either implicit or explicit bargains.[9]

Another source of empirical information on plea bargaining is the natural experiment provided by the 7-year-old ban on plea bargaining in the State of Alaska. In August 1975 Alaska's attorney general instructed all of the State's district attorneys to cease to engage in plea bargaining in handling felony and misdemeanor cases. Specifically the State's prosecutors were given written guidelines prohibiting the reduction in charges, dismissal of counts in multiple-count charges, and the recommendation of specific sentences. Before the institution of the ban, explicit sentence bargaining by prosecutors had been the standard practice throughout the state. Shortly after the ban went into effect the Alaska Judicial Council (with a grant from the National Institute of Justice) commissioned an evaluation of the attorney general's experiment.[10]

For a time after the ban was implemented there was a shift by some prosecutors from the traditional sentence bargaining to charge bargaining. Also some judges circumvented the ban by making sentence committments themselves to defendants. Judicial participation was challenged and subsequently prohibited by a State supreme court decision (State v. Buckalew, 561 P.2d 289, 1977). The court ruled that judges should not participate in either sentence or charge bargaining.

Overall the evaluators concluded that after the anti-plea-bargaining policy was implemented the frequency of explicit negotiations was drastically reduced. A statistical analysis of convicted cases in the first year after the ban showed that only between 4 and 12 percent involved a sentence recommendation by prosecutors. Later follow-up interviews in 1977 and 1978 indicated that explicit negotiation (by prosecutors and judges) had continued to decline and in effect had pretty much ceased.

On the issue of implicit penalties for going to trial, the evaluation results were somewhat less clear. A statistical analysis of sentences imposed on defendants who pled guilty and on those who were convicted at trial suggested that defendants who went to trial did fare worse, but this was true before as well as after the ban.[11] Further, the evaluators were unable to say whether this sentence differential was a true penalty for going to trial or due to a difference in the characteristics of the cases or the defendants who opted for trial.

Before the ban, opponents predicted that it would cause a "massive slowdown in the criminal docket" because defendants would refuse to plead guilty.[12] In fact, disposition times decreased from 192 days to 90 days. The evaluators did not attribute this decline to the plea-bargaining ban, but rather to other administrative reforms instituted at about the same time. It was significant, however, that the ban did not impede the intended effect of the administrative and calendar changes. The number of trials did increase, but still the majority of defendants continued to plead guilty. Before the ban, 10 percent of convictions were obtained at trial; after the ban 19 percent of convictions were the result of trial verdicts. Nor does the number of additional trials in Alaska's three major cities (an increase of 39, from 110 to 149) sound sufficiently large to create an administrative nightmare.[13]

A particularly interesting result of both the Alaskan experiment and the Georgetown survey is that they do suggest it is possible, at least in some courts, to obtain a large number of guilty pleas without negotiation. As one student of plea bargaining has noted, in some courts "there is nothing negotiable about pleading guilty." The defendant or his attorney is informed of the charges and evidence against him by the prosecutor or the judge. If the evidence cannot be refuted, the defendant's choice is simple. He may plead guilty or go to trial.[14]

Plea process in the jurisdictions

The variety in plea negotiations noted by the above studies is consistent with the variety of arrangements observed in the jurisdictions included in this report. In Manhattan, most felony court judges routinely participate in plea discussions and frequently indicate what sentence they will impose if the defendant pleads guilty. Given the structure of New York's penal code, in many instances (particularly non-violent thefts) the prosecutor's decision whether to insist on a plea to a top or reduced charge has little practical effect on the judge's sentencing discretion and therefore on the sentencing promise the judge can make. This situation, however, has been changing in recent years with the passage of mandatory sentencing laws for habitual and violent felons. In such cases the prosecutor can insist on a plea to a charge for which the judge has no choice but to sentence according to the legislative mandate.

In St. Louis, judges are prohibited by law from participating in explicit plea discussions. The circuit attorney's policy is to insist on a plea to the top charge (unless the defense can provide evidence to disprove the charge) or to go to trial. With such a policy, concessions, to the extent they exist, would have to be implicit and based on the defendant's belief that sentences are more severe after trial; as the Georgetown survey notes, empirically it is quite difficult to determine the existence of implicit bargaining.

The district attorneys in New Orleans and Los Angeles have rigorous written policies against plea bargaining. In New Orleans, attorneys typically do not reduce charges or make sentence recommendations, and judges are split roughly 50-50 between those who "won't talk time" and those who actively discuss sentences with the defense. Although the district attorney's anti-plea-bargaining policy is circumvented by some judges, in many cases defendants plead without negotiation by the prosecutor or the judge. The effect of the district attorney's policies on the level of pleas for four crimes is shown in exhibit 15. Approximately 90 percent of robbery, burglary, and assault defendants plead to the top charge. No sentence recommendations are made when defendants plead as charged. If the charge is reduced, then attorneys will recommend a sentence.

In Los Angeles, any negotiation for the purpose of granting charge or sentence concessions in order to obtain a plea is strictly forbidden. Written policies outline who may reduce charges and under what circumstances and how sentence recommendations are to be made. Charge reductions are allowed only when factually justified, and they must receive the approval of a calendar deputy (typically a prosecutor with 12 or more years of experience). The reasons for the reduction must be specified in a written memo. Calendar deputies are also the only attorneys authorized to make limited sentence recommendations of one of three types: State time, local time, or probation. The sentence recommendations are not supposed to indicate specific sentence lengths and are to be made in accordance with written guidelines. Judges in California can, by law, participate in sentence (but not charge) discussions with the defense, but in practice, in Los Angeles they do not do so routinely. The effect of these policies on the level of pleas for robberies and burglaries is indicated in exhibit 16. For each of these crimes at least three-quarters or more of the defendants pled to the most serious charge.

From the defendant's point of view, the charge to which he pleads is of less importance than the sentence he will receive. Exhibit 17 shows for seven jurisdictions the proportion of defendants incarcerated who pled guilty versus those who were convicted at trial. In each of the seven jurisdictions, a higher per centage of defendants who went to trial were incarcerated; the difference was substantial in some jurisdictions.

These data cannot be interpreted to mean that a penalty exists for going to trial, because they do not control for a number of factors, such as the seriousness of the crime and the defendant's prior record, which are likely to be associated with going to trial and with sentence severity. More severe sentences after trial could simply mean that the defendants who commit the most serious crimes and have the longest records are more likely to go to trial. Studies that have attempted to look at the issue of a sentence penalty for trial (and include statistical controls for the types of cases that go to trial) present conflicting results. Rhodes' study of pleas, trials, and sentences in the District of Columbia, for example, found that for burglary, larceny, and assault, defendants who pled guilty were sentenced no differently than those who went to trial. Robbery defendants, it appeared however, were penalized: 43 percent of the robbery pleas received sentences to probation, but only 24 percent of the robbery convictions by trial received probation. The difference remained even after controlling for seriousness of the offense and the defendant's

Percent of guilty pleas (trial stage) to top charges, New Orleans

Robbery	92 %
Burglary	90
Assault	88
Larceny	78

Source: Kathleen B. Brosi, A Cross-City Comparison of Felony Case Processing (INSLAW, 1979).

Exhibit 15

Percent of guilty pleas (trial stage) by charge level, Los Angeles

	% of pleas to: Top charge	Other charge*	Lesser charge
Robbery	74 %	20 %	6 %
Burglary	86	12	2

*May be equivalent or less serious

Source: PROMIS management report, July 1979 to June 1980.

Exhibit 16

Percent of defendants incarcerated after guilty plea vs. percent incarcerated after conviction at trial

Jurisdiction	Guilty pleas	Conviction at trial
Indianapolis	60 %	68 %
Los Angeles	77	80
Louisville	65	78
Milwaukee	48	86
New Orleans	74	84
St. Louis	70	84
Salt Lake	35	59

Exhibit 17

[9]Herbert S. Miller, William F. McDonald, and James A. Cramer, Plea Bargaining in the United States, National Institute of Law Enforcement and Criminal Justice, U.S. Department of Justice (Washington, D.C., 1978).

[10]Michael L. Rubinstein and Teresa J. White, "Alaska's Ban on Plea Bargaining," Law and Society Review 13, no. 2 (1979).

[11]Stevens H. Clarke and Gary G. Koch, "The Effect of the Prohibition of Plea Bargaining on the Disposition of Felony Cases in Alaska," Criminal Courts: A Statistical Analysis (Alaska Judicial Council, 1978).

[12]Rubenstein and White, "Alaska's Ban on Plea Bargaining": 374.

[13]Clarke and Koch, "The Effect of the Prohibition of Plea Bargaining": Exhibit V.1.

[14]William F. McDonald, "From Plea Negotiation to Coercive Justice: Notes on the Respecification of a Concept," Law and Society Review 13, no. 2 (1979): 385.

Percent of filed cases going to trial

Louisville	20 %
Indianapolis	15
New Orleans	15
Kalamazoo	9
Washington, D.C.	9
Los Angeles	8
Salt Lake	8
Milwaukee	7
St. Louis	6
Rhode Island	5
Golden	4
Geneva	3
Manhattan	3
Cobb County	2

Exhibit 18

prior record.[15] Another study, by Uhlman and Walker, of almost 30,000 guilty verdicts in an anonymous Eastern community found that sentences were substantially more severe for defendants convicted by a jury trial than for those who pled guilty or were found guilty by a judge at a bench trial. Their analysis also controlled for severity of the criminal charges and the prior criminality of the defendant.[16]

Trials

As all of the previous discussion has indicated, trials are not a common disposition. Exhibit 18 shows trials as a percentage of all cases filed. In the 14 jurisdictions, the percentage of cases disposed by trial ranges from a high of 20 percent to a low of 2 percent. To some extent the observed variation in trials is due to differences in case-load definitions among jurisdictions. The highest percentage (20%) is in Louisville, where the case load includes only cases presented to the grand jury. One would expect a higher percentage of trials in a jurisdiction like Louisville than in a jurisdiction like Manhattan, where cases filed include all felony arrests, including those charged as misdemeanors. No matter what the measure or the definition of case load, however, no more than 1 in 5 cases is decided by a trial in any jurisdiction.

Despite the lack of frequency, trials still play an important role in the work of the courts. The rules that govern trials set the standards for the evaluation of evidence in the many cases in which the defendant pleads guilty. And many attorneys believe that the most efficient way to manage their case loads (and obtain pleas) is to maintain a credible threat of trial on virtually all accepted felony cases. This means treating all cases in the early stages of case preparation as if they will go to trial even though it is known that most will eventually end in a plea of guilty.[17]

For individual attorneys one of the major attractions of working in a prosecutor's office is the opportunity the job provides for gaining trial experience early in a legal career. The typical career path for an assistant prosecutor is to spend only the first few years after graduation from law school in the prosecutor's office. After one or two years of trial experience, most move on to another job.[18] The significance of trials to young assistants is illustrated by the following account of their career objectives provided by a former district attorney:

> ...a trial assistant in a felony court is among the most valued assignments a young prosecutor can secure. Most assistants serve a substantial apprenticeship—drafting complaints and indictments, trying misdemeanors and preliminary hearings, presenting cases to the grand jury, and perhaps briefing and arguing appeals—before they are given the opportunity to try felony cases. The competition for felony-court assignments is therefore keen, and trial assistants who have climbed the ladder of success sometimes fear that if they lose a significant number of cases, they will be replaced.... the rumors to this effect are false; the District Attorney looks to much more than an assistant's batting average at trial in measuring his ability. Nevertheless, the rumors persist with undiminished force year after year.[19]

It is interesting that although a great deal of effort has been devoted to explaining why most cases end in a guilty plea, much less has been to understanding the reverse: why do some go to trial? Clearly, not all cases are equally likely to go to trial. Exhibit 19 shows trial percentages by crime type for seven jurisdictions. Trial percentages for violent crimes generally are higher than trial percentages for property crime. In all jurisdictions, homicide is the most likely crime to be disposed by trial.

One qualitative study of the circumstances that led public defenders to recommend trial to their clients is that performed by Mather in Los Angeles. Mather suggests there are two aspects of a case that are most critical to the defense counsel's decision. One is the strength of the evidence. The other is the seriousness of the case in terms of the heinousness of the current offense or the defendant's criminal record; either will make a prison sentence upon conviction a likely possibility. Based on consideration of evidence and seriousness, Mather develops a typology of cases and identifies three types most likely to go to trial. In either a serious or non-serious case, if the evidence is sufficiently weak to suggest there is a reasonable doubt that the defendant was involved in the crime, the public defender will recommend a trial. If the evidence is very strong (that is, no conceivably credible explanation for the defendant's innocence can be devised; Mather uses the term "deadbang"), then a trial is not recommended unless the case is very serious. In a very serious case, the defendant is likely to go to prison regardless of whether he pleads guilty or goes to trial and therefore has little to lose by going to trial and a small chance of a considerable gain—acquittal. (It is interesting that the public defenders Mather surveyed did not think judges in Los Angeles sentenced more harshly after trial.)

This analysis is consistent with the data presented here suggesting the most serious cases are more likely to go to trial, especially since the public defenders themselves report that most of the cases they deal with are of the "deadbang" variety, in which questions of evidence usually involve the degree of involvement rather than guilt or innocence. As one attorney put it, "Most of the cases we get are pretty hopeless—really not much chance of acquittal." This statement is supported by the proportions of convictions at trial (exhibit 20).[20] The average proportion convicted at trial is 70 percent.

Percent of filed cases tried, by crime type

	Violent			Property		
Jurisdiction	Homicide	Rape	Robbery	Burglary	Larceny	Drugs
Indianapolis	35 %	24 %	15 %	12 %	13 %	11 %
Los Angeles	25	17	10	5	6	8
Louisville	45	25	29	17	16	12
Milwaukee	30	13	13	3	8	4
New Orleans	30	27	26	13	11	9
St. Louis	20	18	11	4	-	3
Washington, D.C.	29	15	12	8	7	7

Exhibit 19

Percent of cases tried resulting in conviction

Jurisdiction	Percent	Cases tried*
Geneva	96 %	24
Golden	64	63
Indianapolis	77	226
Kalamazoo	68	68
Los Angeles	73	1,966
Louisville	77	296
Manhattan	70	675
Milwaukee	73	198
New Orleans	70	690
Rhode Island	64	111
St. Louis	64	157
Salt Lake	84	137
Washington, D.C.	68	629
Average	70 %	

*PROMIS data augmented by management reports.

Exhibit 20

[15] William M. Rhodes, Plea Bargaining: Who Gains? Who Loses?, PROMIS Research Publication no. 14 (UNSLAW, 1979).

[16] Thomas M. Uhlman and N. Darlene Walker, "He Takes Some of My Time; I Take Some of His: An Analysis of Sentencing Patterns in Jury Cases," Law and Society Review 14, no. 2 (1980).

[17] This view of handling cases is described in David W. Neubauer, Criminal Justice in Middle America (New York: General Learning Press, 1974): 117-118. It also came up repeatedly in our own interviews with attorneys.

[18] James J. Fishman, "The Social and Occupational Mobility of Prosecutors: New York City," in The Prosecutor, ed. William F. McDonald (Beverly Hills, California: Sage Publications, 1979).

A notable exception to this pattern is Los Angeles, where many deputies are career prosecutors with 15 or more years of experience in the Los Angeles district attorney's office.

[19] Quoted in Albert W. Alschuler, "The Prosecutor's Role in Plea Bargaining," University of Chicago Law Review 36 (1968): 110-111.

[20] Lynn A. Mather, "Some Determinants of the Method of Case Disposition: Decision-Making by Public Defenders in Los Angeles," Law and Society Review 8 (Winter, 1973): 187-216.

Sentencing

Whether a defendant pleads guilty or is convicted at trial, an additional court appearance is required before the judge formally imposes a sentence. A sentence hearing is usually held two or three weeks after conviction to allow time for a probation worker to conduct a presentence investigation and submit a written report to the court. The presentence report includes a description of the current offense, the defendant's criminal record, and information on such social and personal characteristics as family background, employment status, marital status, number of dependents, and evidence of drug or alcohol abuse. In some jurisdictions, probation officers also may include their personal assessment of a defendant's prospects for rehabilitation.

Sentencing is generally viewed as a judicial function, although in some areas of the country the responsibility (to a limited extent) is shared with juries. In St. Louis, for example, juries may impose sentences for defendants with no prior convictions who are convicted at trial. Where juries participate in sentencing, the division of authority between the judge and jury and the types of cases in which juries may sentence (capital crimes are most common) are specified by State statutes.

The trend, however, has been away from jury sentencing, and a number of groups have advocated its abolition. Almost 15 years ago the American Bar Association called for an end to jury sentencing on the grounds that it was unprofessional and likely to be arbitrary and subject to popular appeals to emotions.[1]

Opinions as to what role the prosecutor should play in sentencing vary considerably. Some believe prosecutors should not participate at all or play only a limited role. Others think the interests of the public are sacrificed if the prosecutor does not take an active position on appropriate sentences.[2] To some extent an aggressive prosecution stance on sentencing is viewed as a way to provide a judge with critical information on the nature of a crime. The prosecutor, especially when a case is plea bargained, has access to more information on the details of the criminal event than almost any other court participant.[3] The American Bar Association, in its standards on the role of the prosecutor at sentencing, maintains that prosecutors should participate in sentencing by making a sentence recommendation only when requested by a judge or as part of a plea negotiation arrangement.[4]

Practices regarding sentencing recommendations among the jurisdictions included in this report also vary considerably. Some prosecutors recommend sentences only under special circumstances. This is the case in New Orleans, where sentence statements are made in the relatively small number of cases for which charges are reduced. Other jurisdictions routinely make sentence recommendations but of a limited nature, such as in Los Angeles, where deputies indicate a preference only for probation or State prison or jail time. In still other jurisdictions specific recommendations of time are routine. In St. Louis specific sentences are indicated, although the decision regarding probation versus incarceration is considered the prerogative of the judge.

Sentencing patterns

Exhibit 21 shows the proportion of defendants who were arrested for felonies and who were ultimately convicted (either of a felony or a misdemeanor) and sentenced to some form of incarceration. The sentences of incarceration include both sentences to local jails—where sentence lengths may vary from a few days to a year—and sentences to State prisons—where virtually all sentences require that the defendant serve a year or more.

Of the eight jurisdictions in exhibit 21, the highest proportion of defendants incarcerated for all types of felonies combined was that in Los Angeles—77 percent. The proportion in New Orleans, 75 percent, however, was only slightly lower. Of all eight jurisdictions only two, Geneva, Ill., and Rhode Island, had incarceration proportions of less than 50 percent. Much of this difference is attributable to the way these jurisdictions sentence less serious felonies. To see this more clearly, we can focus on separate offense categories.

Almost all recent studies of sentencing show that type of crime is an important variable in explaining sentencing decisions. The most serious crimes generally receive the severest sentences.[5] Exhibit 21 also shows the proportion incarcerated for the crimes of robbery, burglary, and larceny. Consistent with the findings of most sentencing studies, in the eight jurisdictions the proportions incarcerated were generally higher for robbery, a crime of violence (often against strangers), than for burglary and larceny, crimes against property. The average percent incarcerated for robbery across the eight jurisdictions was 81 percent; for burglary and larceny the comparable proportions were 64 percent and 57 percent, respectively. All jurisdictions showed a substantial fraction of incarceration for robbery; all eight showed proportions of 70 percent or higher.

It is interesting, however, that the degree of variation in the percent incarcerated by crime type was slight in some jurisdictions but substantial in others. In Los Angeles, for example, differences in the percent incarcerated by crime type were small, from a high of 83 percent for robbery to a low of 75 percent for larceny. In Rhode Island, on the other hand, differences among crime types were substantial. Seventy percent of the convicted robbers were incarcerated, compared with 31 percent of the burglars and 20 percent of the larcenists. Low overall percentages of incarceration in a jurisdiction appear to be associated with lower percentages of imprisonment for crimes against property. In the two jurisdictions with the lowest overall percentage of incarceration, Geneva and Rhode Island, both had high percentages of incarceration for robbery but much lower percentages for burglary and larceny.

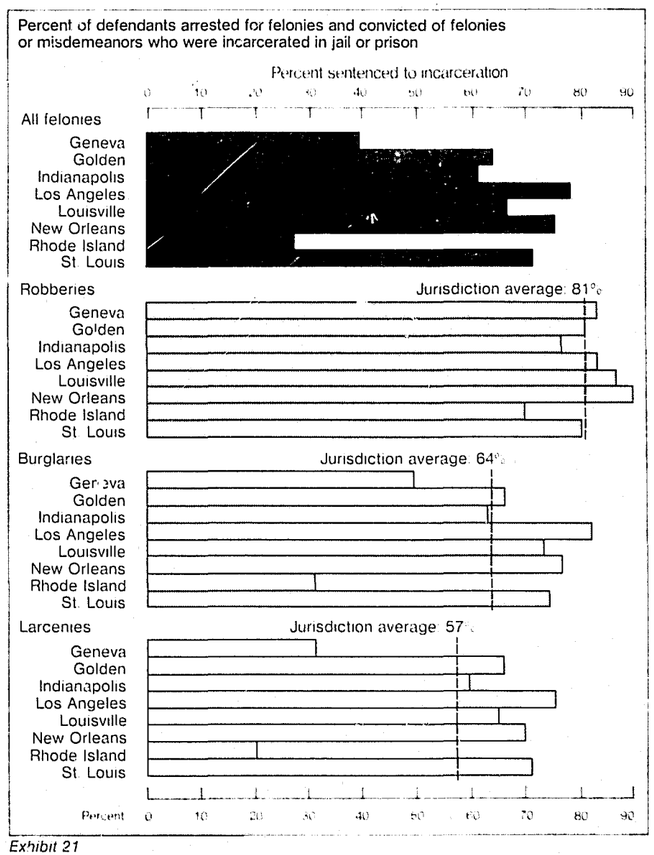


Exhibit 21

Disparity in sentencing decisions

Over the last decade a major issue in the field of criminal justice has concerned the way judges make sentencing decisions and the underlying structure of sentencing laws that governs those decisions. In the early 20th century, the view that prisons should serve to rehabilitate rather than punish became the fundamental principle guiding correctional policy and sentencing. The idea that criminals were to be reformed rather than punished led logically to the view that the amount of time they should spend in prison should be determined by the rehabilitation process rather than the nature of the crime committed. Sentences for a specific crime, therefore, were designed to vary from one defendant to another depending on each individual's capacity for rehabilitation.

To accommodate the rehabilitation goal of prisons, sentencing laws were written to allow a broad range of possible sentences for a given crime. Judges specify either a minimum or a maximum sentence (or both), and the decision as to the actual time served is made by correctional authorities or a parole board. The great discretion accorded judges and parole boards and the potential for disparity inherent in such a system of "indeterminant" sentences have been the focus of considerable controversy and efforts at reform. One of the most eloquent authorities on current sentencing practices, former Federal Judge Marvin E. Frankel, has criticized the "unchecked and sweeping powers we give to judges in the fashioning of sentences" and expressed deep concern that "our laws characteristically leave to the sentencing judge a range of choice that should be unthinkable in a "government of laws, not of men."[6] He maintains that "sentencing is today a wasteland in the law. It calls above all for regulation by law."[7]

A number of legislative proposals have been devised, and in some places enacted, to limit the discretion of judges by making sentences more determinate. One proposal, termed the flat-time sentencing law, would allow judges only a very narrow, legislatively determined range of sentences from which to choose. In 1976 the California legislature adopted a

[1] American Bar Association, "Sentencing Alternatives and Procedures," Section 1.1 (approved draft, 1968).

[2] Earl J. Silbert, former U.S. Attorney for the District of Columbia, address before PROMIS Users Group, Los Angeles, California, April 21, 1977.

[3] James Eisenstein and Herbert Jacob, Felony Justice (Boston: Little, Brown, and Company, 1977): 23.

[4] American Bar Association, "Sentencing Alternatives and Procedures," Section 5.3(b).

[5] Eisenstein and Jacob, Felony Justice: 263-287; Leslie Wilkins, et al., Sentencing Guidelines, Structuring Judicial Discretion, LEAA (Washington, D.C.: Government Printing Office, 1978).

[6] Marvin E. Frankel, Criminal Sentences: Law Without Order (New York: Hill and Wang, 1973): 5.

[7] Quoted in Barbara L. Johnston, et al., "Discretion in Felony Sentencing—A Study of Influencing Factors," Washington Law Review 48, no. 4 (1973): 880.

version of this proposal. The California Uniform Determinate Sentencing Act allows three possible sentences for each crime. Unless mitigating or aggravating circumstances are present, the judge must choose the middle sentence. The basic sentence may also be enhanced if the defendant has a prior record or used a weapon in the current offense. Judges still maintain the discretion to decide whether to sentence a defendant to probation; in other words, prison sentences are not mandatory.

Another proposal to limit discretion is to develop sentencing guidelines. The recently defeated Federal Criminal Code Reform bill included a provision for the institution of a guidelines system for the Federal courts. Under the proposed scheme a Sentencing Commission of nine members would devise sentence guidelines that would specify a range of sentences for each Federal crime. Within this range individual sentences could vary according to certain specified circumstances associated with the offender and the offense. Judges would not, however, be bound by the guidelines.

A growing body of empirical evidence on the sentencing process does suggest that disparity in sentencing exists. Some of the most dramatic documentation that judges differ in the way they sentence comes from simulation studies of sentencing decisions. Judges in a particular jurisdiction are given the same information for a group of hypothetical defendants and asked to determine a sentence for each. One such exercise, performed with Federal judges for 16 hypothetical defendants, found striking variations in sentences among judges for the same defendant. In 9 of the 16 cases, at least one judge recommended no prison at all at the same time that another recommended 20 years in prison.[8]

Other studies of sentencing decisions attempt to determine through sophisticated statistical analyses for large numbers of actual cases what factors judges do take into account in making sentencing decisions. An INSLAW study of sentencing in the District of Columbia found judicial decisions regarding prison versus probation or a suspended sentence were most strongly influenced by a defendant's criminal record and the seriousness of the current offense. The length of sentence was most influenced by the statutory maximum for the offense.[9] These findings are consistent with those reported for other jurisdictions—seriousness of the crime and a defendant's criminal record are invariably key factors.[10] Most such studies also find that these and other offense- and offender-related variables fail to explain fully all variation among sentences. From this, some researchers have inferred that sentencing attitudes of individual judges may account for at least some of the unexplained variation.

[8]INSLAW and Yankelovich, Skelly, and White, Inc., Federal Sentencing, FJRP-81/003 (U.S. Department of Justice, Office for Improvements in the Administration of Justice, May 1981).

[9]Terence Dungworth, An Empirical Assessment of Sentencing Practices in the Superior Court of the District of Columbia, PROMIS Research Publication no. 17 (INSLAW, in draft).

[10]Eisenstein and Jacob, Felony Justice; Wilkins, et al., Sentencing Guidelines.

Length of time for case processing

A criminal defendant's right to a speedy trial is guaranteed by the Sixth Amendment to the Constitution. Determining when this right has been violated, however, is rarely a matter of simple objective fact. Because of the problem of defining what is and is not unreasonable delay, considerable discretion is accorded judges in deciding on a case-by-case basis when a defendant's constitutional right has been denied. The key Supreme Court decision on the requirements of a speedy trial (Barker v. Wingo, 407 U.S. 514, 521 [1972]) spells out four considerations that a judge should weigh in making a decision. Length of delay is important but must be judged in light of the reasons for delay. Deliberate attempts to delay by the government, for example, weigh more heavily in favor of the defendant than such factors as court congestion, which is more neutral. And certain reasons, such as absence of a key witness, are considered valid. The court must also take into account whether the defendant sufficiently asserted his right to a speedy trial and whether delay prejudiced the case against the defendant.

In recent years both State and Federal legislatures have passed new laws to further assure a defendant's right to a speedy trial. These laws, referred to as speedy trial laws, attempt to supplement the imprecise definitions of the Sixth Amendment by introducing quantitative measures of unacceptable delay. The Federal Speedy Trial Act of 1974, passed by Congress in 1975, specifies time standards for each stage in the Federal court process. Thirty days are allowed from arrest to filing of indictment or information, 10 days between indictment and arraignment, and 60 days from arraignment to trial.[1] Certain time periods, such as those associated with defense-requested continuances, are considered excludable time. A number of states have passed statutes modeled after the Federal law and the speedy trial standards of the American Bar Association. These laws differ in a number of respects, such as what kinds of events count as excludable time, but the major difference among them is in the amount of time they allow from arrest to trial. In New York State the time limit is 180 days; in Louisiana, the limit is 730 days, or 2 years, for non-capital offenses, and 1,095 days, or 3 years, for capital cases.[2]

Time from arrest to final disposition

Jurisdiction	Number of months from arrest to disposition: Median	Mean
Cobb County	6.5	8.7
Geneva	1.8	2.9
Golden	6.0	8.4
Indianapolis	4.9	7.2
Kalamazoo	3.8	6.8
Los Angeles	3.1	5.3
Louisville	5.0	7.3
Manhattan	.9	3.2
Milwaukee	3.0	5.6
New Orleans	1.6	3.6
Rhode Island	10.0	14.0
St. Louis	5.0	5.1
Salt Lake	1.9	3.9
Washington, D.C.	2.7	4.9
Average	4.0	6.2

Exhibit 22

The felony prosecution data allow us to look at this key aspect of speedy trial rules by calculating case-processing times from arrest or filing date to final disposition for cases that ended in pleas, dismissals, or trials.

Case-processing times

The mean and median times from arrest to final disposition for filed cases in 14 jurisdictions are presented in exhibit 22. Substantial variation in processing times exist among the jurisdictions. Manhattan has the fastest time from arrest to disposition. One-half of the cases in Manhattan are processed in less than 1 month. Other jurisdictions that process half of all cases in 2 months

[1]Jack Hausner and Michael Seidel, An Analysis of Case Processing Time in the District of Columbia Superior Court (INSLAW, 1981): 1-2.

[2]Thomas Church, Jr., Justice Delayed (Williamsburg, Va: National Center for State Courts, 1978): 48.

Time from arrest to disposition, by type of final disposition (median number of months)

Jurisdiction	Guilty pleas	Guilty trials	Acquittal trials	Dismissals	Total
Cobb County	6.1	5.2	9.5	7.0	6.5
Geneva	2.2	3.2	*	1.4	1.8
Golden	4.3	9.0	7.3	8.4	6.0
Indianapolis	5.0	5.4	5.3	4.2	4.9
Kalamazoo	2.7	11.3	*	7.0	3.8
Los Angeles	3.3	5.8	6.0	1.7	3.1
Louisville	4.5	5.8	5.4	5.4	5.0
Manhattan	.8	8.1	8.4	1.4	.9
Milwaukee	2.9	7.1	7.0	1.6	3.0
New Orleans	1.2	2.6	2.6	2.8	1.6
Rhode Island	8.5	13.2	11.9	14.5	10.0
St. Louis	4.3	7.6	7.4	2.2	5.0
Salt Lake	1.8	4.7	4.3	1.7	1.9
Washington, D.C.	2.5	8.0	8.1	2.1	2.7
Average	3.8	6.9	6.7	4.4	4.0

*Too few cases to estimate

Exhibit 23

Continuances and case-processing times

Jurisdiction	Average no. of continuances per case	Median time from arrest to disposition
Cobb County	1.3	6.5
Kalamazoo	3.4	3.8
Washington, D.C.	3.4	2.7
New Orleans	3.5	1.6
Salt Lake	3.8	1.9
Golden	4.0	6.0
Milwaukee	4.2	3.0
St. Louis	4.3	5.0
Louisville	4.8	5.0
Geneva	4.9	1.8
Los Angeles	5.3	3.1
Rhode Island	5.4	10.0
Indianapolis	5.7	4.9
Average	4.1	4.3

Exhibit 24

or less include New Orleans, Geneva, and Salt Lake. The longest time from arrest to disposition occurred in Rhode Island, where half of the cases took 10 months to process. Other jurisdictions that took median times of 5 months or more to dispose of filed cases include Cobb County, Golden, Louisville, and St. Louis. For Louisville it is important to point out that between the time of arrest and bind over to the grand jury, cases are handled by lower court attorneys and the commonwealth's attorney has no control over the movement of the cases.

Exhibit 23 shows median processing times for each jurisdiction by whether a case ended in a guilty plea, trial, or a dismissal. As one would expect, in most jurisdictions disposition times for trials are longer than disposition times for guilty pleas. The overall median disposition time for trials across jurisdictions is 6.7 to 6.9 months for trials compared with 3.8 months for pleas. Dismissed cases also are generally disposed more rapidly than cases that go to trial (average median time for dismissals is 4.4). There are, however, some exceptions. In Golden, New Orleans, and Rhode Island, dismissals take almost as long (or longer) than trials. In Golden the substantial time for dismissals is primarily a result of the district attorney's program of deferred prosecution. Successfully deferred cases are dismissed as long as 2 years after the initial arrest and case evaluation. In both Rhode Island and New Orleans, most weak cases are eliminated at screening (New Orleans) or at a preliminary hearing prior to filing on the information (Rhode Island). Thus, the dismissed cases not only represent a relatively small percentage of total case attrition but, more important, they are cases that initially appeared sufficiently strong to merit felony prosecution.

In contrast to New Orleans and Rhode Island, a quite different situation occurs in Manhattan. The Manhattan case load represents the final outcome of all felony arrests, including those indicted as felonies as well as those charged as misdemeanors. The short times for dismissals and guilty pleas (1.4 and .8 months, respectively) represent the relatively rapid prosecution process in the lower court, where most of the guilty pleas and dismissals occur. The longer time for trials (about 8 months) represents the slower processing in the upper court, where most trials are held.

Despite these differences in processing times by type of disposition within individual jurisdictions, it is interesting to observe that certain jurisdictions are consistently fast or slow, no matter what the disposition type. Geneva and New Orleans show short disposition times for pleas, trials, and dismissals; Rhode Island shows relatively long times for all three disposition types.

In New Orleans, the district attorney stresses moving cases rapidly and has an office policy of moving filed cases from arraignment to trial in 60 days. The district attorney is in an advantageous position to facilitate this policy, because Louisiana gives legal control of the court calendar to prosecutors. The district attorney's office also attempts to prevent cases from aging by reviewing each week the oldest cases on the docket.

Rhode Island has had a long-standing problem of case backlog and in recent years has initiated a number of innovative programs to deal with the problem.[3] Beginning in 1976 a number of actions were taken to reduce the backlog (6,233 felonies and misdemeanors at the beginning of 1977). As reported in the Cross-City report during 1977,

...the court placed about one-third of the active backlog into an accelerated processing system. All single defendant, private attorney cases were scheduled for pretrial conferences to determine if the case was going to result in plea or trial and to schedule a definite time, date, and judge for that disposition. The court doubled the number of criminal trial judges in order to handle this program (only three of the eight judges handled the 1,546 backlog cases, however; the other five were assigned trials from a pool of about 200 more recent serious crimes).[4]

The results of that effort are apparent in a comparison of the mean case-processing times reported in that report and those calculated here. In 1977 the mean time to disposition for felony cases in Rhode Island was 725 days, or almost 2 years. By 1979, the mean processing time had been reduced to 1 year.

The role of continuances

Prominent among the explanations for lack of speedy dispositions is the role continuances play in increasing delay. Some continuance requests involve substantive legal motions that require a court hearing, which not only adds to the age of a case, but also involves a substantial amount of court time. Other requests, such as those by the defense or prosecution for additional time for case preparation, contribute almost nothing in terms of additional court time but add to the age of the case. Since control of continuances is normally the responsibility of judges, some studies of delay criticize loose continuance policies of judges as a contributor to delay. Although judges want to conserve court time, they also need to get through their daily dockets, and granting of non-substantive continuances is one way to achieve that goal.[5] Other critics have even contended that in addition to reducing delays, "more stringent control of continuances on the part of the court would yield both an increase in convictions and a reduction in costs in terms of police, witnesses, and court time."[6]

Exhibit 24 displays the total number of continuances in 13 jurisdictions, along with case-processing times. Total continuances include continuances that are necessary to move a case through required court proceedings (such as arraignment, preliminary hearing, and the grand jury) and those that result from unscheduled requests or events, such as non-appearance of the defendant.

Clearly there is no simple relationship between continuances and disposition times. Cobb County has relatively long disposition times and very few continuances, and Los Angeles has a fairly high number of continuances and below average disposition times. But still it is interesting to note that if Cobb County is excluded, the four jurisdictions with the lowest number of continuances have shorter than average (2.5 months) disposition times.

Other issues

One of the few cross-jurisdictional studies of delay (in 21 urban courts) came to the conclusion that several of the key explanations for delay appear to have little or no relationship to the actual speed of dispositions. Specifically, case load per judge and the proportion of cases requiring trial did not appear to be related to case-disposition times. A major factor that was found to characterize faster courts was strong case management practices. Among the five courts in which case management practices were studied in depth, the faster courts were found to exert strong control over case movement shortly after filing. At arraignment a relatively firm trial date was set and a tough continuance policy ensured that most cases, if not settled before trial, commenced trial on or shortly after the date set for trial. Pressure to push cases to trial was generally a judicial function, although in one court (New Orleans) the dominant control over the calendar was exercised by the prosecutor. In the slower courts little effort was made to push cases to disposition until much later. Although relatively few cases in all the courts were settled by trial, practitioners indicated in interviews that it was the imminence of trial that causes many cases to be settled.[7]

[3] John Paul Ryan, et al., "Analyzing Court Delay-Reduction Programs: Why do Some Succeed?" Judicature 65, no. 2 (1981).

[4] Kathleen B. Brosi, A Cross-City Comparison of Felony Case Processing (INSLAW, 1979): 58.

[5] Martin A. Levin, "Delay in Five Criminal Courts," Journal of Legal Studies IV, no. 1 (1975).

[6] Laura Banfield and C. David Anderson, "Continuances in the Cook County Criminal Courts," University of Chicago Law Review 35 (1968): 259.

[7] Church, Justice Delayed.

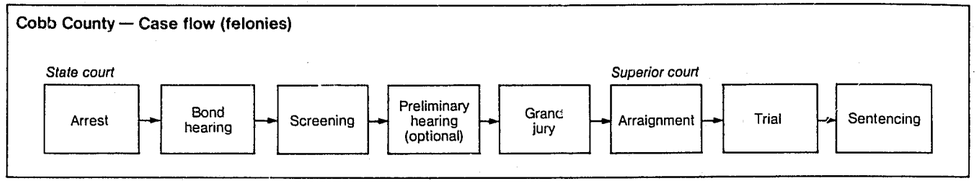
Appendix A

Jurisdictional characteristics

This appendix describes the social, court, and prosecution characteristics of each study jurisdiction. Population and race data, derived from Bureau of the Census reports, refer to calendar year 1980. Unemployment figures were derived from Bureau of Labor Statistics reports and refer to calendar year 1979. The percentage of unemployment quoted is either that for the Standard Metropolitan Statistical Area (SMSA) or the major city of the jurisdiction, depending on which measure most closely approximates the geographic area of a particular jurisdiction.

The court and prosecution characteristics were developed from interviews with prosecutors and court administrators in each jurisdiction. For each jurisdiction, a flow chart of case-processing steps is also provided.

Cobb County, Georgia



Social characteristics

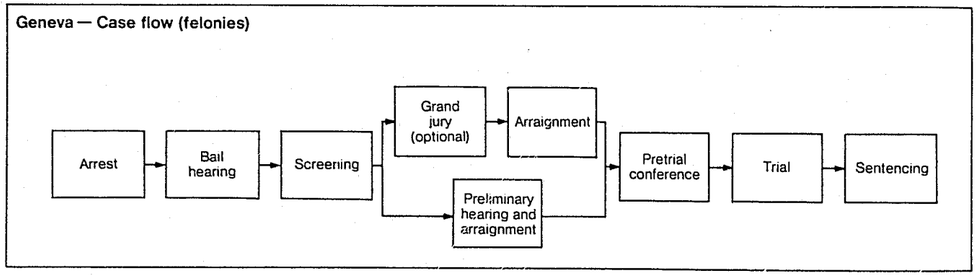
Of the 14 jurisdictions studied, Cobb County experienced one of the highest percentages of population growth—51 percent—between 1970 and 1980. By 1980 the county had close to 300,000 residents. With little or no change in its racial composition during the 1970's, in 1980 Cobb County had one of the highest percentages of white residents (94 percent) of any of the jurisdictions; in 1979, its city employment was 5.7 percent, the overall average for the jurisdictions.

Prosecution characteristics

Cobb County's district attorney has jurisdiction over felonies only; other cases are referred to the solicitor for prosecution in the State court. A staff of 7 attorneys and 1 investigator handles cases from more than 30 law enforcement agencies.

Responsibility for case screening rests with the district attorney, who reviews all warrants. The accepted felony cases are then randomly assigned to assistant district attorneys (with the exception of homicide cases, which are handled only by the district attorney, and drug cases, which are handled only by a narcotics specialist). Although for administrative and calendar purposes the office is organized into two three-person trial teams, there is no case-sharing among attorneys; the assistant originally assigned the case sees it through to final disposition.

Geneva, Illinois (Kane County)



Social characteristics

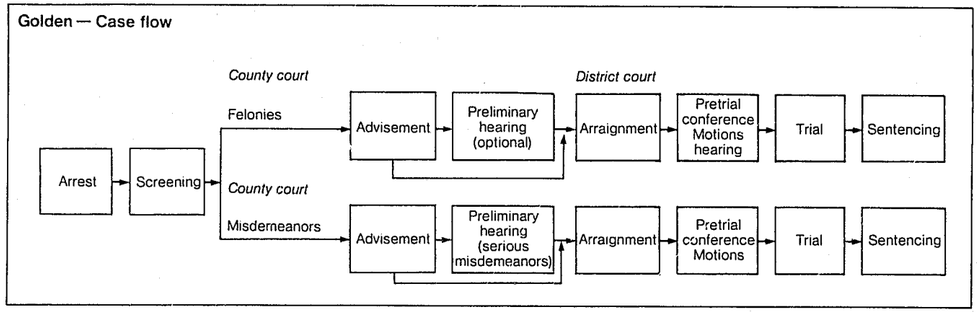
One of the smallest of the 14 jurisdictions, Kane County's population growth for the decade—11 percent—brought the number of county residents in 1980 close to 280,000. While more than 80 percent of its population is white, Kane County has one of the highest proportions of Hispanics, nearly 10 percent. The area's unemployment in 1979 was 5.2 percent, somewhat below the average for the jurisdictions.

Prosecution characteristics

The State's attorney for Kane County has jurisdiction over felonies and misdemeanors. With the assistance of investigators assigned to the State's attorney's office, 17 full-time and 3 part-time prosecutors handle all criminal cases for the county.

The State's attorney or the first assistant performs the screening function. The cases accepted for prosecution will then be referred for either an appearance before the grand jury or a preliminary hearing, where the proceedings will be directed by one of two assistant prosecutors. All subsequent court appearances will be handled by an attorney who has been assigned the case by a supervisor.

Golden Colorado (Colorado First Judicial District)



Social characteristics

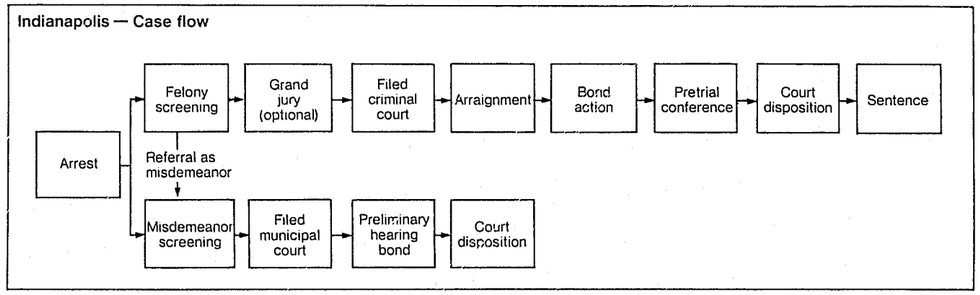
This jurisdiction, consisting of Gilpin and Jefferson counties, was one of the smallest studied. However, its population grew by 58 percent between 1970 and 1980—the largest percentage of increase of any of the study sites. Despite this growth, the racial composition of the area remained constant during the period. In 1980, 91 percent of its estimated 374,200 residents were white. Golden also had the lowest 1979 unemployment—4.9 percent—among the 14 jurisdictions.

Prosecution characteristics

The district attorney has jurisdiction over felonies, misdemeanors, and petty offenses. Felonies are handled in district court; misdemeanors and traffic offenses, in the county court. The district attorney's office has a staff of some 30 attorneys and 7 investigators, who receive cases from 10 law enforcement agencies.

After initial review by a police-prosecution liaison officer, cases are screened by one of two deputy district attorneys responsible for charging. These charging deputies are senior attorneys with felony-trial experience, and they initiate the formal court proceedings against an arrestee. With the exception of a few complex cases that require special attention, once a case has been accepted for prosecution, it will be handled by the same attorney as it proceeds through the system.

Indianapolis, Indiana (Marion County)



Social characteristics

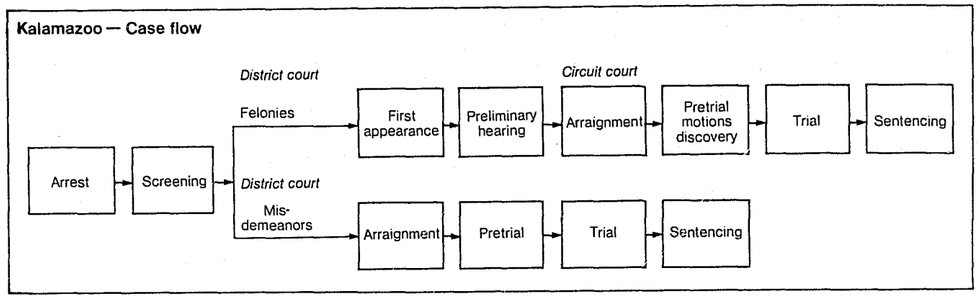
In 1980 Marion County had 765,000 residents, a net loss in population over the 1970's of about 4 percent. The county ranks fifth largest in population among the 14 study jurisdictions. The racial composition of the area, which remained stable during the 1970's, is approximately 78 percent white, 20 percent black, and 2 percent other. Of the 14 jurisdictions, Marion County had an average unemployment of 6.1 percent in 1979.

Prosecution characteristics

The Marion County prosecuting attorney has jurisdiction over felonies and misdemeanors. Felonies are handled in the criminal court; misdemeanors are prosecuted in municipal court by a separate division of the prosecutor's office. Seventy-five prosecutors receive cases from more than 30 law enforcement agencies.

Two or three assistants are assigned to screening. Cases that are accepted for prosecution are routed to one of four major divisions within the office. Within each division cases are prosecuted vertically.

Kalamazoo County, Michigan



Social characteristics

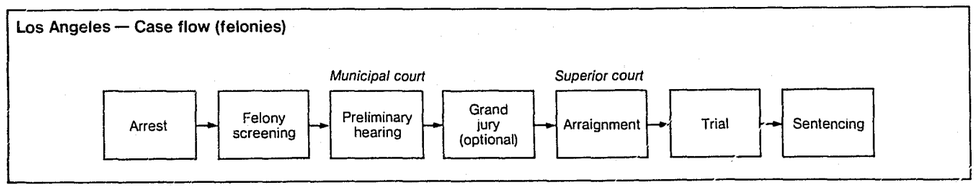
This western Michigan county with just over 210,000 residents in 1980 is the smallest of 14 jurisdictions. Over the decade, the low percentage of growth (5 percent) affected Kalamazoo's racial mixture only slightly; the proportion of blacks in the community rose from 2 to 7 percent. The city of Kalamazoo in 1979 had one of the highest unemployment percentages of the jurisdictions studied—6.4 percent.

Prosecution characteristics

The prosecuting attorney for Kalamazoo County has jurisdiction over all felonies and serious misdemeanors. A staff of 17 attorneys handles cases brought by 10 law enforcement agencies.

Screening is performed by two staff attorneys on a rotating basis. Although the office adheres to a policy of horizontal prosecution, career criminal cases are assigned to attorneys who handle all criminal proceedings for those cases.

Los Angeles County, California



Social characteristics

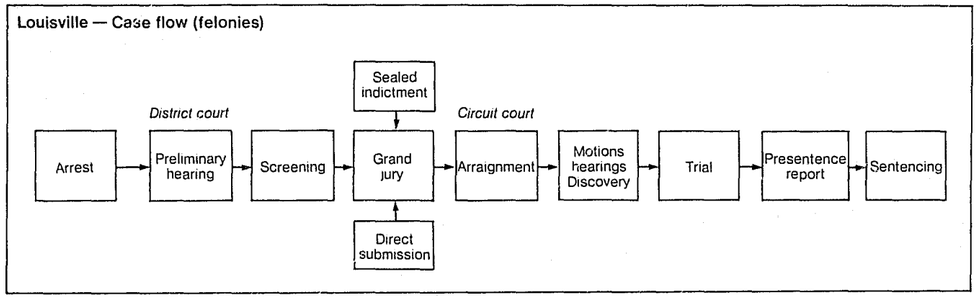
The largest of the jurisdictions studied, Los Angeles County had a population in 1980 of nearly 7.5 million. While the county's population growth for the 1970's was only 6 percent, its racial composition changed significantly during the decade; the Hispanic population of the area doubled, from 14 to 28 percent of the total population. In 1980, blacks and Hispanics accounted for 41 percent of the total population. The city of Los Angeles' unemployment was 6.2 percent in 1979.

Prosecution characteristics

The district attorney for Los Angeles County has jurisdiction over all felonies, and in the areas of the county without a local prosecutor, misdemeanors. Whenever possible, misdemeanors are referred to city prosecutors. Misdemeanors are prosecuted in municipal court; felonies are prosecuted in superior court once they pass the preliminary hearing stage. Five hundred and twenty deputy district attorneys in 8 branch offices receive cases from more than 57 law enforcement agencies.

Approximately 20 deputy district attorneys are assigned to screening. Filed cases are handled by the same prosecutor while they are in the system.

Louisville, Kentucky (Jefferson County)



Social characteristics

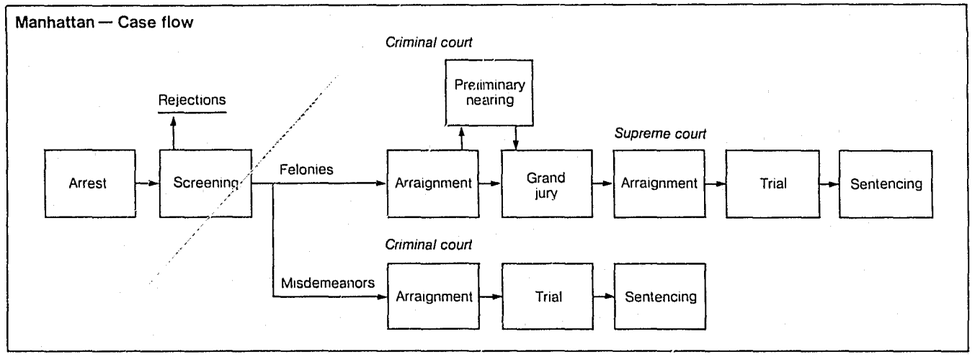
This area of just under 685,000 inhabitants showed a slight decrease in population in the second half of the decade, with an overall net decline of 1.5 percent. The proportion of blacks in the community doubled during the 1970's—from 8 to 16 percent. The area's unemployment of 5.2 percent was lower than the average for the areas studied.

Prosecution characteristics

The commonwealth's attorney has jurisdiction over all felonies and a small number of misdemeanors that have been appealed from the lower court. Although some 66 law enforcement agencies bring cases to the 30 prosecutors in the office, the bulk of the cases (95 percent) are received from the Jefferson County and Louisville police departments.

Most of the cases the commonwealth's attorney prosecutes are bound over from the district court. The initial responsibility of the office is to present the case to the grand jury. The five persons assigned to the screening unit pre-screen cases before grand jury presentment and handle grand jury presentments on monthly rotation, one attorney each month. A trial division chief then assigns the case to an attorney, who is responsible for all subsequent criminal proceedings.

Manhattan, New York (New York County)



Social characteristics

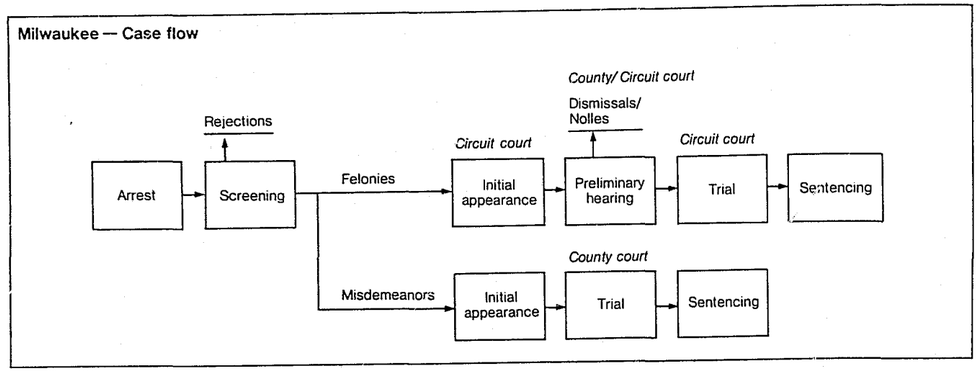
Despite a net loss in population of 7 percent over the decade, in 1980 Manhattan's 1.5 million residents made it the second largest jurisdiction studied. The proportion of blacks in Manhattan declined slightly (3 percent) during the 1970's. In 1980, 35 percent of the population was white, 24 percent Hispanic, 22 percent black, and 19 percent other. Unemployment for the city in 1979, 8.7 percent, was the highest among all 14 study jurisdictions.

Prosecution characteristics

The office of the district attorney for New York County has jurisdiction over felonies and misdemeanors. A staff of 265 attorneys prosecutes all arrests in the borough of Manhattan.

Experienced trial attorneys from six trial bureaus rotate into the complaint room 1 day per week to screen felony arrests. Cases that are accepted for felony prosecution are handled vertically in the Supreme Court by the assistant district attorney who screened the case.

Milwaukee County, Wisconsin



Social characteristics

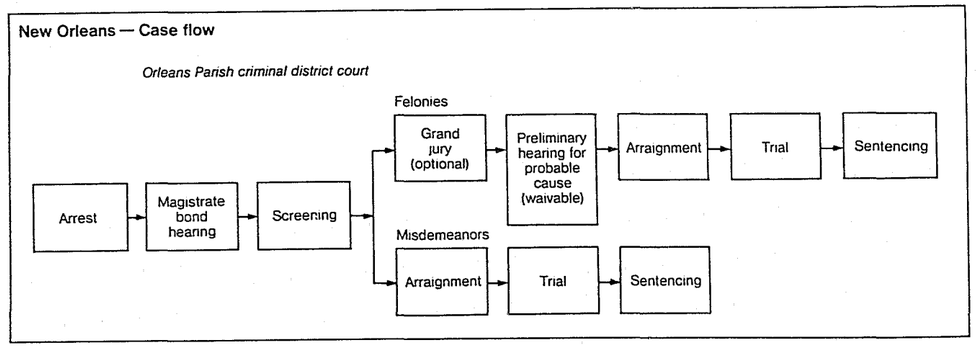
Milwaukee, the third largest area studied, experienced one of the sharpest declines in population during the decade. By 1980 it had 965,000 residents, fewer by 9 percent than its 1970 population. The proportion of black residents increased by 5 percent to 15 percent of the total population. Milwaukee's unemployment of 4.7 percent was one of the lowest of the 14 study jurisdictions.

Prosecution characteristics

The district attorney's office has a staff of 58 prosecutors, who receive cases from 24 law enforcement agencies. The office prosecutes misdemeanor and felony complaints.

The office pursues a policy of vertical prosecution. Charging is rotated weekly among trial teams composed of three assistants.

New Orleans, Louisiana (Orleans Parish)



Social characteristics

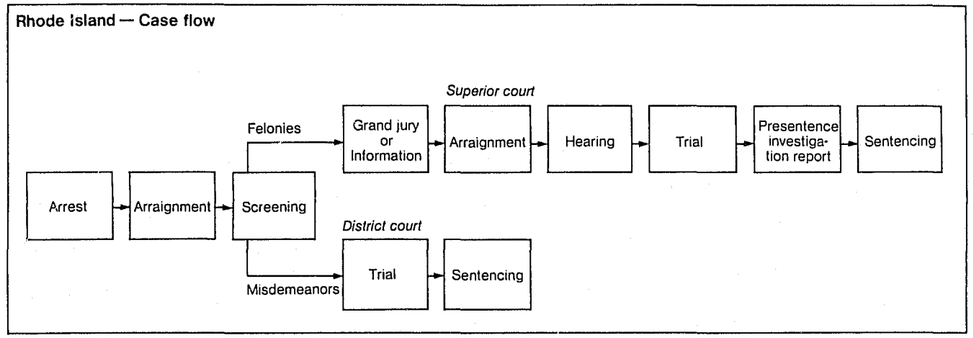
An area whose population declined over the decade by 6 percent, Orleans Parish had 557,000 residents in 1980. During the 1970's, the proportion of blacks in the community rose by 10 percent to 55 percent of the population; only Washington, DC, had a higher percentage of black residents. Unemployment in Orleans Parish was 6.5 percent, the third highest of the jurisdictions studied.

Prosecution characteristics

The district attorney of New Orleans has jurisdiction over felonies and misdemeanors. A staff of 52 prosecutors handles cases from 6 law enforcement agencies.

Nine experienced deputy district attorneys are responsible for case screening; one each for homicide, sex offenses, armed robberies, and narcotics, and five to all other cases. The office maintains a policy of vertical prosecution.

Rhode Island



Social characteristics

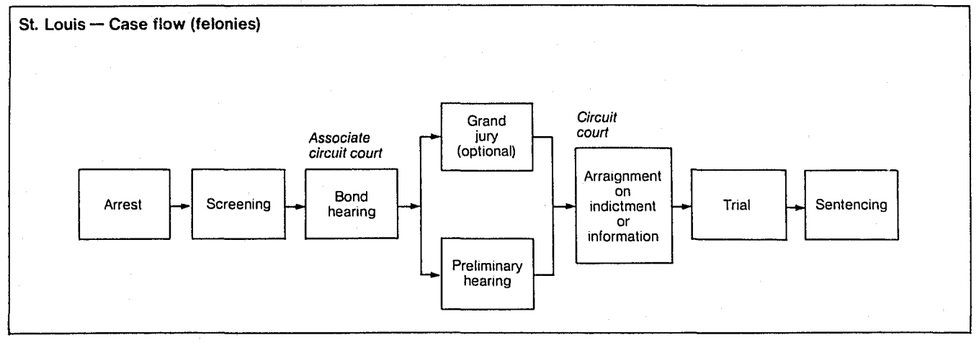
The only State among the jurisdictions studied, Rhode Island experienced a slight decrease in population (0.3 percent) over the decade. In 1980 it numbered 947,000 residents. The racial composition of the area remained stable—96 percent white, 3 percent black, and 2 percent other. Rhode Island's 6.7 percent unemployment was second only to Manhattan's among the jurisdictions studied.

Prosecution characteristics

The attorney general's office has jurisdiction over felonies and serious misdemeanors. Those misdemeanors for which a jury trial has been waived are referred to city solicitors. Some 44 law enforcement agencies bring cases to the office's 20 prosecutors.

The information-charging unit of three experienced attorneys screens all felony cases. Cases are then assigned to individual prosecutors who are responsible for their prosecution.

St. Louis, Missouri



Social characteristics

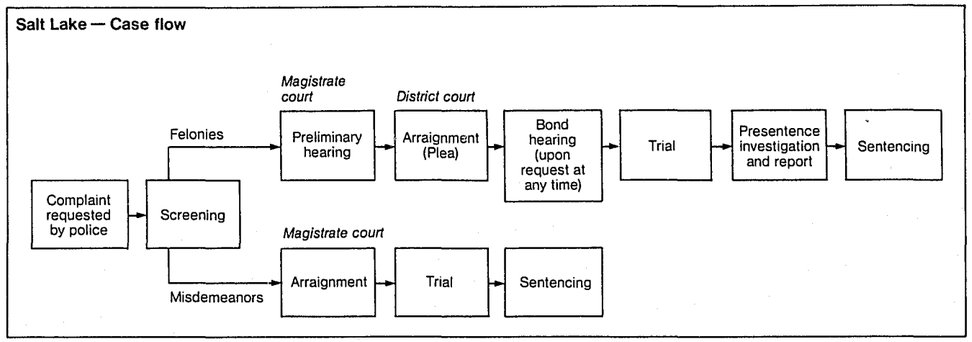
The only city among the jurisdictions studied, St. Louis experienced the sharpest decline in population over the decade of any jurisdiction studied. A net loss of 27 percent brought the population in 1980 to 453,000. In 1980, 46 percent of the total city population was black. In 1979, the city's unemployment was 6 percent.

Prosecution characteristics

The circuit attorney of St. Louis has jurisdiction over felonies and serious misdemeanors. The office has a staff of 45 attorneys; 6 are assigned to the associate circuit court, 5 to child-support cases, and the remaining 34 to handling felony cases or supervisory positions.

Five teams of four trial attorneys each rotate into the warrant room weekly to screen cases. A case may be handled by several different attorneys at the associate circuit court level, where bond and preliminary hearings are held, but once a case reaches the circuit court it is prosecuted by the attorney who originally screened the case.

Salt Lake County, Utah



Social characteristics

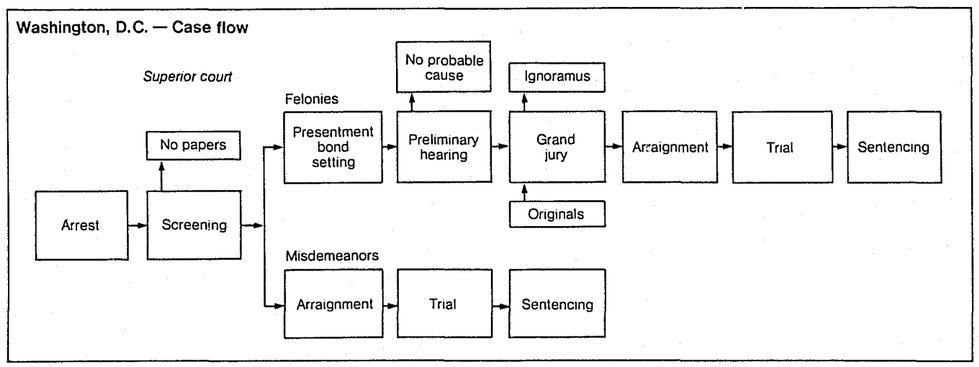
Only two of the jurisdictions studied experienced higher population growths during the 1970's than Salt Lake County. By 1980 its population had grown by 35 percent, bringing the number of residents to 620,000. The proportion of blacks in the community is very small—about 1 percent in 1980. The city of Salt Lake had one of the lowest unemployment percentages—4.5 percent.

Prosecution characteristics

The county attorney has jurisdiction over felonies and misdemeanors. Thirty assistant prosecutors receive cases from nine law enforcement agencies.

The screening unit is staffed by trial attorneys from the criminal division. Assignment to the unit is rotated on a daily basis. Cases accepted for prosecution are handled by the attorney who screened the case.

Washington, D.C.



Social characteristics

Washington, DC, with a 1980 population of 638,000, is near the median in size of the study jurisdictions. Its population decreased during the decade by 16 percent, which is second only to St. Louis. The proportion of blacks in the area, the highest among the jurisdictions, remained stable at about 70 percent throughout the decade. In 1979 it had a lower-than-average unemployment percentage—4.5 percent.

Prosecution characteristics

The Office of the United States Attorney for the District of Columbia has jurisdiction over misdemeanors and felonies, local and Federal. Cases considered in the report, however, are those that are local in nature and are processed in the Superior Court for the District of Columbia. A staff of 71 attorneys prosecutes non-Federal cases; 17 are assigned to the grand jury, 22 to misdemeanors, and 32 to felonies.

Five assistant U.S. Attorneys are assigned to screening. Cases accepted for prosecution are handled horizontally.

Appendix B

Case-processing patterns by crime type

Homicide

Data were available from the following jurisdictions: Indianapolis, Los Angeles, Louisville, Milwaukee, New Orleans, and St. Louis.

Percentage of case load

Homicides represented 7 percent of the case load in New Orleans; 6 percent in Indianapolis, Louisville, and St. Louis; 4 percent in Los Angeles; and 3 percent in Milwaukee.

Dispositions

Screening results reveal that prosecutors rejected up to 43 percent of the homicide arrests and referred up to 14 percent for other prosecution, as shown below.

Jurisdiction	N	Rejected	Referred
Indianapolis	111	6 %	14 %
Los Angeles	1,275	29	1
New Orleans	469	43*	3

*Includes cases diverted.

As depicted in table 1, in all six jurisdictions guilty pleas were the major post-filing disposition, followed by either trial convictions or dismissals. Of all crime types, the homicide dismissal percentage was the lowest. Generally, both convictions at trial and total conviction percentage for homicide were high, between 14 and 39 percent and between 62 and 83 percent, respectively.

Reasons for terminated cases

The only two jurisdictions that rejected a significant number of homicide arrests at screening, Los Angeles and New Orleans, overwhelmingly cited witness and evidence problems as the reason for case terminations (table 2). As indicated in table 3, for those arrests that were filed by the prosecutor but were subsequently dismissed or nolled, witness and evidence problems, again, were frequently given as the cause, along with "office policy" and "other."

Median case-processing time to selected outcomes

Among the jurisdictions included in table 4, the largest variation in case-processing time occurs at the trial stage. In Los Angeles and Louisville, the median time to conviction at trial was 8 months, twice as long as the time to a trial conviction in New Orleans.

Incarceration

Not surprisingly, the percentages of incarceration were higher for homicide than for most crime types; in all jurisdictions in table 5, 75 percent or more of the defendants convicted of homicide were incarcerated.

Table 1. Dispositions from filing through trial: homicide

Jurisdiction	N	Guilty pleas	Trial convictions	Total guilty	Dismissals	Referrals	Acquittals
Indianapolis	89	46 %	34 %	80 %	19 %	0 %	1 %
Los Angeles	896	52	19	71	19	3	7
Louisville	89	44	39	83	11	0	6
Milwaukee	77	57	22	79	13	0	8
New Orleans	257	55	23	78	15	0	7
St. Louis	205	48	14	62	31	0	7

Table 2. Results at screening: homicide

		Rejected (reason)							
Jurisdiction	N	Witness	Evidence	Office policy	Due process	Plea bargain	Other	Diversion	Referral
Los Angeles	379	2 %	69 %	20 %	*	0	5 %	0	4 %
New Orleans	212	27	38	19	1 %	0	0	9 %	6

* = less than 1 percent

Table 3. Reasons for nolles and dismissals: homicide

		Reason							
Jurisdiction	N	Witness	Evidence	Office policy	Due process	Plea bargain	Other	Diversion	Referral
Los Angeles	201	19 %	6 %	25 %	3 %	1 %	33 %	2 %	12 %
New Orleans	38	16	18	18	5	8	29	5	0
St. Louis	61	30	16	26	0	2	26	0	0

Table 4. Median case-processing times, in months, for selected outcomes: homicide (N)

Jurisdiction	Dismissals	Guilty pleas	Guilty trials	Acquittals
Indianapolis		(41) 5		
Los Angeles	(201) 3	(469) 6	(158) 8	(63) 7
Louisville		(39) 7	(35) 8	
Milwaukee		(44) 5		
New Orleans	(38) 5	(141) 2	(60) 4	
St. Louis	(65) 5	(97) 7		

Note: A blank indicates too few cases to make a reliable estimate. Median time to outcome was calculated from either arrest or prosecutor's screening date.

Table 5. Incarceration: homicide

Jurisdiction	Given guilt, percent incarcerated	Total number guilty
Indianapolis	83 %	71
Los Angeles	82	632
Louisville	82	74
New Orleans	85	202
St. Louis	75	126

Sexual assault

Data were available from the following jurisdictions: Golden, Indianapolis, Los Angeles, Louisville, Milwaukee, New Orleans, Rhode Island, St. Louis, and Salt Lake.

Percentage of case load

As a percentage of total case load, sexual assaults represented 8 percent of the case load in Milwaukee and Louisville; 7 percent in Indianapolis; and 5 percent or less in the other jurisdictions.

Dispositions

At screening, prosecutors rejected up to 58 percent of the sexual assault cases and referred up to another 20 percent, as shown below.

Jurisdiction	N	Rejected	Referred
Golden	51	4 %	-
Indianapolis	145	4	20 %
Los Angeles	2,722	46	13
New Orleans	160	58*	19
Salt Lake	107	34	4

*Includes cases diverted.

In all nine of the jurisdictions, guilty pleas and trial convictions accounted for between 53 and 75 percent of the post-filing dispositions; nolles and dismissals made up between 19 and 38 percent of the case outcomes (table 6).

Reasons for terminated cases

As indicated in table 7, in three of the four jurisdictions witness and evidence problems seem to account for the majority of sexual assault case terminations at screening. Indianapolis refers for other prosecution a substantial portion of its sexual assault declinations, as does Los Angeles, to a lesser extent. Witness problems were most often responsible for post-filing dismissals in the two jurisdictions in table 8.

Median case-processing time to selected outcomes

The median time to disposition for cases that resulted in guilty pleas ranged from a low of 2 months in Salt Lake to a high of 10.5 months in Rhode Island. Los Angeles, with an overall mid-range time to plea of 5 months, took only slightly longer to dispose of its sexual assault cases at trial—7 months (table 9).

Incarceration

Incarceration (table 10) varies from a low of 47 percent in Rhode Island to a high of 84 percent in New Orleans.

Table 6. Dispositions from filing through trial: sexual assault

Jurisdiction	N	Guilty pleas	Trial convictions	Total guilty	Dismissals	Referrals	Acquittals
Golden	49	57 %	4 %	61 %	35 %	0	4 %
Indianapolis	110	49	20	69	27	0	4
Los Angeles	1,116	61	12	73	21	1 %	5
Louisville	121	56	19	75	19	0	6
Milwaukee	201	62	7	69	25	0	7
New Orleans	66	50	15	65	21	2	12
Rhode Island	87	57	8	65	24	0	10
St. Louis	123	44	9	53	38	0	9
Salt Lake	67	61	9	70	24	0	6

Table 7. Results at screening: sexual assault

		Rejected (reason)							
Jurisdiction	N	Witness	Evidence	Office policy	Due process	Plea bargain	Other	Diversion	Referral
Indianapolis	35	14 %	0	0	0	0	3 %	0	83 %
Los Angeles	1,606	18	55 %	3 %	*	0	1	*	22
New Orleans	94	54	28	7	0	0	0	10 %	1
Salt Lake	40	23	55	10	0	0	0	3	10

* = less than 1 percent

Table 8. Reasons for nolles and dismissals: sexual assault

		Reason							
Jurisdiction	N	Witness	Evidence	Office policy	Due process	Plea bargain	Other	Diversion	Referral
Los Angeles	243	31 %	6 %	29 %	5 %	4 %	19 %	*	6 %
St. Louis	38	50	24	8	0	0	18	0	0

* = less than 1 percent

Table 9. Median case-processing times, in months, for selected outcomes: sexual assault (N)

Jurisdiction	Dismissals	Guilty pleas	Guilty trials	Acquittals
Indianapolis		(54) 5		
Los Angeles	(243) 2	(675) 5	(137) 7	(54) 7
Louisville		(68) 5		
Milwaukee	(51) 3	(124) 5		
Rhode Island		(50)10.5		
St. Louis	(42) 2	(54) 6		
Salt Lake		(41) 2		

Note: A blank indicates too few cases to make a reliable estimate. Median time to outcome was calculated from either arrest or prosecutor's screening date.

Table 10. Incarceration: sexual assault

Jurisdiction	Given guilt, percent incarcerated	Total number guilty
Indianapolis	76 %	76
Los Angeles	77	819
Louisville	59	91
New Orleans	84	43
Rhode Island	47	57
St. Louis	83	65

Robbery

Data were available from Geneva, Golden, Indianapolis, Los Angeles, Louisville, Manhattan, Milwaukee, New Orleans, Rhode Island, St. Louis, Salt Lake, and Washington, D.C.

Percentage of case load

Robberies constituted 22 percent of the total case load in Washington, D.C.; 19 percent in Indianapolis; 16 percent in Manhattan; 15 percent in Los Angeles; 13 percent in New Orleans and St. Louis; 12 percent in Louisville; 11 percent in Milwaukee; 7 percent in Geneva and Salt Lake; 6 percent in Rhode Island; and 4 percent in Golden.

Dispositions

Prosecutors rejected up to 45 percent of the robbery arrests at screening and referred up to an additional 20 percent. The percentages were as follows:

Jurisdiction	N	Rejected	Referred
Cobb County	92	26 %	0
Golden	67	4	0
Indianapolis	372	2	20 %
Los Angeles	6,136	38	6
Manhattan	4,037	4	1
New Orleans	922	45*	0
Salt Lake	202	29	4
Washington, D.C.	1,736	26	0

*Includes cases diverted.

For all of the jurisdictions, guilty pleas and trial convictions were the dominant post-filing dispositions; in five of the jurisdictions they represented between 75 and 90 percent of the case outcomes (table 11). Dismissals were the second most common disposition. Acquittals ranged from 0 to 9 percent of the robbery filings.

Reasons for terminated cases

In only two jurisdictions were robbery arrests declined at screening in substantial numbers for reasons other than witness or evidence problems; in Washington, D.C., 46 percent were rejected for "other" reasons; in Indianapolis 89 percent were referred for other prosecution (table 12). As indicated in table 13, filed robbery cases were most often terminated for witness and evidence problems. "Office policy," "plea bargain," and "other" were also cited frequently.

Median case-processing time to selected outcomes

Only four of the jurisdictions in table 14 have a sufficient number of cases to permit comparison across the categories—dismissals, guilty pleas, and trial convictions. Of the four, New Orleans appears to process robbery cases most rapidly, with little variation in processing time, irrespective of final disposition. Washington, D.C., handles its cases more slowly—the median time to a trial conviction was 9 months, 6 months more than time to plea. Processing times for Los Angeles and Manhattan fell between those extremes.

Incarceration

Incarceration percentages for robbery were generally quite high. In all 8 jurisdictions in table 15, incarceration was 70 percent or greater.

Table 11. Dispositions from filing through trial: robbery

Jurisdiction	N	Guilty pleas	Trial convictions	Total guilty	Dismissals	Referrals	Acquittals
Geneva	68	44 %	7 %	51 %	44 %	4 %	0
Golden	64	52	5	57	42	0	2 %
Indianapolis	289	68	9	77	16	1	6
Los Angeles	3,415	66	8	74	21	3	3
Louisville	175	61	22	83	11	0	6
Manhattan	3,831	54	1	55	42	2	1
Milwaukee	292	71	10	81	16	0	2
New Orleans	502	62	17	79	13	*	9
Rhode Island	210	86	3	89	8	0	3
St. Louis	437	60	6	66	29	0	5
Salt Lake	136	55	14	69	30	0	1
Washington, D.C.	1,529	46	8	54	42	0	4

* = less than 1 percent

Table 12. Results at screening: robbery

Jurisdiction	N	Rejected (reason)						Diversion	Referral
		Witness	Evidence	Office policy	Due process	Plea bargain	Other		
Indianapolis	83	1 %	7 %	0	0	0	2 %	0	89 %
Los Angeles	2,721	15	68	2 %	1 %	0	2	*	13
Manhattan	206	26	47	12	0	0	3	0	12
New Orleans	420	51	36	8	1	0	0	5 %	1
Salt Lake	66	30	41	6	0	0	8	3	12
Washington, D.C.	207	25	22	7	1	0	46	0	0

* = less than 1 percent

Table 13. Reasons for nolles and dismissals: robbery

Jurisdiction	N	Reason							
		Witness	Evidence	Office policy	Due process	Plea bargain	Other	Diversion	Referral
Indianapolis	49	22 %	29 %	0	0	31 %	14 %	0	4 %
Los Angeles	817	32	6	23 %	3 %	3	20	0	14
Manhattan	1,697	65	12	11	4	*	2	1%	5
New Orleans	64	27	25	22	0	5	19	2	0
Salt Lake	41	37	10	0	0	51	0	0	2
St. Louis	125	30	21	12	0	2	35	0	0
Washington, D.C.	631	79	21	0	0	0	0	0	0

* = less than 1 percent

Table 14. Median case-processing times, in months, for selected outcomes: robbery (N)

Jurisdiction	Dismissals	Guilty pleas	Guilty trials	Acquittals
Geneva				
Golden				
Indianapolis	(48) 3	(197) 5		
Los Angeles	(817) 1	(2,217) 3	(261) 5	(93) 5
Louisville		(106) 3	(39) 7	
Manhattan	(1,702) 1	(2,053) 2	(48) 8	
Milwaukee	(47) 3	(206) 4		
New Orleans	(64) 2	(307) 1	(86) 3	(43) 3
Rhode Island		(181) 7		
St. Louis	(127) 3	(262) 5		
Salt Lake	(41) 1	(75) 2		
Washington, D.C.	(642) 1	(704) 3	(118) 9	(64) 7

Note: A blank indicates too few cases to make a reliable estimate. Median time to outcome was calculated from either arrest or prosecutor's screening date.

Table 15. Incarceration: robbery

Jurisdiction	Given guilt, percent incarcerated	Total number guilty
Geneva	83 %	35
Golden	81	36
Indianapolis	76	223
Los Angeles	83	2,505
Louisville	87	145
New Orleans	90	395
Rhode Island	70	187
St. Louis	80	289

Burglary

Data were available from Geneva, Golden, Indianapolis, Kalamazoo, Los Angeles, Louisville, Manhattan, Milwaukee, New Orleans, Rhode Island, St. Louis, Salt Lake, and Washington, D.C.

Percentage of case load

Burglaries were 29 percent of the total case load in Kalamazoo; 24 percent in Rhode Island; 23 percent in Milwaukee; 22 percent in Geneva and New Orleans; 21 percent in Indianapolis, St. Louis, and Salt Lake; 20 percent in Los Angeles; 17 percent in Washington, D.C.; 16 percent in Golden and Louisville; and 13 percent in Manhattan.

Dispositions

As shown below, prosecutors rejected up to 37 percent of the burglary arrests at screening and referred up to 20 percent of the cases.

Jurisdiction	N	Rejected	Referred
Cobb County	363	19 %	2 %
Golden	284	2	-
Indianapolis	390	7	13
Los Angeles	8,591	27	20
Manhattan	3,243	5	*
New Orleans	1,350	37**	4
Salt Lake	519	22	2
Washington, D.C.	1,281	10	*

*Less than 1 2 of 1 percent.
**Includes diverted cases.

Guilty pleas were the most common post-filing disposition, followed by dismissals and nolles. While trial convictions were relatively rare, acquittals and referrals were the least frequent case outcome (table 16).

Reasons for terminated cases

In all but two jurisdictions in table 17, witness and evidence problems accounted for over half of the burglary declinations at screening. In Indianapolis nearly two-thirds of all rejections were referred for other prosecution, and in Washington, D.C., nearly one-half were declined for "other" reasons. Los Angeles also referred a large number of burglary cases.

Evidence and witness problems were responsible for over 50 percent of the terminations of filed burglary cases in four of the eight jurisdictions shown in table 18. Plea bargains and diversions also accounted for a significant number of terminations in several of the jurisdictions.

Median case-processing time to selected outcomes

For those categories in which the data in table 19 permit comparison, wide variation in case-processing times among jurisdictions seems to be the rule.

Incarceration

Incarceration for convicted burglaries ranged between 31 and 83 percent in the nine jurisdictions in table 20.

Table 16. Dispositions from filing through trial: burglary

Jurisdiction	N	Guilty pleas	Trial convictions	Total guilty	Dismissals	Referrals	Acquittals
Geneva	201	60 %	3 %	63 %	36 %	1 %	1 %
Golden	279	50	3	53	47	*	1
Indianapolis	314	77	10	87	11	0	3
Kalamazoo	187	58	1	60	40	0	1
Los Angeles	4,533	72	4	76	21	2	1
Louisville	237	73	14	87	10	0	3
Manhattan	3,088	73	1	74	25	1	*
Milwaukee	611	82	3	85	15	0	1
New Orleans	842	79	9	88	9	0	4
Rhode Island	819	87	1	88	11	0	2
St. Louis	724	69	2	71	28	0	2
Salt Lake	396	67	5	72	27	1	1
Washington, D.C.	1,156	58	6	64	34	0	2

* = less than 1 percent

Table 17. Results at screening: burglary

		Rejected (reason)							
Jurisdiction	N	Witness	Evidence	Office policy	Due process	Plea bargain	Other	Diversion	Referral
Indianapolis	76	1 %	20 %	5 %	0	0	8 %	0	66 %
Los Angeles	4,058	5	48	2	2 %	0	2	*	43
Manhattan	155	18	56	21	3	0	1	0	2
New Orleans	508	44	39	6	2	0	0	9 %	1
Salt Lake	123	15	65	6	4	0	1	2	7
Washington, D.C.	125	13	33	6	1	0	46	0	1

* = less than 1 percent

Table 18. Reasons for nolles and dismissals: burglary

		Reason							
Jurisdiction	N	Witness	Evidence	Office policy	Due process	Plea bargain	Other	Diversion	Referral
Geneva	76	17 %	13 %	7 %	4 %	47 %	5 %	3 %	4 %
Golden	133	8	15	5	12	20	12	27	1
Los Angeles	1,036	24	5	16	4	18	22	*	11
Manhattan	797	43	12	36	2	0	1	3	3
New Orleans	72	28	25	15	3	10	6	14	0
St. Louis	193	45	16	7	0	1	32	0	0
Salt Lake	110	15	19	5	0	57	0	2	3
Washington, D.C.	385	86	14	0	0	0	0	0	0

* = less than 1 percent

Table 19. Median case-processing times, in months, for selected outcomes: burglary (N)

Jurisdiction	Dismissals	Guilty pleas	Guilty trials	Acquittals
Geneva	(76) 1	(120) 2		
Golden	(133) 9	(138) 5		
Indianapolis		(241) 4		
Kalamazoo	(75) 3	(109) 2		
Los Angeles	(1,034) 1	(3,263) 3	(157) 5	(61) 7
Louisville		(173) 4		
Manhattan	(804) 3	(2,257) 1		
Milwaukee	(92) 1	(496) 2		
New Orleans	(72) 2	(660) 1	(73) 2	
Rhode Island	(86)11	(713) 7		
St. Louis	(199) 2	(498) 4		
Salt Lake	(110) 1	(264) 2		
Washington, D.C.	(390) 2	(673) 3	(67) 6	

Note: A blank indicates too few cases to make a reliable estimate. Median time to outcome was calculated from either arrest or prosecutor's screening date.

Table 20. Incarceration: burglary

Jurisdiction	Given guilt, percent incarcerated	Total number guilty
Geneva	49 %	124
Golden	67	144
Indianapolis	63	272
Kalamazoo	68	111
Los Angeles	83	3,436
Louisville	73	205
New Orleans	76	736
Rhode Island	31	720
St. Louis	74	514

Assault

Data were available from Geneva, Golden, Indianapolis, Kalamazoo, Los Angeles, Louisville, Manhattan, Milwaukee, New Orleans, Rhode Island, St. Louis, Salt Lake, and Washington, D.C.

Percentage of case load

Assaults constituted 16 percent of the total case load in Washington, D.C.; 14 percent in Manhattan; 11 percent in Golden; 10 percent in Louisville and Rhode Island; 9 percent in Cobb County; 8 percent in Geneva and Los Angeles; 7 percent in Kalamazoo and St. Louis; 6 percent in Milwaukee; 5 percent in Salt Lake; 4 percent in New Orleans; and 3 percent in Indianapolis.

Dispositions

At screening, prosecutors rejected up to 59 percent and referred up to 26 percent of the assault cases. The percentages were as follows:

Jurisdiction	N	Rejected	Referred
Golden	188	2 %	-
Indianapolis	70	11	19 %
Los Angeles	6,301	47*	26
Manhattan	3,556	3	**
New Orleans	639	59*	15
Salt Lake	242	58	7
Washington, D.C.	1,493	29	**

*Includes cases diverted.
**Less than 1/2 of 1 percent.

In 10 of the jurisdictions in table 21, the predominant post-filing disposition was a plea of guilty, which constituted between 49 and 74 percent of the dispositions. In the remaining jurisdictions, dismissals accounted for the majority of case outcomes.

Reasons for terminated cases

In only two jurisdictions in table 22, factors other than evidence and witness problems contributed significantly (one-third or more) to the percentage of screening terminations; in Los Angeles 36 percent of the cases were referred for other prosecution, and in Washington, DC, 48 percent of the cases were rejected for "other" reasons. Similarly, in only two jurisdictions in table 23 were post-filing dismissals/nolles the result largely of factors other than evidence and witness problems.

Median case-processing time to selected outcomes

Of the jurisdictions in table 24, Manhattan disposed of its assault cases most rapidly. The median time to plea and dismissal was just 1 month.

Incarceration

Incarceration for persons convicted of assault in five of the jurisdictions in table 25 was between 60 and 75 percent; in the other three jurisdictions, 37 percent or fewer of the persons convicted were actually incarcerated.

Table 21. Dispositions from filing through trial: assault

Jurisdiction	N	Guilty pleas	Trial convictions	Total guilty	Dismissals	Referrals	Acquittals
Geneva	77	49 %	3 %	52 %	47 %	1 %	0
Golden	184	54	1	55	44	0	1 %
Indianapolis	49	61	10	71	25	0	4
Kalamazoo	51	63	14	77	16	0	8
Los Angeles	1,667	56	8	64	27	4	5
Louisville	149	62	15	77	18	0	5
Manhattan	3,458	44		44	55	1	
Milwaukee	161	66	7	73	19	0	9
New Orleans	161	59	16	75	12	0	12
Rhode Island	344	74	4	78	17	1	4
St. Louis	225	44	2	46	50	0	4
Salt Lake	86	49	12	61	32	2	6
Washington, D.C.	1,065	37	6	43	55	0	3

* = less than 1 percent

Table 22. Results at screening: assault

Jurisdiction	N	Rejected (reason)						Diversion	Referral
		Witness	Evidence	Office policy	Due process	Plea bargain	Other		
Los Angeles	4,634	19 %	35 %	7 %	*	0	1 %	3 %	36 %
Manhattan	98	66	15	6	0	0	8	1	3
New Orleans	478	46	10	20	0	0	0	3	21
Salt Lake	156	25	55	8	1 %	0	1	0	10
Washington, D.C.	428	23	5	23	0	0	48	0	1

* = less than 1 percent

Table 23. Reasons for nolles and dismissals: assault

Jurisdiction	N	Reason							
		Witness	Evidence	Office policy	Due process	Plea bargain	Other	Diversion	Referral
Geneva	37	70 %	14 %	5 %	0	5 %	3 %	0	3 %
Golden	81	35	9	3	11 %	12	25	6 %	0
Los Angeles	515	31	6	28	4	9	8	1	14
Manhattan	1,923	65	5	23	1		2	3	1
St. Louis	94	49	15	11	0	0	26	0	0
Washington, D.C.	576	85	15	0	0	0	0	0	0

* = less than 1 percent

Table 24. Median case-processing times, in months, for selected outcomes: assault (N)

Jurisdiction	Dismissals	Guilty pleas	Guilty trials	Acquittals
Cobb County	(116) 4	(39) 4		
Geneva	(37) 2	(38) 2.5		
Golden	(81) 5	(99) 3		
Los Angeles	(515) 2	(914) 4	(135) 6	(90) 6
Louisville		(92) 5		
Manhattan	(1,928) 1	(1,502) 1		
Milwaukee		(106) 4		
New Orleans		(92) 1		
Rhode Island	(63)12	(254) 7		
St. Louis	(112) 1	(98) 4		
Salt Lake		(42) 2		
Washington, D.C.	(578) 3	(390) 2	(60) 7	

Note: A blank indicates too few cases to make a reliable estimate. Median time to outcome was calculated from either arrest or prosecutor's screening date.

Table 25. Incarceration: assault

Jurisdiction	Given guilt, percent incarcerated	Total number guilty
Geneva	25 %	40
Golden	60	101
Indianapolis	37	35
Los Angeles	75	1,062
Louisville	61	114
New Orleans	67	121
Rhode Island	21	269
St. Louis	65	103

Larceny

Data were available from Geneva, Golden, Indianapolis, Kalamazoo, Los Angeles, Louisville, Manhattan, Milwaukee, New Orleans, Rhode Island, St. Louis, Salt Lake, and Washington, D.C.

Percentage of case load

Larcenies made up 22 percent of the case load in Golden and Manhattan; 21 percent in Geneva; 17 percent in Cobb County; 15 percent in New Orleans; 14 percent in Indianapolis; 12 percent in Kalamazoo and St. Louis; 11 percent in Louisville; 10 percent in Washington, D.C.; 9 percent in Los Angeles and Salt Lake; 7 percent in Milwaukee; and 4 percent in Rhode Island.

Dispositions

As shown below, prosecutors rejected up to 39 percent of the larceny arrests and referred up to an additional 32 percent.

Jurisdiction	N	Rejected	Referred
Golden	403	3 %	-
Indianapolis	361	9	32 %
Los Angeles	5,549	33	30
Manhattan	5,595	5	*
New Orleans	978	39**	3
Salt Lake	256	29	7
Washington, D.C.	741	11	*

*Less than 1/2 of 1 percent.
**Includes cases diverted.

In only two jurisdictions in table 26 was the major post-filing disposition other than guilty plea; in Geneva and Golden, dismissals accounted for over half of all case outcomes.

Reasons for terminated cases

At screening Los Angeles and Indianapolis referred a sizable percentage of larceny arrests for other prosecution. In the other jurisdictions, with the exception of Washington, D.C., case rejections were largely the result of witness and evidence problems (table 27).

With the exception of Washington, D.C., all jurisdictions in table 28 dismissed/nolled larceny cases for a variety of reasons, including evidence, witness, office policy, due process, and plea bargain.

Median case-processing time to selected outcomes

As seen in table 29, in five of the jurisdictions the median time to plea was less than the time to dismissal, in four jurisdictions it was greater, and in one jurisdiction it was the same.

Incarceration

Of the nine jurisdictions in table 30, Los Angeles incarcerated the largest proportion of those convicted of larceny (75 percent); Rhode Island, the smallest (20 percent).

Table 26. Dispositions from filing through trial: larceny

Jurisdiction	N	Guilty pleas	Trial convictions	Total guilty	Dismissals	Referrals	Acquittals
Geneva	187	43 %	0	43 %	55 %	2 %	0
Golden	390	44	3 %	47	51	1	2 %
Indianapolis	213	76	8	84	11	1	5
Kalamazoo	84	85	1	86	13	0	1
Los Angeles	2,049	69	4	73	23	3	2
Louisville	171	73	12	85	12	0	4
Manhattan	5,333	72		72	27	*	*
Milwaukee	173	71	7	78	21	0	1
New Orleans	569	76	8	84	13	*	4
Rhode Island	136	79	2	81	18	0	2
St. Louis	403	69	1	70	30	*	1
Salt Lake	164	64	6	70	27	0	3
Washington, D.C.	655	52	4	56	42	0	2

* = less than 1 percent

Table 27. Results at screening: larceny

		Rejected (reason)							
Jurisdiction	N	Witness	Evidence	Office policy	Due process	Plea bargain	Other	Diversion	Referral
Indianapolis	148	3 %	7 %	5 %	0	0	6 %	0	78 %
Los Angeles	3,500	4	43	3	1 %	0	1	*	48
Manhattan	262	28	52	11	6	0	3	*	1
New Orleans	409	28	41	9	3	0	0	12 %	7
Salt Lake	92	16	55	8	1	0	0	0	20
Washington, D.C.	86	14	14	11	0	0	61	0	1

* = less than 1 percent

Table 28. Reasons for nolles and dismissals: larceny

		Reason							
Jurisdiction	N	Witness	Evidence	Office policy	Due process	Plea bargain	Other	Diversion	Referral
Geneva	107	16 %	18 %	3 %	13 %	35 %	3 %	9 %	4 %
Golden	202	9	5	9	8	23	25	19	2
Los Angeles	533	17	5	20	4	18	23	0	13
Manhattan	1,454	30	13	51	1	0	2	2	1
New Orleans	75	12	32	12	3	4	8	28	1
St. Louis	118	33	20	7	0	1	37	1	1
Salt Lake	45	24	16	9	2	40	2	7	0
Washington, D.C.	269	87	13	0	0	0	0	0	0

Table 29. Median case-processing times, in months, for selected outcomes: larceny (N)

Jurisdiction	Dismissals	Guilty pleas	Guilty trials	Acquittals
Geneva	(106) 1	(80) 2		
Golden	(201)12	(170) 6		
Indianapolis		(161) 5		
Kalamazoo	(38) 8	(39) 2		
Los Angeles	(532) 3	(1,408) 4	(73) 6	
Louisville		(124) 4		
Manhattan	(1,457) 5	(3,848) 1		
Milwaukee	(36) 1	(123) 2		
New Orleans	(75) 3	(425) 1	(43) 2	
Rhode Island		(107) 6		
St. Louis	(119) 3	(276) 4		
Salt Lake	(45) 4	(105) 2		
Washington, D.C.	(274) 3	(337) 3		

Note: A blank indicates too few cases to make a reliable estimate. Median time to outcome was calculated from either arrest or prosecutor's screening date.

Table 30. Incarceration: larceny

Jurisdiction	Given guilt, percent incarcerated	Total number guilty
Geneva	31 %	80
Golden	66	182
Indianapolis	59	178
Kalamazoo	67	39
Los Angeles	75	1,482
Louisville	65	144
New Orleans	70	473
Rhode Island	20	110
St. Louis	71	279

Weapons

Jurisdictions for which data were available are Kalamazoo, Los Angeles, Manhattan, New Orleans, Rhode Island, St. Louis, Salt Lake, and Washington, D.C.

Percentage of case load

Weapons cases accounted for 10 percent of the case load in St. Louis, 9 percent in Kalamazoo, 6 percent in New Orleans, and less than 5 percent in all other jurisdictions.

Dispositions

At screening, prosecutors rejected up to 45 percent of the weapons cases and referred another 34 percent. The percentages were as follows:

Jurisdiction	N	Rejected	Referred
Los Angeles	12,311	37 %	34 %
Manhattan	1,144	6	-
New Orleans	440	45*	1
St. Louis	337	**	-
Salt Lake	69	28	3
Washington, D.C.	210	7	-

*Includes cases diverted.
**Less than 1/2 of 1 percent.

For all jurisdictions in table 31, guilty pleas represented the most common post-filing disposition, followed by dismissals. Trial convictions accounted for between 0 and 10 percent of the case outcomes; acquittals and referrals for 6 percent or less.

Reasons for terminated cases

At screening, prosecutors in the three jurisdictions in table 32 refused a significant number of weapons arrests. In Manhattan and New Orleans they did so for witness and evidence reasons; in Los Angeles they referred for other prosecution about half of all weapons declinations. In three of the five jurisdictions examined in table 33, evidence and witness problems accounted for more than half of all dismissed weapons cases.

Median case-processing time to selected outcomes

All but one jurisdiction in table 34 dismissed weapons cases within 2 months of arrest/filing. For most jurisdictions, cases resolved by plea took 1 to 2 months longer to reach disposition.

Incarceration

Incarceration for weapons offenses ranged from a high of 82 percent in New Orleans to a low of 17 percent in Rhode Island (table 35).

Table 31. Dispositions from filing through trial: weapons

Jurisdiction	N	Guilty pleas	Trial convictions	Total guilty	Dismissals	Referrals	Acquittals
Kalamazoo	57	77 %	5 %	82 %	16 %	0	2 %
Los Angeles	356	60	4	64	28	6 %	2
Manhattan	1,071	57	1	58	42	*	1
New Orleans	239	72	8	81	16	0	3
Rhode Island	118	75	0	75	21	0	4
St. Louis	336	67	2	69	28	0	2
Salt Lake	48	67	8	75	23	0	2
Washington, D.C.	195	61	10	71	26	0	4

* = less than 1 percent

Table 32. Results at screening: weapons

		Rejected (reason)							
Jurisdiction	N	Witness	Evidence	Office policy	Due process	Plea bargain	Other	Diversion	Referral
Los Angeles	875	*	37 %	4 %	9 %	0	2 %	0	49 %
Manhattan	73	7%	70	11	10	0	3	0	0
New Orleans	201	11	53	10	22	0	0	2 %	3

* = less than 1 percent

Table 33. Reasons for nolles and dismissals: weapons

		Reason							
Jurisdiction	N	Witness	Evidence	Office policy	Due process	Plea bargain	Other	Diversion	Referral
Los Angeles	121	17 %	7 %	28 %	4 %	11 %	19 %	2 %	13 %
Manhattan	443	26	38	20	10	1	5	1	*
New Orleans	38	3	53	13	21	8	0	3	0
St. Louis	95	19	19	13	4	4	41	0	0
Washington, D.C.	49	86	14	0	0	0	0	0	0

Table 34. Median case-processing times, in months, for selected outcomes: weapons (N)

Jurisdiction	Dismissals	Guilty pleas	Guilty trials	Acquittals
Los Angeles	(121) 2	(211) 3		
Manhattan	(446) 1	(614) 2		
New Orleans	(38) 2	(172) 1		
Rhode Island		(88) 7		
St. Louis	(95) 2	(226) 4		
Washington, D.C.	(50) 3	(118) 3		

Note: A blank indicates too few cases to make a reliable estimate. Median time to outcome was calculated from either arrest or prosecutor's screening date.

Table 35. Incarceration: weapons

Jurisdiction	Given guilt, percent incarcerated	Total number guilty
Los Angeles	70 %	229
New Orleans	82	193
Rhode Island	17	88
St. Louis	72	233

Drugs

Data were available from Geneva, Golden, Indianapolis, Kalamazoo, Los Angeles, Louisville, Manhattan, Milwaukee, New Orleans, Rhode Island, St. Louis, Salt Lake, and Washington, D.C.

Percentage of case load

Drug cases ranged from a high of 22 percent of the case load in Los Angeles to a low of 4 percent in Washington, D.C. In all other jurisdictions they represented between 10 and 17 percent of the case load.

Dispositions

As shown below, prosecutors rejected up to 51 percent of the drug arrests at screening and referred an additional 39 percent.

Jurisdiction	N	Rejected	Referred
Golden	172	1 %	-
Indianapolis	385	10	39 %
Kalamazoo	72	3	-
Los Angeles	11,464	38	20
Manhattan	3,990	2	-
New Orleans	1,016	51*	-
Salt Lake	273	11	1
Washington, D.C.	266	8	

*Includes cases diverted.

As illustrated in table 36, guilty pleas were the dominant post-filing disposition in all jurisdictions. Dismissals were the second most common outcome; they represented between 14 and 34 percent of the final dispositions.

Reasons for terminated cases

In four of the five jurisdictions in table 37, drug declinations were most often the result of evidence problems; other frequently mentioned explanations were "due process" and "office policy." In Indianapolis the bulk of the cases not accepted by the prosecuting attorney's office were referred for other prosecution. Drug cases were dismissed for a variety of reasons, but only in Los Angeles were a significant number of the dismissals (25 percent) the result of a diversion program (table 38).

Median case-processing time to selected outcomes

Drug cases were processed at widely disparate rates across the jurisdictions—median time to dismissal ranged from a low of 1 month to a high of 21 months. Similarly, median time to plea ranged from 1 to 8 months (table 39).

Incarceration

In six of the nine jurisdictions in table 40, more than half of the persons convicted on a drug charge were incarcerated; in the remaining three jurisdictions 30 percent or fewer received time.

Table 36. Dispositions from filing through trial: drugs

Jurisdiction	N	Guilty pleas	Trial convictions	Total guilty	Dismissals	Referrals	Acquittals
Geneva	133	62 %	3 %	65 %	34 %	1 %	0
Golden	170	63	4	67	32	0	1 %
Indianapolis	197	65	9	74	24	0	3
Kalamazoo	75	72	4	76	23	0	1
Los Angeles	4,815	51	6	57	34	7	2
Louisville	207	74	11	85	14	0	1
Manhattan	3,902	70	*	70	30	*	*
Milwaukee	339	82	4	86	14	0	0
New Orleans	500	68	5	73	22	1	3
Rhode Island	570	80	2	82	17	0	1
St. Louis	361	77	2	79	20	*	2
Salt Lake	238	58	6	64	34	3	*
Washington, D.C.	246	70	5	75	24	0	2

* = less than 1 percent

Table 37. Results at screening: drugs

		Rejected (reason)							
Jurisdiction	N	Witness	Evidence	Office policy	Due process	Plea bargain	Other	Diversion	Referral
Indianapolis	188	0	8 %	5 %	3 %	0	4 %	0	80 %
Los Angeles	6,649	1 %	41	5	16	0	2	0	35
Manhattan	88	6	49	19	25	0	1	0	0
New Orleans	516	*	49	2	46	0	0	3 %	0
Salt Lake	35	3	63	11	11	0	0	0	11

* = less than 1 percent

Table 38. Reasons for nolles and dismissals: drugs

		Reason							
Jurisdiction	N	Witness	Evidence	Office policy	Due process	Plea bargain	Other	Diversion	Referral
Geneva	46	4 %	46 %	7 %	17 %	17 %	7 %	0	2 %
Golden	55	9	16	6	22	13	26	9 %	0
Indianapolis	47	4	51	9	13	19	4	0	0
Los Angeles	2,002	20	5	15	4	4	18	25	10
Manhattan	1,157	13	52	21	10	0	3	0	1
New Orleans	117	2	40	21	11	9	10	2	4
St. Louis	68	7	19	21	3	2	47	0	2
Salt Lake	87	3	12	3	7	66	1	0	8
Washington, D.C.	57	81	19	0	0	0	0	0	0

Table 39. Median case-processing times, in months, for selected outcomes: drugs (N)

Jurisdiction	Dismissals	Guilty pleas	Guilty trials	Acquittals
Geneva	(46) 1	(83) 2		
Golden	(55) 7	(107) 5		
Indianapolis	(47) 4	(128) 6		
Kalamazoo		(39) 2		
Los Angeles	(2,000) 5	(2,381) 5	(278) 8	(87) 8
Louisville		(154) 4		
Manhattan	(1,167) 1	(2,713) 1		
Milwaukee	(45) 3	(279) 4		
New Orleans	(116) 3	(291) 1		
Rhode Island	(98)21	(455) 8		
St. Louis	(70) 2	(276) 4		
Salt Lake	(87) 2	(137) 2		
Washington, D.C.	(58) 2	(169) 2		

Note: A blank indicates too few cases to make a reliable estimate. Median time to outcome was calculated from either arrest or prosecutor's screening date.

Table 40. Incarceration: drugs

Jurisdiction	Given guilt, percent incarcerated	Total number guilty
Geneva	18 %	87
Golden	54	114
Indianapolis	30	101
Kalamazoo	59	41
Los Angeles	72	2,726
Louisville	60	176
New Orleans	64	366
Rhode Island	16	466
St. Louis	56	284

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