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THE FELONY OFFENDER AND THE CRIMINAL JUSTICE SYSTEM, PROSECUTION AND SENTENCING

NCJRS

JUN 16 1988

ACQUISITIONS

HAWAII CRIMINAL JUSTICE DATA CENTER
RESEARCH AND STATISTICS REPORT (RS03B)
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FOREWORD

This report is the second in a series of reports on felony offenders in the City and County of Honolulu. The first report presented data on adult offenders arrested in 1981 and described the incident, the victim and the decisions made by law enforcement officials on whether to formally charge or release the offender. This report presents data on formally charged offenders as they move through the criminal justice system from indictment to sentencing. Among the items analyzed are the elapsed time between court appearances, the types of plea negotiations, the reasons charges are nolle prosequied or dismissed, and the types of sentences. Future reports will present data on sentenced offenders and case attrition.

TABLE OF CONTENTS

	Page
FOREWORD	i
I. EXECUTIVE SUMMARY	1
II. GENERAL INTRODUCTION	4
III. FELONY COURT PROCEEDINGS	6
A. PRELIMINARY HEARING, GRAND JURY INDICTMENT AND ARRAIGNMENT AND PLEA	11
B. PRE-TRIAL	21
C. TRIAL	49
D. SENTENCING	55
IV. NOTES	81
V. BIBLIOGRAPHY	84
VI. APPENDICES	85
A. Statistical Tables	A1
B. Pre-Trial and Pre-Sentence Motions	B1

**THE FELONY OFFENDER AND THE CRIMINAL JUSTICE SYSTEM,
PROSECUTION AND SENTENCING
I. EXECUTIVE SUMMARY**

This report tracks people prosecuted for felony offenses through the criminal court system, starting with the indictment, followed by the arraignment and plea, pre-trial period, trial, and ending with the imposition of sentence.

The study sample consisted of people arrested in 1981 for felony crimes in the City and County of Honolulu. The crimes were divided into "serious" and "selected" felonies. This report involves 337 people arrested and prosecuted for serious felony offenses and 237 people arrested and prosecuted for selected felony offenses.

Of the 337 people arrested for serious felony offenses, more than one-half, 59.3 percent, were indicted for robbery, 16.0 percent were indicted for homicide and attempted homicide, and 13.6 percent were indicted for forcible rape. Of the 237 people arrested for selected felony offenses, over one-third, 34.6 percent, were indicted for theft, almost one-fourth, 23.2 percent, were indicted for burglary, and 13.5 percent were indicted for drug abuse.

The public defender was assigned to represent 57.3 percent of the serious felony defendants. The public defender also represented 52.3 percent of the selected felony defendants.

At arraignment and plea, 335 of the 337 serious felony

defendants pled not guilty. All of the 237 selected felony defendants pled not guilty at arraignment and plea.

During the pre-trial period, a final disposition was attained for 62 percent of the 337 serious felony defendants, or 209: 166 changed their pleas; 40 had their charges dismissed; 2 escaped from pre-trial custody; and 1 was released from pre-trial custody and failed to appear for arraignment and plea. Of the 166 who changed their pleas, 82.5 percent were negotiated. The 40 defendants had their charges dismissed due to the following reasons: insufficient evidence, changed their pleas to other charges in the indictment (for different criminal events), changed their pleas in other indictments, with prejudice, and without prejudice. For the selected felony defendants, a final disposition was attained during the pre-trial period for 81.4 percent or 193: 150 changed their pleas; 38 had their charges dismissed; 3 were released from pre-trial custody and failed to appear for trial; and 2 had their cases remanded to another court. Of the 150 who changed their pleas, 51.3 percent were negotiated.

For 128 serious felony defendants, trial was set 327 median days (11 months) after arrest or indictment (whichever occurred first). Jury trials were conducted for 83.6 percent of the defendants. Of the 128, 85.2 percent were found guilty. For 44 selected felony defendants, trial was set 273.5 median days (9 months) after arrest or indictment.

Jury trials were conducted for 65.9 percent of the defendants. Of the 44 defendants, 68.2 percent were convicted.

Sentences were imposed on 273 serious felony offenders. Felony prison sentences were received by 69.6 percent, and felony probation (including those sentenced with jail) sentences were pronounced for 24.5 percent of the offenders. Sentences were imposed on 177 selected felony offenders. The court imposed felony prison sentences on 20.3 percent and felony probation (including those sentenced with jail) on 47.5 percent, and granted deferred acceptance of guilty pleas (DAGP) and conditional discharges (CDS) on 18.6 percent of the offenders.

II. INTRODUCTION

The Hawaii Criminal Justice Data Center (HCJDC) is studying adult felony offenders. These offenders are being tracked as they move through the criminal justice system from arrest to final disposition.

In a previous report entitled, "The Felony Offender and the Criminal Justice System, Arrests," felony offenders were followed up to arrest disposition. The arrest event, incident, victim, and offender characteristics were examined. This report follows those offenders who were formally charged with an offense and tracks their progress from preliminary hearing or grand jury indictment to sentencing. The information presented include the court disposition, pre-trial custody status, elapsed time, type of plea negotiated, and types of sentences.

Study Design and Sample Data¹

The study sample consisted of adults arrested for felony offenses in the City and County of Honolulu in 1981. The arrest year 1981 was selected to allow the criminal justice system sufficient time to process the arrestee. The original study design grouped persons arrested for homicide, forcible rape, robbery, sodomy, sex abuse, and incest into a "serious" felony offense category and persons arrested for all other offenses into a "selected" felony offense

category.

Some of the offenses in the serious felony section are not "serious" felony offenses. In some cases, the defendants were arrested for multiple charges stemming from the same criminal event, the serious felony offense was dropped, and only the less-serious felony offense was accepted for prosecution. In other cases, the defendants were arrested for serious felony offenses, but the prosecutor decided to reclassify the charge and indict the defendants for less-serious felony offenses. These less-serious offenses were classified as the leading charge.

The court data was gathered from the Legal Document Office of the Circuit Court of the First Circuit.

III. FELONY COURT PROCEEDINGS

This report on felony court proceedings examines persons arrested by police and formally charged. The court proceedings start with preliminary hearing or grand jury hearing; include arraignment and plea, pre-trial hearings, and trial; and end with sentencing.

This report also describes court decisions either at pre-trial or at trial, plea changes, plea negotiations made between the prosecutor and the defendant, the elapsed time between arrest and court proceedings, the pre-trial custody status of the defendant unable to post bail, and the type of sentence imposed on convicted offenders.

Function of the Court in the Criminal Justice System

The court is responsible for informing the defendant of his constitutional rights at initial arraignment, determining probable cause at either preliminary hearing or grand jury, setting proper bail, arbitrating pre-trial and pre-sentence motions made by both the defense and the prosecutor, conducting trial (and deciding the verdict, when necessary), pronouncing sentence, and deciding appeals. (See Figure 1.)

Criminal Court Case Definition

According to the Judiciary annual report, felony

criminal court cases are filed in circuit court. A case "represents a defendant in a criminal case. And if the indictment names three defendants, for case counting purposes, this is reported as three criminal cases. When multiple offenses are involved, the most serious offense is selected and utilized for classification purposes."² The Judiciary criminal case definition was adopted and modified for this study. In addition, the court case definition used in this study also relies on the arrest definitions made in the first report. They are as follows:

- **Criminal Event** is a criminal act performed by one or more individuals which may or may not involve victims. The event consists of all charges stemming from the incident. If additional offenses are committed, and a considerable length of time has elapsed between incidents, then the offenses are considered separate criminal events.

- **Arrest Event** is the apprehension of an individual and, if there is sufficient evidence, the formal charging of the suspect with the commission of the criminal event.

For this study, **Criminal Court Case** is defined as:
An individual arrested and indicted for a criminal event.

By the above definition, if an indictment named 2 defendants, and if each defendant was accused of 2 separate criminal events for which both were involved and arrested, 4 cases were reported. In instances where criminal court cases contained multiple charges stemming from the same criminal event, the most severe offense was scored for classification purposes.

COURT DATA

Four basic court elements were considered in analyzing the data: indictment and arraignment, pre-trial, trial and sentencing.

A. Indictment and Arraignment - this section contains court elements from preliminary hearing, grand jury hearing and arraignment and plea. It includes:

- Preliminary Hearing Disposition
- Grand Jury Result
- Type of Defense Counsel
- Arraignment and Plea

B. Pre-Trial - this section contains the following court elements pertaining to the pre-trial period:

- Type of Plea Change
- Type of Plea Negotiation
- Type of Dismissal
- Motion for Deferred Acceptance of Guilty Plea (DAGP) or for Conditional Discharge (CDS)
- Type of Pre-Trial Motion
- Custody Status and Bail Recommendation

C. Trial - this section contains the following elements pertaining to trial:

- Type of Trial
- Trial Verdict

D. Sentencing - this section contains the following court elements pertaining to the imposition of sentence:

- Confinement
- Extended Imprisonment Term
- Mandatory Minimum or Mandatory Imprisonment Term
- Probation
- Fine, restitution and suspended sentence
- Community Service
- Deferred Acceptance of Guilty Plea
- Conditional Discharge
- Method of Service of Sentence

Presentation of Data Tables and Graphs

The tables and graphs in sections A, B, C, and D present data broken down by serious and selected felony offense categories. Appendix A presents more detailed information including a breakdown by offense. The text in the following sections often refers to the tables in Appendix A.

Please note that percentages in the data tables and graphs may not add to 100. This is caused by rounding.

Some tables contain data for elapsed time. The elapsed time is measured in days and reported statistically as a median. The median is used because some of the variables had few observations and were skewed.

**A. PRELIMINARY HEARING, GRAND JURY
INDICTMENT AND ARRAIGNMENT AND PLEA**

Preliminary Hearing and Grand Jury Hearing

Essentially, preliminary and grand jury hearings serve the same purpose, to determine probable cause. Preliminary hearings precede grand jury and are held in district court for those defendants who were arrested by police and formally charged. Once the district court judge finds probable cause in preliminary hearing, the defendant is bound over to circuit court for grand jury hearing.

The prosecutor presents evidence and calls witnesses to testify in grand jury. If the grand jury determines that there is probable cause, a true bill or indictment is returned.³ The defendant may elect to waive the grand jury proceedings. In this instance, the prosecutor files a felony complaint to replace the indictment. The indictment could name more than one defendant, include multiple offenses stemming from more than one criminal event, and include non-felony offenses. In this study, if the indictment contained multiple offenses, the most severe offense was scored. In November 1982, as a result of a public electoral vote, the Hawaii State Constitution was amended to stream-line the pre-trial process involving both the preliminary and grand jury hearings.⁴ The amendment allows the prosecutor to establish probable cause in either preliminary or grand jury hearings. If probable cause is

found in preliminary hearing, the defendants will be forwarded to circuit court for arraignment and plea. The constitutional amendment does not affect this study because the defendants were indicted or the prosecutor filed felony complaints before the amendment went into effect.

Serious Felony

People Arrested and Formally Charged by Police Before Indictment

There was a total of 337 people prosecuted for serious felony offenses. (See Table A1.) Of the 337 defendants, 180 were arrested and formally charged (without an indictment) by police. Of the 180 arrestees, 150 appeared in district court for preliminary hearing within 7 median days. (See Table A2.) Probable cause was found, and they were bound over to circuit court 52 median days later for grand jury hearings. The total elapsed time between arrest and indictment (hereafter referred to as "indictment time") was 59 median days or two months. There were 30 arrestees who elected to waive preliminary hearing and were forwarded to circuit court 28 median days later for further felony proceedings and were subsequently indicted by the grand jury. (See Table A3.)

People Arrested and Released Pending Investigation, Indicted and then Rearrested

Of the 337 defendants, 72 were arrested by police who

were advised by the prosecutor to release them pending investigation (RPI). This allows the prosecutor more time to review the police report to determine if there is sufficient evidence to establish probable cause in grand jury. The grand jury indicted the arrestees 91 median days later (elapsed indictment time), and the police made the rearrests 4 median days (elapsed rearrest time) later. (See Table A4.) The total elapsed time between the first arrest (RPI) and the rearrest is 95 median days or just over 3 months.

People Indicted and then Arrested

Of the 337 defendants, 85 were indicted by the grand jury and were then arrested by police within 7 median days. (See Table A5.) The prosecutor reviewed the evidence gathered from police reports or received complaints filed by complainants and decided that there was sufficient evidence to establish probable cause and presented the cases to the grand jury for indictment. For this group of defendants, the elapsed indictment time starts with the criminal investigation initiated by law enforcement and ends with the indictment. However, since the actual investigation start date was unavailable, the elapsed indictment time could not be determined.

Indictment Offense

All but two of the 337 people prosecuted for serious felony offenses were indicted by the grand jury. These two defendants waived grand jury hearings, but were forwarded to circuit court for arraignment and plea because the prosecutor filed felony complaints.

Most of the defendants, 59.3 percent, were indicted for robbery. (See Table A1.) Homicide accounted for 16.0 percent of the defendants. About one-half of the defendants indicted for homicide were indicted for attempted offenses. Forcible rape accounted for 13.6 percent of the defendants. A little over 5 percent of the defendants were indicted for less-serious felony offenses.

Selected Felony

People Arrested and Formally Charged by Police Before Indictment

There was a total of 237 people prosecuted for selected felony offenses. (See Table A1.) Of the 237 defendants, almost one-third or 76 were arrested and formally charged by police, of which 48 appeared in preliminary hearings within 5.5 median days. (See Table A2.) Since probable cause was found for the 48 defendants they were bound over to circuit court 54 median days later for grand jury hearing. The elapsed indictment time, which is the time between arrest and indictment, is 59.5 median days. There were 28 arrestees who waived preliminary hearing and were forwarded

to circuit court 35 median days (elapsed indictment time) later for further felony proceedings and grand jury action. (See Table A3.)

People Arrested and Released Pending Investigation, Indicted and Rearrested

Of the 237 defendants, 106 were arrested by police who were advised by the prosecutor to release them pending investigation (RPI). The grand jury returned indictments 106 median days (elapsed indictment time) later, and the police made the rearrests within 8.5 median days (elapsed rearrest time). (See Table A4.) The total elapsed time between the first arrest (RPI) and the rearrest is 114.5 median days or almost 4 months.

People Indicted and then Arrested

Of the 237 defendants, 55 were indicted by the grand jury and were then arrested by police within 5 median days. (See Table A5.)

Indictment Offense

Only three of the 237 defendants prosecuted for selected felony offenses were not indicted by the grand jury. The three defendants waived grand jury hearings and were forwarded to circuit court for arraignment and plea because the prosecutor filed felony complaints.

Most of the defendants, 34.6 percent, were indicted for

theft, and burglary was next with 23.2 percent, followed by drug abuse with 13.5 percent. (See Table A1.)

Table A1
Type of Indictment Offense or
Complaint Filed by the Prosecutor

Serious Felony	<u>Attempted Offense</u>	<u>Actual Offense</u>	<u>Total</u>	<u>Pct.</u>
Homicide -	28	26	54	16.0
Manslaughter -	-	2	2	0.6
Forcible Rape -	13	33	46	13.6
Robbery ⁵ -	-	200	200	59.3
Sodomy -	2	3	5	1.5
Sex Abuse -	-	13	13	3.9
Aggravated Assault -	-	2	2	0.6
Burglary -	-	3	3	0.9
Theft -	1	5	6	1.8
Kidnap -	-	3	3	0.9
Terroristic Threat.	-	1	1	0.3
Hinder. Prosecution	-	2	2	0.6
TOTAL -	44	293	337	100.0
Selected Felony				
Aggravated Assault ⁶ -	-	16	16	6.8
Burglary -	-	55	55	23.2
Theft ⁶ -	9	73	82	34.6
Auto Theft -	2	19	21	8.9
Kidnap -	-	1	1	0.4
Terroristic Threat. -	-	8	8	3.4
Reckless Endangering -	-	1	1	0.4
Weapon -	-	10	10	4.2
Drug Abuse ⁶ -	2	30	32	13.5
Criminal Trespass -	-	1	1	0.4
Criminal Property Dmg.	-	5	5	2.1
Forgery -	-	3	3	1.3
Extortion -	-	2	2	0.8
TOTAL -	13	224	237	100.0

Table A2
Median Length of Elapsed Time Between Pre-Indictment Arrest, Preliminary Hearing and Grand Jury Indictment

	<u>Nos.</u>	<u>Elapsed Time Arrest & Prelim. Hr. (Med. Days)</u>	<u>Elapsed Time Pre. Hr. & Indictment (Med. Days)</u>	<u>Elapsed Time Arrest & Indictment (Med. Days)</u>
Serious Felony -	150	7.0	52.0	59.0
Selected Felony -	48	5.5	54.0	59.5

Table A3
Median Length of Elapsed Time Between Pre-Indictment Arrest and Grand Jury Indictment (no preliminary hearing held)

	<u>Nos.</u>	<u>Median Days</u>
Serious Felony -	30	28.0
Selected Felony -	28	35.0

Table A4
Median Length of Elapsed Time Between Arrest-Released Pending Investigation, Grand Jury Indictment and Post-Indictment Rearrest

	<u>Nos.</u>	<u>Elapsed Time Arrest-RPI Indictment (Med. Days)</u>	<u>Elapsed Time Indictment & Rearrest (Med. Days)</u>	<u>Elapsed Time Arrest-RPI & Rearrest (Med. Days)</u>
Serious Felony -	72	91.0	4.0	95.0
Selected Felony -	106	106.0	8.5	114.5

Table A5
Median Length of Elapsed Time Between Grand Jury Indictment and Post-Indictment Arrest

	<u>Nos.</u>	<u>Median Days</u>
Serious Felony -	85	7.0
Selected Felony -	55	5.0

Arraignment and Plea

The arraignment and plea is conducted in circuit court and occurs after the defendant has been indicted by the grand jury or after the prosecutor has filed a felony complaint. The defendant is allowed to enter a formal plea. If the plea is "not guilty", the case is set for pre-trial motions.⁷

Serious Felony

Of the 337 defendants, 335 pled not guilty at arraignment and plea. One defendant did not appear for arraignment and plea after being released from pre-trial custody by posting bail. One defendant pled guilty as charged at arraignment and plea. The court accepted the guilty plea because the defendant and the prosecutor negotiated the plea.

Selected Felony

All of the 237 defendants pled not guilty at arraignment and plea.

Defense Counsel

The defendant has the constitutional right to be represented in all criminal proceedings by counsel.⁸ The defendant has the option of retaining a private counsel, to be assigned a public defender, to have a court-appointed

attorney, or to represent himself, pro se. The same type of defense counsel does not always represent the defendant for the entire criminal proceedings. Sometimes a counsel change is necessary for these reasons: the defendant is not satisfied with the performance of his defense counsel; the defendant declared indigence; or conflict of interest surfaced between the defendant and the counsel. The defendant needs court approval to change counsel. The defense counsel type reported is the counsel at the time of final disposition or sentencing.

Serious Felony

Most of the defendants, 57.3 percent, could not afford an attorney and were assigned a public defender. (See Graph A1.) About one-fourth were represented by a court-appointed counsel, and 17.8 percent were able to afford a privately-retained counsel.

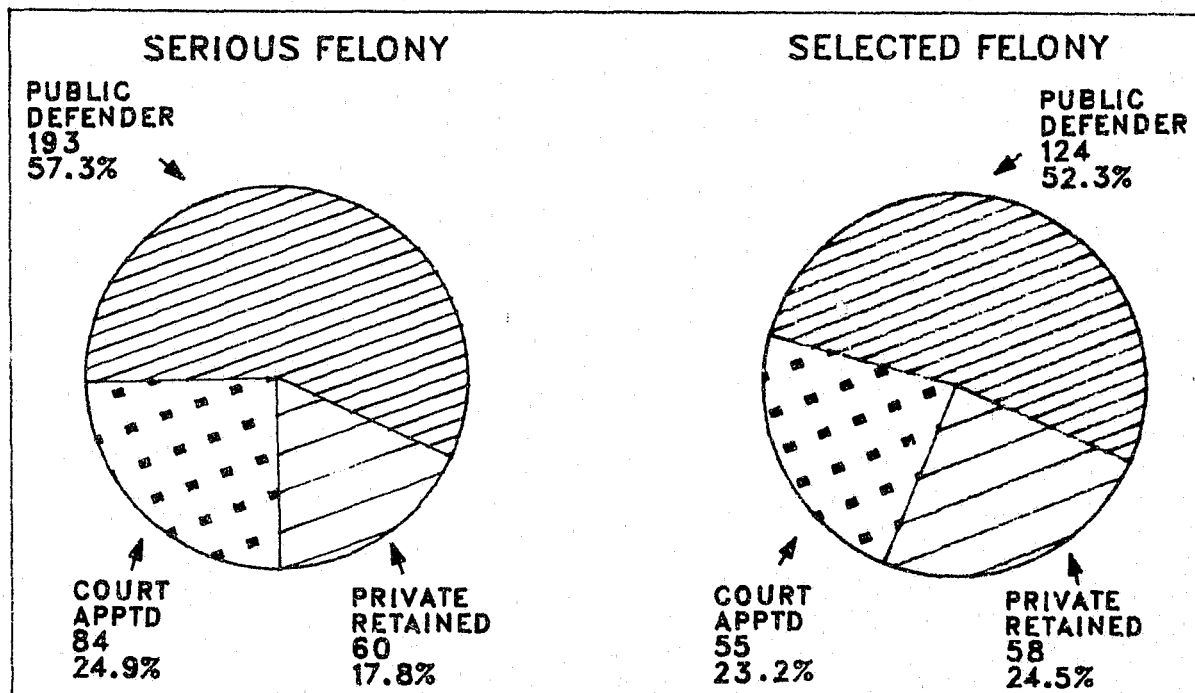
Of the defendants indicted for homicide and attempted homicide, 48.1 percent were assigned a public defender. For forcible rape, 65.2 percent; for robbery, 60.0 percent; and for sodomy, 60 percent were assigned a public defender. (See Appendix A Table 6.) Defendants indicted for sex abuse were represented by a privately retained counsel 46.2 percent of the time.

Selected Felony

Most of the defendants, 52.3 percent, were indigent and were assigned a public defender. (See Graph A1.) Almost one-fourth were able to afford their own attorney, and the court appointed counsel for 23.2 percent.

Of the defendants indicted for aggravated assault, 68.8 percent were assigned a court-appointed counsel. Of the defendants indicted for drug abuse, 50.0 percent were represented by a privately-retained counsel. (See Appendix A Table 6.)

Graph A1
Type of Defense Counsel



B. PRE-TRIAL

The pre-trial phase is the period between arraignment and plea, and trial. During this period, both the defense counsel and the prosecutor attempt to discover the opposing case. The prosecutor seeks information about the type of alibi that the defense intends to rely upon in trial.

The defense counsel prepares for trial by reviewing the transcript of the grand jury indictment and the police report. If the counsel feels that the evidence and testimony in the indictment were based on hearsay, or if the police report reveals that the defendant's statements were improperly taken or evidence improperly recovered, then the defense counsel moves to dismiss the indictment because of insufficient evidence. The defense counsel may also move to dismiss the indictment whenever the commencement of trial has been unreasonably delayed.

During this period, the prosecutor could move to commit the defendant without bail or to set a higher bail. If the defendant is in pre-trial custody, the defense counsel, in turn, may move to release the defendant on his own recognizance, to reduce bail, or to release the defendant with supervision.

The defense counsel may also file a motion to split an indictment that contains multiple counts or includes co-defendants in order to obtain separate trials. The

prosecutor, in turn, could file a motion to consolidate multiple indictments into a single trial. Both defense counsel and prosecutor can move to remand the case to another court.⁹

During the pre-trial period, the defendants can change their pleas. Some defendants will change their pleas only if the prosecutor agrees to negotiate and allow concessions.

See Appendix B for a list of motions filed by the defense counsel and prosecutor. These motions were made in the study sample and do not represent every possible pre-trial motion.

Pre-Trial Disposition

The numerous pre-trial activities and type of decisions were summarized and categorized into the following dispositions: plea change, case set for trial, dismissals, escape from custody, and failure to make court appearances.

If the defendant was indicted for multiple charges, the pre-trial offense represents either the most severe offense or the offense that resulted in conviction.

Serious Felony

Plea Change

Almost one out of every two defendants, or 166, changed their plea. (See Table B1 and Graph B1.)

Of the 166 defendants who changed their pleas, 9 pled

guilty to the non-leading offense in return for dismissal of the leading offense. (See Table B1.) In terms of individual offenses, 24.1 percent of the defendants indicted for homicide or attempted homicide, 23.9 percent indicted for forcible rape, 62.0 percent indicted for robbery, and 76.9 percent indicted for sex abuse changed their pleas. (See Appendix A Table 7 and refer to the plea change section for further discussion.)

Trial Set

Over one-third, or 128, of the defendants were set for trial. (See Appendix A Table 7.) Of the 128 defendants whose cases were set for trial, two had their charges dismissed without prejudice, but were re-indicted before being set for trial. In terms of individual offenses, over 70.0 percent of the defendants indicted for homicide and attempted homicide, 56.5 percent indicted for forcible rape and 25.5 percent indicted for robbery were set for trial.

Dismissals

Almost 12 percent, or 40, of the defendants had their charges dismissed. (See Appendix A Table 7.) Of the 40 defendants whose cases were dismissed, 20.0 percent had changed their pleas to other charges in the indictment (for different criminal events), and the prosecutor agreed to drop the charges associated with the criminal event under

study. All of these defendants were charged with robbery.

Seven, or 17.5 percent, of the dismissals occurred because the defendants changed their plea in other indictments and the prosecutor agreed to drop the charges in the indictment under study. All of these defendants were charged with robbery.

Eight, or 20.0 percent, of the dismissals occurred because the charges were dismissed with or without prejudice. The defendants who were dismissed without prejudice were never re-indicted. Six defendants were charged with robbery, and one was charged with homicide.

Four, or 10.0 percent, of the dismissals occurred because the prosecutor felt that there was insufficient evidence to convict the defendants in trial. The defense counsel successfully moved to the court to suppress evidence; therefore, the prosecutor could not effectively prove that the defendants were guilty beyond reasonable doubt in trial. Two of these defendants were charged with robbery, and one was charged with homicide.

Thirteen, or 32.5 percent, of the dismissals occurred because either the complainant or victim was absent and could not be located or they dropped the charges. Seven of these defendants involved in this type of dismissal were charged with forcible rape, and one was charged with homicide.

Other Final Pre-Trial Disposition

One defendant (indicted for sodomy) was released from pre-trial custody after posting bail and did not appear for arraignment and plea. Two defendants (indicted for forcible rape and sodomy) escaped from pre-trial custody.

Selected Felony

Plea Change

Almost two of every three, or 150, of the defendants changed their plea. (See Table B1 and Graph B1.) Of the 150 defendants who changed their pleas, three pled guilty to the non-leading offense in return for dismissal of the leading offense. (See Table B1.) In terms of individual offenses, 68.8 percent of the defendants indicted for aggravated assault, 52.7 percent indicted for burglary, 70.7 percent indicted for theft, 76.2 percent indicted for auto theft, and 78.1 percent indicted for drug abuse changed their pleas. (See Appendix A Table 7 and refer to the plea change section for further discussion.)

Trial Set

Less than one-fifth, or 44, of the defendants were set for trial. Of the 44 defendants set for trial, 18.2 percent indicted for burglary, 15.9 percent indicted for theft, and 50.0 percent indicted for weapons were set for trial. (See Appendix A Table 7.)

Dismissals

A little over 16 percent, or 38, had their charges dismissed. Of the 38 defendants whose cases were dismissed, 60.5 percent occurred because the charges were dismissed with or without prejudice. The defendants who were dismissed without prejudice were never re-indicted. Ten or 43.5 percent of these defendants were charged with burglary.

Four, or 10.5 percent, of the dismissals occurred because the defendants changed their pleas to other charges in the indictment (for different criminal events.) The prosecutor agreed to drop the charges in the criminal event under study. Three of these defendants were charged with burglary.

Four, or 10.5 percent, of the dismissals occurred because the defendants changed their plea in other indictments and the prosecutor agreed to drop the charge in the indictment under study.

Five, or a little over 13 percent, of the dismissals occurred because of insufficient evidence. Three of these defendants were charged with theft.

Other Pre-Trial Final Disposition

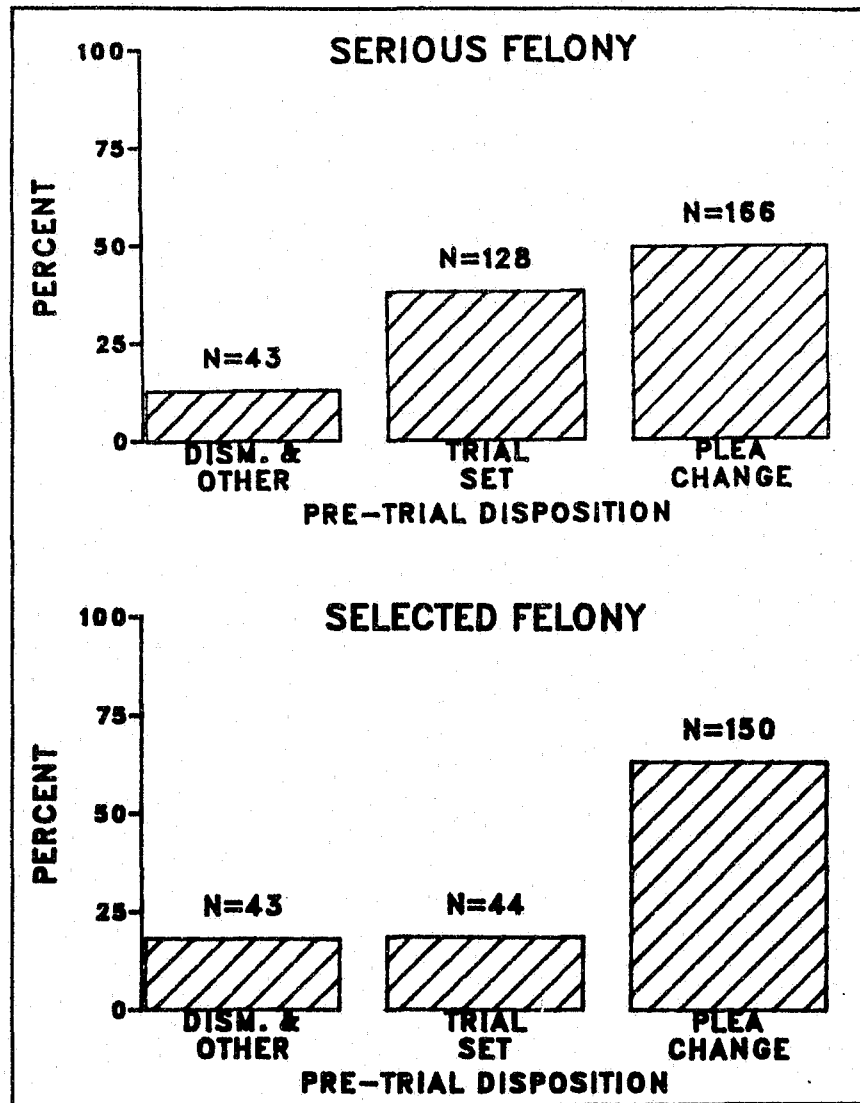
Three defendants (indicted for terroristic threatening, burglary, and theft) were released from pre-trial custody after posting bail and did not appear for trial. Two defendants (indicted for theft and drug abuse) requested

that the court transfer their trials to other courts. The court granted their requests and remanded the cases to courts of another jurisdiction. (The actual final dispositions for these two defendants were unavailable.)

Table B1
Pre-Trial Disposition

	<u>Leading Offense</u>	<u>Non- Leading Offense</u>	<u>Total</u>	<u>Col. Pct.</u>
Serious Felony				
Plea Change -	157	9	166	49.3
Set for Trial -	128	-	128	38.0
Dismissed -	40	-	40	11.9
Escaped from Custody -	2	-	2	0.6
Failed to Appear for Arraignment and Plea -	1	-	1	0.3
TOTAL -	328	9	337	100.1
Selected Felony				
Plea Change -	147	3	150	63.3
Set for Trial-	44	-	44	18.6
Dismissed -	38	-	38	16.0
Failed to Appear for Trial -	3	-	3	1.3
Remanded to Another Court -	2	-	2	0.8
TOTAL -	234	3	237	100.0

Graph B1
Pre-Trial Disposition



Plea Change

The defendant can change his plea any time before the trial verdict. Before accepting the guilty plea, the court questions the defendant to ensure that the plea was made voluntarily, with a clear mind (is not under the influence of drugs or alcohol), and that the defendant understands the possible sentence.¹⁰ Some plea changes were negotiated between the defense counsel and the prosecutor.

Serious Felony

Almost one-half (49.3 percent) of the defendants changed their plea during pre-trial. Of those defendants, 69.3 percent pleaded guilty as charged, 22.9 percent pleaded guilty to reduced charges of lesser-included offenses, 5.4 percent pleaded no contest as charged, and 2.4 percent pleaded no contest to reduced charges of lesser-included offenses. (See Table B2.)

Of the 13 homicide and attempted homicide defendants who changed their pleas, 30.8 percent pleaded guilty as charged, and 61.5 percent pleaded guilty or no contest to the lesser-included offenses of manslaughter, aggravated assault, or reckless endangering. Of the 11 defendants who were indicted for forcible rape and changed their pleas, 72.7 percent pleaded guilty as charged, and 27.3 percent pleaded guilty to reduced charges. Of the 124 robbery defendants, 77.4 percent pleaded guilty or no contest as

charged, and 22.6 percent pleaded guilty or no contest to reduced charges of aggravated assault, theft, or robbery of lower degree. Of the 10 sex abuse defendants, every defendant pleaded guilty or no contest as charged. (See Appendix A Tables 8 and 10.)

Selected Felony

Almost two-thirds (63.3 percent) of the defendants changed their pleas during pre-trial. Just over seventy-five percent pleaded guilty as charged, 19.3 percent pleaded guilty to reduced charges of lesser-included offenses, 4.7 percent pleaded no contest as charged, and 0.7 percent pleaded no contest to reduced charges of lesser-included offenses. (See Table B2.)

Of the 11 aggravated assault defendants who changed their pleas, 36.4 percent pleaded guilty or no contest as charged, and 63.6 percent pleaded guilty to one of the following lesser-included offenses, aggravated assault of lower degree, simple assault, or harassment. Of the 29 burglary defendants who changed their pleas, 75.9 percent pleaded guilty or no contest as charged, and 24.1 percent pleaded guilty to either criminal trespass or theft. Of the 58 theft defendants, 89.7 percent pleaded guilty or no contest as charged, and 10.3 percent pleaded guilty or no contest to theft of lower degree. Of the 16 auto theft defendants, 87.5 percent pleaded guilty as charged, and 12.5

percent pleaded guilty to other theft offenses. Of the 25 drug abuse defendants, 84.0 percent pleaded guilty as charged, and 16.0 percent pleaded guilty to lesser-included drug abuse offenses. (See Appendix A Tables 8 and 10.)

Table B2
Plea Change Type

Serious Felony	Nos.	Pct.
Guilty as Charged -	115	69.3
Guilty to Reduced Charge of - a Lesser-Included Offense	38	22.9
No Contest as Charged -	9	5.4
No Contest to Reduced Charge of - a Lesser-Included Offense	4	2.4
TOTAL	166	100.0
Selected Felony	Nos.	Pct.
Guilty as Charged -	113	75.3
Guilty to Reduced Charge of - a Lesser-Included Offense	29	19.3
No Contest as Charged -	7	4.7
No Contest to Reduced Charge of - a Lesser-Included Offense	1	0.7
TOTAL	150	100.0

Plea Negotiation

There were five common types of negotiations made between the defense counsel and the prosecutor. Generally, the plea negotiations resulted in one or a combination of these forms:

- Plea of guilty to a reduced charge of a lesser-included offense;
- Plea of guilty as charged in return for the dismissal of other charges in the indictment;

- Plea of guilty as charged in return for the dismissal of other indictments;
- Plea of guilty as charged with the understanding that the prosecutor remains silent at sentencing; and
- Plea of guilty as charged in return for the prosecutor dropping other pending felony charges.

Serious Felony

Of the 166 defendants who changed their pleas, 82.5 percent negotiated their pleas. (See Figure B1.) Over one-fifth, or 20.4 percent, of the defendants negotiated for reduced charges of lesser-included offenses, 16.1 percent pleaded guilty as charged in order to have other charges in the indictment dismissed, 3.6 percent pleaded guilty as charged in order to have charges in another indictment dismissed, 9.5 percent pleaded guilty as charged with the understanding that the prosecutor was to remain silent at sentencing, and 50.4 percent negotiated their pleas as a combination of these agreements or to other types of agreements.

Among the defendants who were indicted for homicide, attempted homicide, robbery, sex abuse, and forcible rape, the most common plea negotiation type was a combination of the five types or some other agreement. In addition, for defendants indicted for homicide and attempted homicide, the

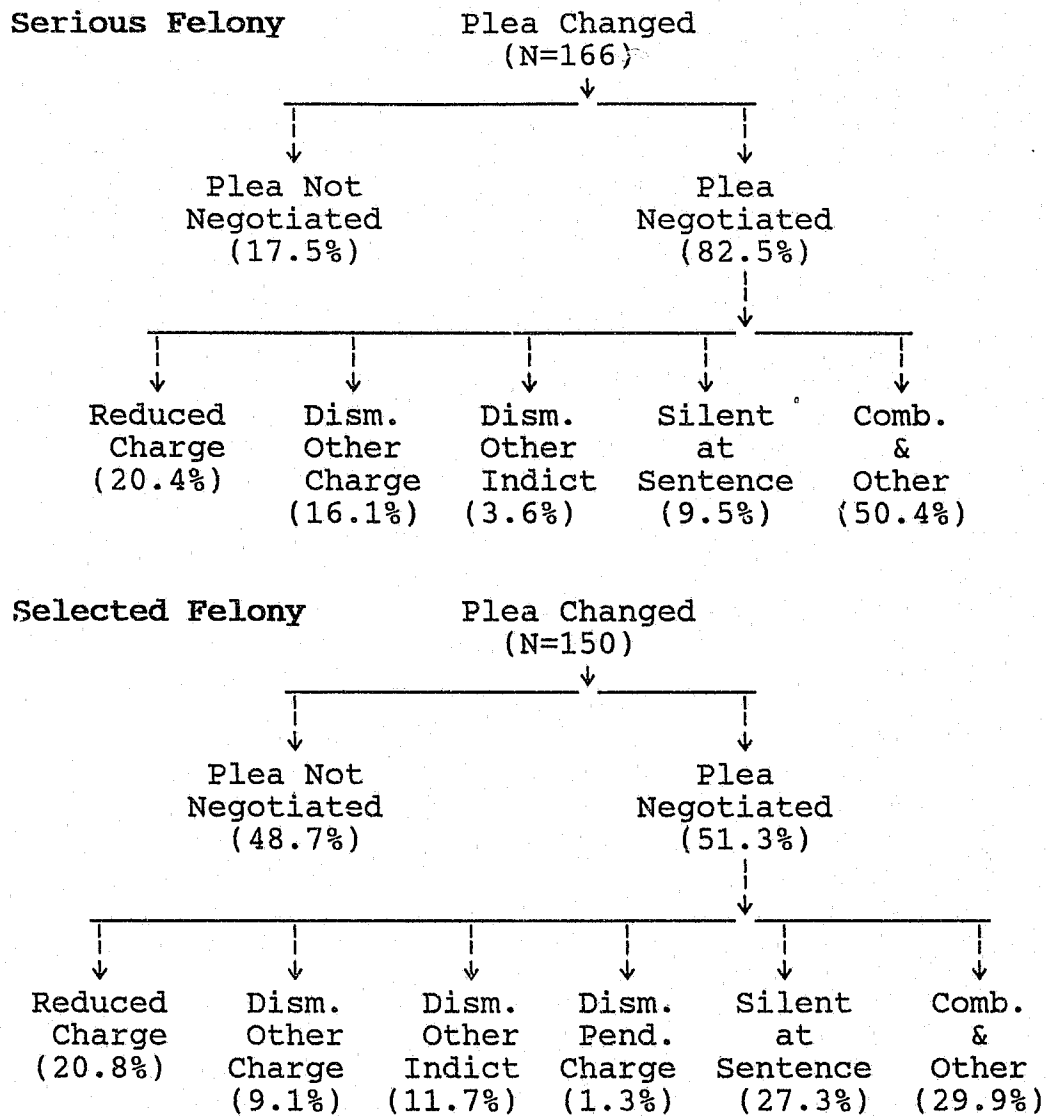
reduction of charges to lesser-included offenses was also common. (See Appendix A Table 9.)

Selected Felony

Of the 150 defendants who changed their pleas, a little over one-half, or 51.3 percent, negotiated their pleas. The defendants agreed to change their pleas 27.3 percent of the time if the prosecutor remained silent at sentencing. The defendants pleaded guilty to reduced charges of lesser-included offenses 20.8 percent of the time. Over 11.7 percent of the defendants changed their pleas in order to dismiss charges in other indictments, while 9.1 percent of the defendants changed their pleas in order to dismiss other charges in the indictment, and 1.3 percent of the defendants changed their pleas in order to dismiss other pending felony charges. The most common negotiation type, accounting for 29.9 percent, was other negotiation or a combination of the five negotiations.

Defendants who were indicted for burglary most often negotiated to reduce the charges to lesser-included offenses. For defendants who were indicted for theft, auto theft, and drug abuse, the most common negotiation type was to have the prosecutor remain silent at sentencing. (See Appendix A Table 9.)

Figure B1
Percent of Pleas Negotiated and Type of Negotiation



Elapsed Time of Pre-Trial Activities

The defendants have the constitutional right to a speedy trial. By law, trial should commence within six months after the defendant has been arrested, formally charged, and indicted.¹¹ The court, however, will extend

the pre-trial period if the cause of the delay in the start of the trial is reasonable. Most of the trials in the study were often delayed and did not commence within six months. Most of the delay occurred during the pre-trial period for some of the reasons listed below.

- The court's trial calendar was congested with other felony criminal cases.
- A firm trial date could not be set because the victim, the defendant, and witnesses were not available to testify.
- The defendant had to be examined by psychiatrists or psychologists to determine if he was fit to stand trial and to assist in his own defense.
- The defense counsel's workload was congested and the counsel was unable to prepare the case for trial.
- The defendant had other indictments that were being tried as separate trials.
- The pre-trial or trial proceedings were temporarily suspended because the case is being appealed.

The length of the pre-trial period is the number of days starting with the arraignment and plea date, and ending either with the plea change date, the trial start date, or

the dismissal or other final disposition dates. Total time elapsed measures the number of days between the current arrest or indictment dates whichever occurred first and either the plea change date, the trial start date, or the dismissal or other final disposition dates.

Serious Felony

Plea Change

The total elapsed time for 166 defendants who changed their pleas was 276 median days or just over 9 months. (See Graph B2.) The pre-trial period lasted 227.5 median days.

The total elapsed time for homicide and attempted homicide defendants, who changed their pleas during the pre-trial period, was 664 median days. The 979 median days recorded for one terroristic threatening defendant was the longest total elapsed time. Defendants, who were indicted for forcible rape and changed their pleas, were next with a total elapsed time of 378 median days. (See Appendix A Table 11.)

Trial Set

For the 128 defendants whose cases were set for trial, it took 327 median days, or nearly 11 months, before their cases were actually set for trial. (See Graph B2.) The total elapsed time well exceeded the six month statute of limitation probably because of the reasons listed on page

35. The pre-trial period covered 285 median days.

The total elapsed time for defendants indicted for homicide and attempted homicide was 392 median days, and for forcible rape, 449 median days. Both well exceeded one year. (See Appendix A Table 12.)

Dismissal and Other Pre-Trial Final Disposition

For the 42 defendants who were dismissed, escaped from pre-trial custody, or failed to appear for trial, the total elapsed time was 379.5 median days or nearly one year. (See Graph B2.) The pre-trial period was 299.0 median days. The total elapsed time for one defendant indicted for sodomy was unavailable because the pre-trial final disposition date was unknown.

Selected Felony

Plea Change

The total elapsed time for 150 defendants who changed their pleas was 183.5 median days or six months. The pre-trial period lasted 132.5 median days. (See Graph B2.)

The total elapsed time for defendants indicted for burglary was 189 median days; theft, 145.5 median days; and auto theft, 144.5 median days. (See Appendix A Table 11.)

Trial Set

The total elapsed time for 44 defendants whose cases

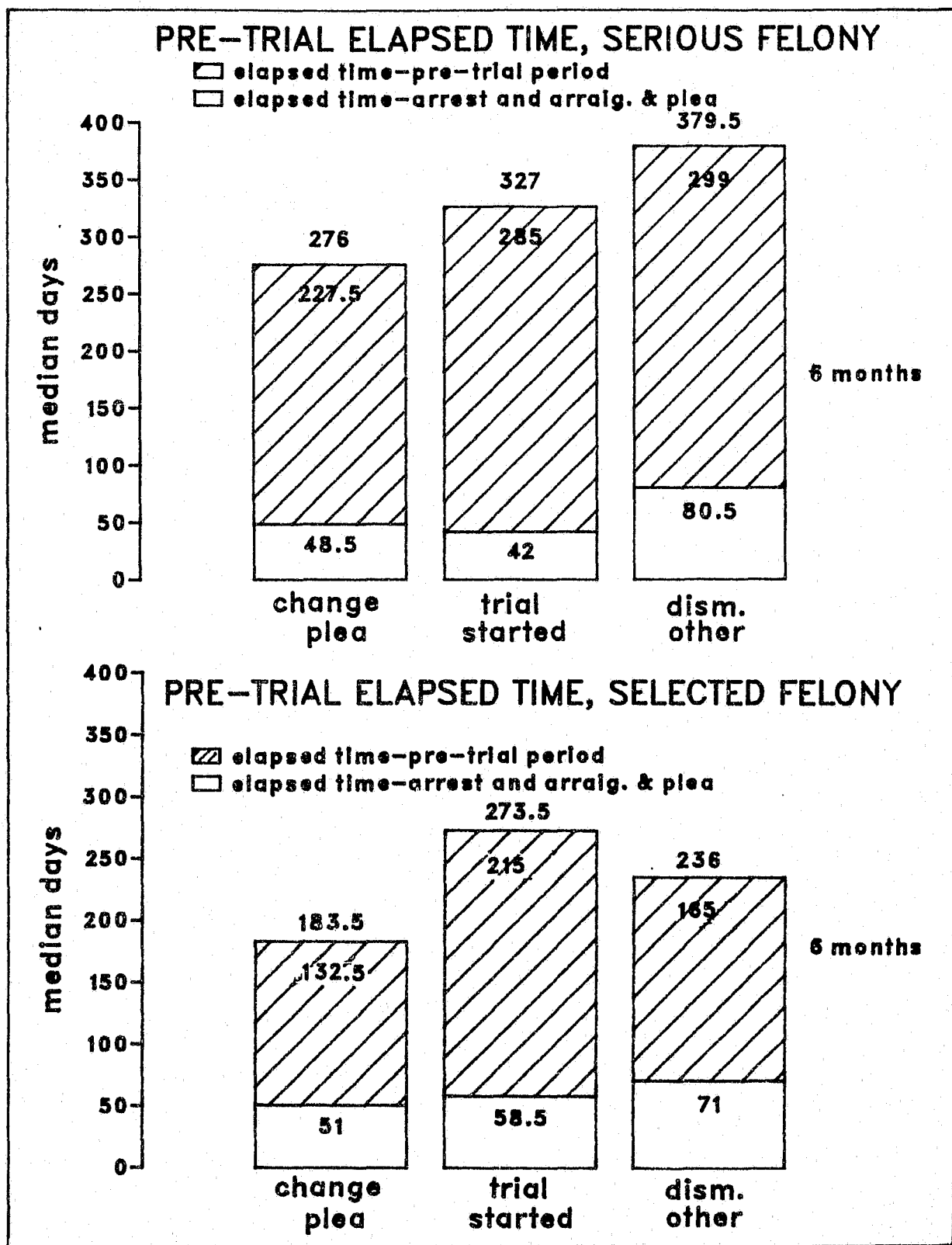
were set for trial was 273.5 median days or just over nine months. The pre-trial period was 215 median days. Refer to page 35 for a list of possible reasons for the trial delays during the pre-trial period. (See Graph B2.)

The total elapsed time for defendants indicted for auto theft was 144 median days; terroristic threatening, 180.5 median days; and reckless endangering, 148 median days. Their trials usually started within the six month statutory time limit. (See Appendix A Table 12.)

Dismissal and Other Pre-Trial Final Disposition

The total elapsed time for 43 defendants who were dismissed, failed to appear for trial, or had their cases remanded, lasted 236 median days. The pre-trial period lasted 165 median days. (See Figure B2.)

Graph B2



Motion to Defer Acceptance of Guilty Plea (DAGP) or for Conditional Discharge (CDS)

Defendants are allowed to file a motion in court to defer the acceptance of their guilty pleas under certain conditions.¹³ If these conditions are satisfied, the defendants first change their pleas either to guilty or nolo contendere and then move for the DAGP (DANCP if the plea is nolo contendere). In the first circuit, the Adult Probation Division (APD) prepares a pre-sentence report on sentencing alternatives and recommends to the court whether to grant or to deny the DAGP motion. The court makes the actual decision at the time of sentencing. If the DAGP is denied, the court accepts the guilty plea, and one of the alternate sentences is imposed. If the DAGP is granted, the offender is given either a supervised or an unsupervised deferment period with special conditions. If the defendant remains arrest-free during the deferment period and complies with the special conditions of the sentence, then the defense counsel can move to dismiss the charge. The court discharges the defendant and dismisses the charge against the defendant. The defendant then becomes eligible to have the DAGP expunged one year after his discharge date. If the defendant violates the terms of the DAGP sentence, the sentencing judge could revoke the DAGP sentence, accept the guilty plea, and impose an alternate or stiffer sentence.

Defendants who are indicted for certain drug abuse offenses can motion for conditional discharge (CDS).¹⁴ The

CDS is similar to the DAGP except that the defendant can motion for the CDS at any time, even after conviction by trial.

Serious Felony

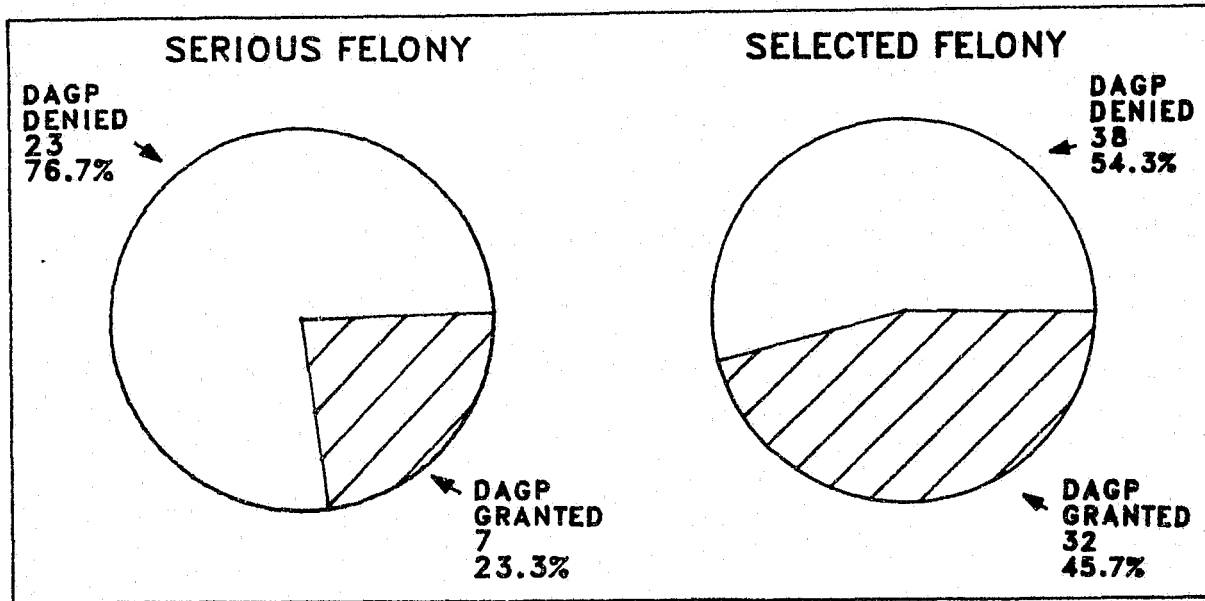
Of the 166 defendants who changed their pleas, 18.1 percent, or 30, filed motions for DAGP. Of the 30 defendants, 76.7 percent, or 23, had their DAGP motion denied, and only seven were granted DAGP. (See Graph B2.) For a more detailed discussion of the DAGP sentence refer to the sentencing section.

Selected Felony

Of the 150 defendants who changed their pleas, 46.7 percent, or 70, filed motions for DAGP or CDS. (See Graph B2.) Of the 70 defendants, 54.3 percent, or 38, had their DAGP or CDS motion denied, and 45.7 percent, or 32, were granted the DAGP or CDS.

One-fourth of the defendants, who were indicted for burglary and motioned for the DAGP, were granted the DAGP. (See Appendix A Table 14.) Of theft, auto theft and drug abuse defendants who moved for the DAGP, the motion was granted 57.7 percent, 42.9 percent, and 52.6 percent of the time, respectively.

Graph B2
Motions for DAGP/CDS



Pre-Trial Custody

Once the defendant is arrested and formally charged for a felony offense, the court sets bail. The court has the discretion to set the appropriate bail amount.¹⁵ A normal bail amount is set according to a bail schedule established by the First Circuit Court.¹⁶ The prosecutor could move to either set a high bail or to commit the defendant to pre-trial detention custody without bail. There are several reasons for setting high bail or to commit the defendant without bail. They are as follows: the nature of the alleged offenses was serious; the defendant is a major or multiple offender; the defendant has extensive juvenile and adult criminal histories and is considered a career criminal; the defendant is a probationer or a parolee; a

firearm was used in the commission of the instant offense; there are other pending felony charges; and the defendant is a transient.¹⁷ If the defendant is unable to post bail, he is placed in the custody of corrections as a pre-trial detainee until his court appearance is set.

The State Intake Service Center (SISC) writes a custody report for all pre-trial detainees.¹⁸ SISC researches the nature of the criminal offense, the defendant's prior criminal history, family and community ties, employment status, and current lifestyle. The report concludes with a recommendation to the court for releasing the defendant on his own recognizance, for bail reduction, or for supervised release. In order to be released from pre-trial custody, the defendant must satisfy these qualifications:

- Released Own Recognizance - The offense must not be a Class A felony. The defendant must not be currently serving probation or be on parole. The prosecutor must not have made a motion for commitment for high bail or for commitment without bail.
- Supervised Release - The offense must not be serious in nature. The defendant can benefit from the services of a mental health or alcohol and substance abuse facility. A firearm must not have been used in the commission of the offense.

- Bail Reduction - Defendant must not have an extensive criminal history (including juvenile records) and have no prior contempt of court charges. Preferably, the defendant should have local family and community ties, have a sponsor, and have verifiable means of support, especially a job.

In this report, the most current pre-trial custody disposition up to the time of sentencing is presented.

Serious Felony

For 13, or 3.9 percent, of the 337 total defendants, the prosecutor moved to the court to set high bail or to commit them to pre-trial custody without bail. The court granted every motion, and none of the defendants were able to post bail. (See Table B3.)

The court set high bail for 171, or 50.7 percent, of the 337 total defendants. Of the 171 defendants, 85.4 percent were unable to post bail, 9.9 percent posted bail, and 4.7 percent were released with supervision. Of the 166 defendants who received normal bail amounts (set according to the bail schedule), 43.4 percent posted bail, 38.6 percent were unable to post bail, 1.8 percent were later released on their own recognizance, and 16.3 percent were released with supervision. (See Table B4.)

There were 211, or 62.6 percent, of the 337 total

defendants who were unable to post bail. (See Table B5.) In the pre-trial custody reports, SISC recommended bail reduction for 44 or 20.9 percent. Of those 44 defendants, 88.9 percent were then able to post bail. The other 21.8 percent were still not able to post bail. The SISC recommended releasing four defendants on their own recognizance. Of the four defendants, the court approved this type of release for two defendants, denied this release type for one defendant, and put one defendant on supervised release.

The SISC also recommended supervised release for 48 defendants. Of those defendants, the court approved this release for 68.7 percent, denied this release for 29.2 percent, and allowed one defendant to be released on his own recognizance.

The SISC recommended denying any form of release for 115 of the defendants. As a result, every defendant remained in custody except for one who later was able to post bail.

Selected Felony

For four, or 1.7 percent, of the 237 total defendants, the prosecutor moved either to set high bail or to commit them to pre-trial custody without bail. The court granted two of these motions; however, both of the defendants were unable to post bail. (See Table B3.)

Altogether, the court set high bail for 62, or 26.2 percent, of the 237 defendants. Of those 62 defendants, 74.2 percent were unable to post bail, 12.9 percent were able to post bail, 3.2 percent were later released on their own recognizance, and 9.7 percent were released with supervision. (See Table B4.) Of the 175 defendants who received normal bail amounts (set according to a bail schedule), 66.3 percent were able to post bail, 20.6 percent were unable to post bail, 4.0 percent were later released on their own recognizance, and 9.1 percent were released with supervision.

There were 86, or 36.3 percent, of the 237 total defendants who were unable to post bail. (See Table B5.) In their pre-trial custody report SISC recommended bail reduction for nine or 10.5 percent of the defendants. Of the nine defendants, 22.2 percent were able to post bail, and 77.8 percent were unable to post bail.

SISC recommended releasing seven defendants on their own recognizance; the court approved this release for only six defendants.

SISC also recommended supervised release for 31 defendants. Of those 31 defendants, the court approved this type of release for 67.7 percent of the defendants, denied 29.0 percent, and released 3.2 percent on their own recognizance.

SISC recommended denying any form of release for 39

defendants. However, 10.3 percent of those defendants were released as they were able to post bail. The other 89.7 percent remained in custody.

Table B3
Motion for High Bail

	<u>Motion for High Bail</u>	<u>Granted</u>	<u>Pct.</u>	<u>Denied</u>	<u>Pct.</u>
Serious Felony -	13	13	100.0	0	0.0
Selected Felony -	4	2	50.0	2	50.0

Table B4
Pre-Trial Custody Status by Bail Severity

Serious Felony		Final Pre-Trial Custody Status				
		<u>Total</u>	<u>Rel. Bail</u>	<u>Rel. Recog.</u>	<u>Rel. Supv.</u>	<u>In Cust.</u>
Bail Severity						
High Bail -		171	17	0	8	146
Row Pct.		100.0	9.9	0.0	4.7	85.4
Col. Pct.		50.7	19.1	0.0	22.9	69.5
Norm. Bail -		166	72	3	27	64
Row Pct.		100.1	43.4	1.8	16.3	38.6
Col. Pct.		49.3	80.9	100.0	77.1	30.5
TOTAL -		337	89	3	35	210
Row Pct.		100.0	26.4	.9	10.4	62.3
Selected Felony						
High Bail -		62	8	2	6	46
Row Pct.		100.0	12.9	3.2	9.7	74.2
Col. Pct.		26.2	6.5	22.2	27.3	56.1
Norm. Bail -		175	116	7	16	36
Row Pct.		100.0	66.3	4.0	9.1	20.6
Col. Pct.		73.8	93.5	77.8	72.7	43.9
TOTAL -		237	124	9	22	82
Row Pct.		100.0	52.3	3.8	9.3	34.6

Table B5
Pre-Trial Custody Status by SISC Custody Recommendation

Serious Felony Recommendation	Total	Final Pre-Trial Custody Status			
		Rel. Bail	Rel. Recog.	Rel. Supv.	In Cust.
Bail Reduction -	44	8	0	0	36
Row Pct.	100.0	18.2	0.0	0.0	81.8
Col. Pct.	20.9	88.9	0.0	0.0	21.8
Rel. Own Recog. -	4	0	2	1	1
Row Pct.	100.0	0.0	50.0	25.0	25.0
Col. Pct.	1.9	0.0	66.7	2.9	.6
Supervised Rel. -	48	0	1	33	14
Row Pct.	100.0	0.0	2.1	68.7	29.2
Col. Pct.	22.7	0.0	33.3	97.1	8.5
Deny Release -	115	1	0	0	114
Row Pct.	100.0	.9	0.0	0.0	99.1
Col. Pct.	54.5	11.1	0.0	0.0	69.1
TOTAL -	211	9	3	34	165
Row Pct.	100.0	4.3	1.4	16.1	78.2
Selected Felony					
Bail Reduction -	9	2	0	0	7
Row Pct.	100.0	22.2	0.0	0.0	77.8
Col. Pct.	10.5	33.3	0.0	0.0	13.5
Rel. Own Recog. -	7	0	6	0	1
Row Pct.	100.0	0.0	85.7	0.0	14.3
Col. Pct.	8.1	0.0	85.7	0.0	1.9
Supervised Rel. -	31	0	1	21	9
Row Pct.	99.0	0.0	3.2	67.7	29.0
Col. Pct.	36.0	0.0	14.3	100.0	17.3
Deny Release -	39	4	0	0	35
Row Pct.	100.0	10.3	0.0	0.0	89.7
Col. Pct.	45.3	66.7	0.0	0.0	67.3
TOTAL -	86	6	7	21	52
Row Pct.	100.0	7.0	8.1	24.4	60.5

C. TRIAL

After the prosecutor and defense counsel conclude their pre-trial motions, the court sets a firm trial date. A felony defendant has the constitutional right to be tried by a jury.¹⁹ If the defendant elects to waive jury trial, the circuit court judge presides over the trial and decides the verdict.²⁰

Number and Type of Trials

Serious Felony

Almost 38 percent, or 128 defendants, were set for trial. Of the 128 defendants, 83.6 percent were tried by a jury, and 16.4 percent waived jury trials. (See Table C1.)

Every defendant indicted for kidnapping was set for jury trial. (See Appendix A Table 18.) Of the 38 defendants indicted for homicide and attempted homicide and set for trial, only 18.4 percent elected to waive jury trials. Of the 26 defendants set for trial for forcible rape, 92.3 percent were tried by a jury. Of the 51 defendants set for trial for robbery, 82.4 percent were tried by a jury.

Selected Felony

Over 18 percent, or 44 defendants, were set for trial. Of the 44 defendants, 65.9 percent, were tried by a jury and

34.1 percent elected to waive jury trials. (See Table C1.)

Table C1
Type of Trial

	Serious Felony		Selected Felony	
	Nos.	Pct.	Nos.	Pct.
Jury Trial -	107	83.6	29	65.9
Jury-Waived Trial -	21	16.4	15	34.1
TOTAL -	128	100.0	44	100.0

Trial Verdict

The verdict is one of the following decisions: guilty as charged; guilty to a reduced charge of a lesser-included offense; acquitted; or acquitted by reason of insanity. A jury verdict must be unanimous. If not, the court declares a mistrial (i.e. a hung-jury), and the case is then set for further pre-trial motions.²¹

Serious Felony

Of the defendants who went to trial, the trial verdict was guilty for 85.2 percent. (See Graph C1.) Of this number, 79.0 percent were convicted as charged, and 21.1 percent were convicted of reduced charges of lesser-included offenses.²² The number of convictions represented 87.9 percent of the verdicts made by jury trials, and 71.4 percent by jury-waived trials. (See Graph C2.)

Every defendant tried for sodomy and sex abuse offenses was convicted as charged. A little over 90 percent of the defendants tried for robbery were convicted, although 15.2

percent of the convictions were of reduced charges of lesser-included offenses. Defendants tried for homicide or attempted homicide had a conviction rate of 89.5 percent, where 38.2 percent were found guilty of reduced charges of lesser-included offenses. Defendants tried for forcible rape followed with a conviction rate of 73.1 percent, of which only 10.5 percent were convicted of reduced charges of lesser-included offenses. (See Appendix A Table 19.)

Of the defendants who went to trial, approximately 14 percent were acquitted. (See Graph C1.) Acquitted by reason of insanity accounted for 35.3 percent of the acquittals. These defendants were not sentenced but instead were ordered by the court to be admitted to the custody of a mental health facility for treatment. Only the court can discharge such defendants from custody.

Acquittals represented 11.2 percent of the verdicts made by jury trials and 28.6 percent by jury-waived trials. (See Graph C2.) A little over 23 percent of the defendants tried for forcible rape, 10.5 percent tried for homicide and attempted homicide, and 9.8 percent tried for robbery were acquitted. (See Appendix A Table 19.)

Only one defendant was dismissed of the charge after trial had begun. He was indicted for forcible rape and was dismissed because the victim withdrew the charge.

Selected Felony

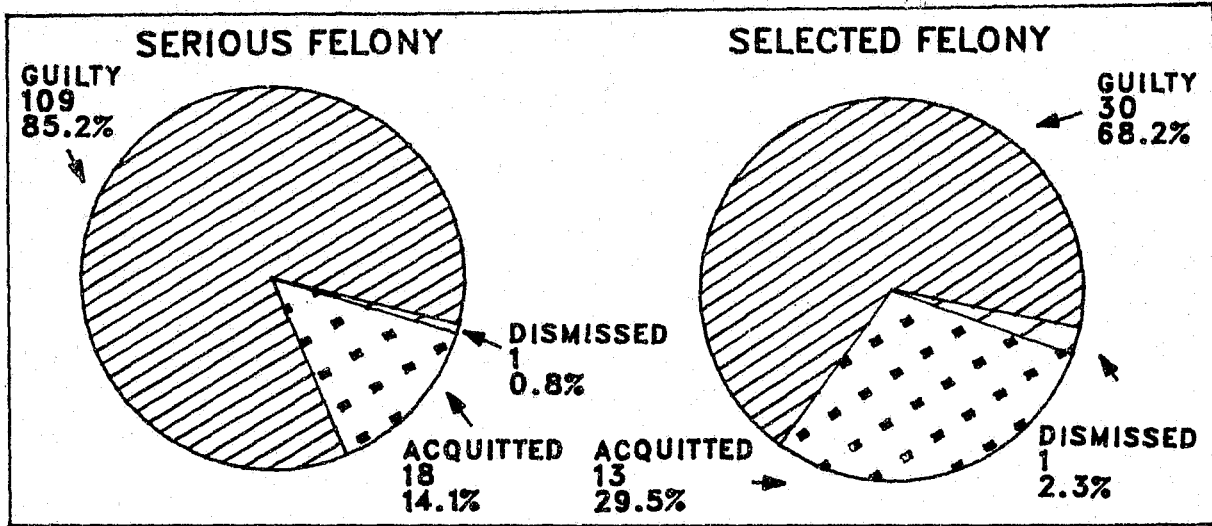
Of the defendants who went to trial, 68.2 percent were found guilty. (See Graph C1.) Ninety percent of those were convicted as charged. The number of convictions represented 72.4 percent of the verdicts made by jury trials and 60.0 percent by jury-waived trials. (See Graph C2.)

The conviction rates for defendants tried for burglary, theft, and drug abuse were 80.0 percent, 69.2 percent, and 66.7 percent, respectively. Of those defendants, the proportion of convictions for reduced charges of lesser-included offenses were 20.0 percent, 30.8 percent, and 33.3 percent, respectively. (See Appendix A Table 19.)

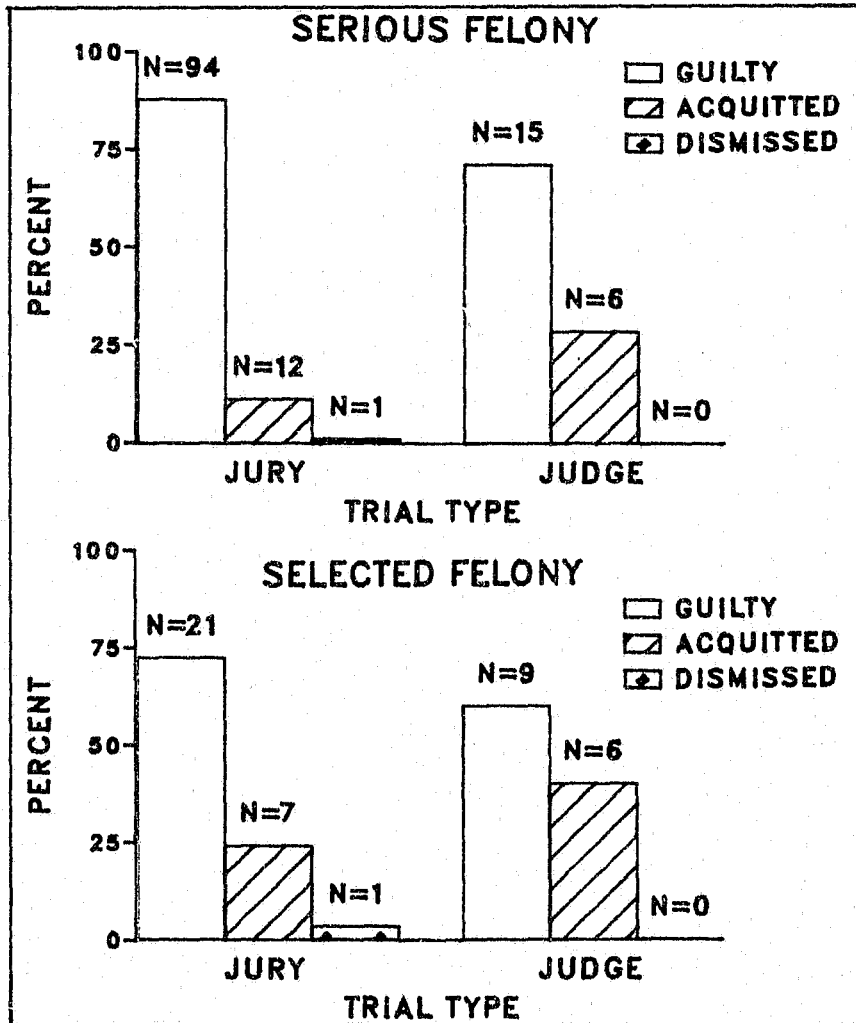
Of the defendants on trial, almost 30 percent were acquitted. (See Graph C1.) Five were acquitted because of insanity, and the trial of one defendant was dismissed because the court granted a motion for judgement of acquittal. Acquittals represented 24.1 percent of the verdicts made by jury trials and 40.0 percent by jury-waived trials. (See Graph C2.)

One defendant's charge was dismissed because the complainant withdrew the charge after the trial started.

Graph C1
Trial Verdict



Graph C2
Trial Type by Verdict



Length of Trial

Serious Felony

The overall median length of trial was four days. (See Table C2.) The median length of trial exceeded one week for defendants indicted for the following offenses: homicide or attempted homicide, 8 days; manslaughter, 9 days; and sodomy, 11 days. Defendants indicted for forcible rape and robbery usually had trials lasting less than a week, 3.5 days and 3.0 days, respectively. (See Appendix A Table 20.)

Selected Felony

The overall median length of trial was two days. (See Table C2.) Most of the trials lasted less than a week, with the exception of two defendants tried for extortion. The median length of their trials was 30.5 days. (See Appendix A Table 20.)

Table C2
Median Length of Time for Trial

	Serious Felony		Selected Felony	
Length of Trial -	<u>Nos.</u>	<u>Median Days</u>	<u>Nos.</u>	<u>Median Days</u>
	128	4.0	44	2.0

D. SENTENCING

After the defendant has been convicted, hereinafter referred to as offender, a pre-sentence period follows during which a pre-sentence investigation report is prepared by the Adult Probation Division. The major purpose of the report is to determine sentencing alternatives and recommend to the court an appropriate sentence. The report presents information on the offender's socio-economic background, family and prior criminal history, and summarizes the nature of the crime.²³ Data from the pre-sentence investigation report will be analyzed in a future felony offender study report.

The original sentences are presented in this report. Offenders for whom the court reconsidered or reduced the sentences will also be analyzed in a future report.

The sentence charge used in the study represents the most serious charge that led to conviction. If multiple charges are involved, the sentence charge represents the charge for which the most severe sentence was pronounced.

The court can impose several types of sentences such as felony prison terms (at least one year incarceration), jail terms (incarceration less than one year), probation, fine, restitution, and suspended sentence. The court often imposes more than one type of sentence.²⁴ In this report to determine sentence severity, for cases where the offender

was sentenced to more than one type, a hierarchial list of sentences was created. The hierarchy is as follows:

1. Felony Prison Term - Incarceration period of at least one year. The indeterminate prison term ranges from five years (four years for a youthful offender sentence) to life imprisonment.
2. Felony Probation and Jail - The offender must serve a jail term up to one year and will then be placed on probation for five years.
3. Felony Probation - The offender is placed on probation for five years.
4. Non-Felony Jail Term - The offender is incarcerated for up to one year.
5. Non-Felony Probation and Jail - The offender must serve a jail term up to one year and will then be placed on probation for at most one year.
6. Non-Felony Probation - The offender is placed on probation for at most one year.
7. Fine, Restitution, and Suspended Sentence - Fines are paid to the State's general fund, and restitutions are paid

to the complainant. The court suspends the imposition of sentences and the offender is essentially placed on probation for a specified period.

The court also grants DAGP, and CDS at sentencing, however, according to the Hawaii Revised Statutes, both are not considered convictions when they are dismissed.²⁵ In this report, the DAGP and CDS are treated as convictions and are included in the sentencing analysis. The DAGP and CDS inclusion are for research purposes, and the results are reported as statistical summaries. Offenders who are granted DAGP or CDS are placed on a quasi-probation. The probation or deferment period ranges from six months to five years.

Number and Type of Sentenced Offenders

Table D1 and Graph D1 present sentencing data for the serious and selected groups. Appendix A Table 21 presents sentencing data by individual offenses.

Serious Felony

A total of 275 offenders were convicted, 166 changed their plea to guilty in pre-trial, and 109 were found guilty in trial. One offender died before being sentenced, and another was not sentenced, as he did not appear for

sentencing after being released from pre-sentence custody (after posting bail).

Felony Prison Sentence

One hundred ninety (190) offenders, or 69.6 percent, received felony prison sentences. Prison sentences were imposed on all of the offenders convicted for homicide and attempted homicide, sodomy, kidnap, burglary, and criminal conspiracy. Almost three-fourths of the offenders convicted of robbery and 90.5 percent convicted of forcible rape were sentenced to prison.

Felony Probation and Jail Sentence

Forty-one offenders, or 15.0 percent, received five-year felony probation and jail sentences. On the average, the length of jail term was 209.3 days. Felony probation and jail sentence accounted for 15.6 percent of the sentences passed on offenders convicted of robbery. One-fourth of those were received by offenders convicted of sex abuse, and one-third of those were received by offenders convicted of aggravated assault.

Felony Probation Sentence

Twenty-five offenders, or 9.2 percent, received felony probation sentences. This sentence type accounted for 7.5 percent of the sentences passed on offenders convicted of

robbery and for one-third of the sentences received by those convicted of aggravated assault.

Deferred Acceptance of Guilty Pleas (DAGP)

Seven offenders were granted DAGPs (refer to page 40 in the Pre-trial section and page 57 in this Sentencing section for the discussion on DAGP). The deferment period ranged from 1.5 to 5 years and averaged 938 days or approximately 2.6 years. A little over 17 percent of the theft offenders were granted DAGPs.

Selected Felony

A total of 180 offenders were convicted, of which 150 changed their pleas in pre-trial and 30 were found guilty in trial. Three offenders were not sentenced. One died a short time later after plea changing. One offender did not appear for sentencing after being released from pre-sentence custody (after posting bail), and one offender is awaiting sentencing after plea changing.

Felony Prison Sentence

Thirty-six offenders, or 20.3 percent, received prison sentences. Felony prison sentences were imposed on 23.0 percent of the offenders convicted of theft and burglary and on 23.1 percent convicted of auto theft.

Felony Probation and Jail Sentence

Twenty-four offenders, or 13.6 percent, received felony-probation jail sentences. On the average, the length of the jail term was 174 days. Felony probation and jail sentences were received by 75.0 percent of the offenders convicted of aggravated assault, 19.4 percent of those convicted of burglary, 8.3 percent convicted of theft, and 23.1 percent convicted of auto theft.

Felony Probation Sentence

Sixty offenders, or 33.9 percent, received only felony-probation sentences. Felony probation sentences were received by 40 percent of the offenders convicted of theft, 45.2 percent of those convicted of burglary, 30.8 percent of those convicted of auto theft, and 41.4 percent of those convicted of drug abuse.

Jail Sentence

Nine offenders, or 5.1 percent, were convicted of non-felony offenses and received 1-year jail sentences. The average jail term was 246 days. Every offender convicted of simple assault or criminal property damage was sentenced to jail.

Non-Felony Probation and Jail Sentence

Six offenders, or 3.4 percent, convicted of non-felony

offenses received non-felony probation-jail sentences. The average jail term was 22 days. This sentence also accounted for one-third of the sentences of offenders convicted of terroristic threatening and theft.

Non-Felony Probation Sentence

Seven offenders, or 4.0 percent, convicted of non-felony offenses received only non-felony probation sentences. This type of sentence accounted for one-third of the sentences of offenders convicted of theft and one-half of criminal trespass and harassment convictions.

Deferred Acceptance of Guilty Pleas (DAGP)

Thirty-two offenders, or 18.1 percent, were granted DAGPs. The deferment period ranged from six months to 5 years and averaged 860.5 days or about 2.4 years. One-fourth of the felony theft offenders and a little over one-third of the drug abuse offenders were granted DAGPs.

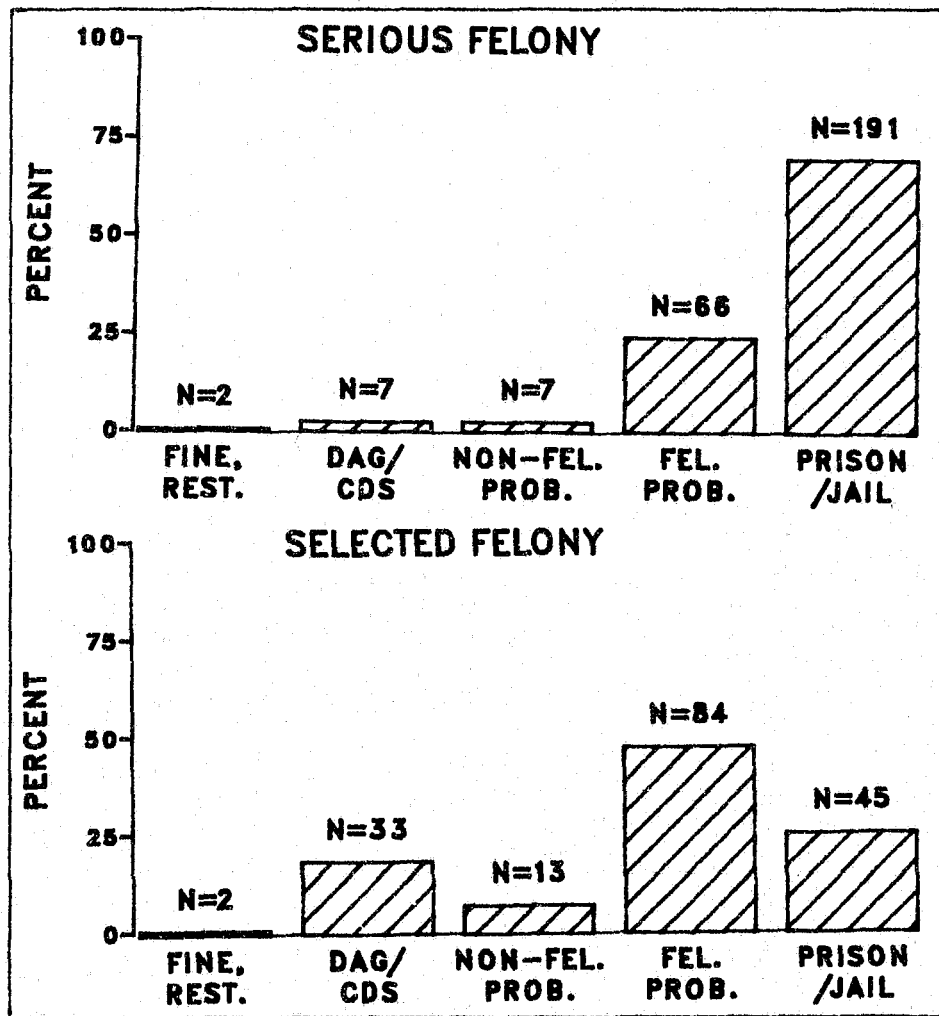
Conditional Discharge Sentence (CDS)

One offender, or 0.6 percent, was granted conditional discharge (refer to page 40 in the Pre-trial section for the discussion on CDS and page 57 which discusses the treatment of the CDS as a conviction).

Table D1
Type of Sentence

	Serious Felony		Selected Felony	
	Nos.	Pct.	Nos.	Pct.
Felony Prison -	190	69.6	36	20.5
Felony Probation & Jail -	41	15.0	24	13.6
Felony Probation -	25	9.2	60	33.9
Jail -	1	0.4	9	5.1
Non-Felony Probation & Jail -	2	0.7	6	3.4
Non-Felony Probation -	5	1.8	7	4.0
Fine, Restitution - & Suspended Sentence	2	0.7	2	1.1
DAGP -	7	2.6	32	18.1
Conditional Discharge -	0	0.0	1	0.6
TOTAL -	273	100.0	177	100.1

Graph D1
Type of Sentences



Felony Prison Sentences

Offenders receive maximum indeterminate imprisonment terms according to a sentence schedule based on the type and severity of the felony offense.²⁶ Table D2 presents the sentencing schedule.

Table D2
Table of Maximum Indeterminate Prison Terms

<u>Severity</u>	<u>Non-Extended Term</u>	<u>Extended Term</u>
Felony C (youthful offender) -	4 years	none
Felony C -	5 years	10 years
Felony B (youthful offender) -	5 years	none
Felony B -	10 years	20 years
Felony A (youthful offender) -	8 years	none
Felony A (except homicide) -	20 years	life
Felony A (homicide, mandatory) -	life	none
Felony A (at. homicide, mandatory) -	20 years	life

Extended Imprisonment Term

An offender could be sentenced to an extended term by the court if he is a "persistent offender", a "multiple offender", a "professional criminal", a "dangerous person", or "offender against elderly handicapped, or minor under the age of eight."²⁷ Persistent offenders have at least two prior felony conviction charges, and multiple offenders have at present at least two felony conviction charges. In order to get an extended term, the prosecutor must move during pre-sentence hearing for the imposition of an extended prison term. (See Appendix B.) The sentencing judge reviews the Adult Probation's pre-sentence report, and if he decides to impose a prison term, he will then consider

whether to grant or to deny the prosecutor's request for an extended term.

Serious Felony

The prosecutor moved to sentence 52 offenders to extended prison terms. (See Graph D2.) At sentencing, the court granted 30, or 57.7 percent, of the motions. Of the 22 offenders to whom the court decided against granting the motion, 90.9 percent were sentenced to non-extended prison terms, while 9.1 percent were sentenced to non-prison terms.

The 30 offenders sentenced to extended terms represented 15.4 percent of all offenders sentenced to prison. (See Table D3.) The extended term period ranged from 20 years to life terms.

The prosecutor filed motions to sentence the offenders convicted of sodomy to extended prison terms 66.7 percent of the time. The percentages were less for forcible rape, 38.1 percent; robbery, 22.4 percent; homicide and attempted homicide, 20.0 percent; and sex abuse, 12.5 percent. (See Appendix A Table 22.) The court granted the motion at least one-third of the time. A little over 19 percent of the offenders sentenced to prison for robbery had their sentences extended from 10 to 20 years and from 20 years to life. A little over 31 percent of the offenders sentenced to prison for forcible rape and 66.7 percent of the offenders sentenced to prison for sodomy had their sentences

extended from 20 years to life. (See Appendix A Table 23.)

Selected Felony

The prosecutor moved to sentence 19 offenders to extended prison terms. (See Graph D2.) The court granted 7, or 36.8 percent, of the motions. Of the other 12 offenders, 10 were sentenced to non-extended prison terms, and 2 were sentenced to non-prison terms.

The 7 offenders sentenced to extended terms represents 19.4 percent of all offenders sentenced to prison. The extended term periods ranged from 10 years to 20 years. (See Table D3.)

The prosecutor filed motions to sentence offenders convicted of theft to extended terms 16.7 percent of the time. The court granted the motion 30 percent of the time. This extended the prison sentences from 5 to 10 years. (See Appendix A Table 22.)

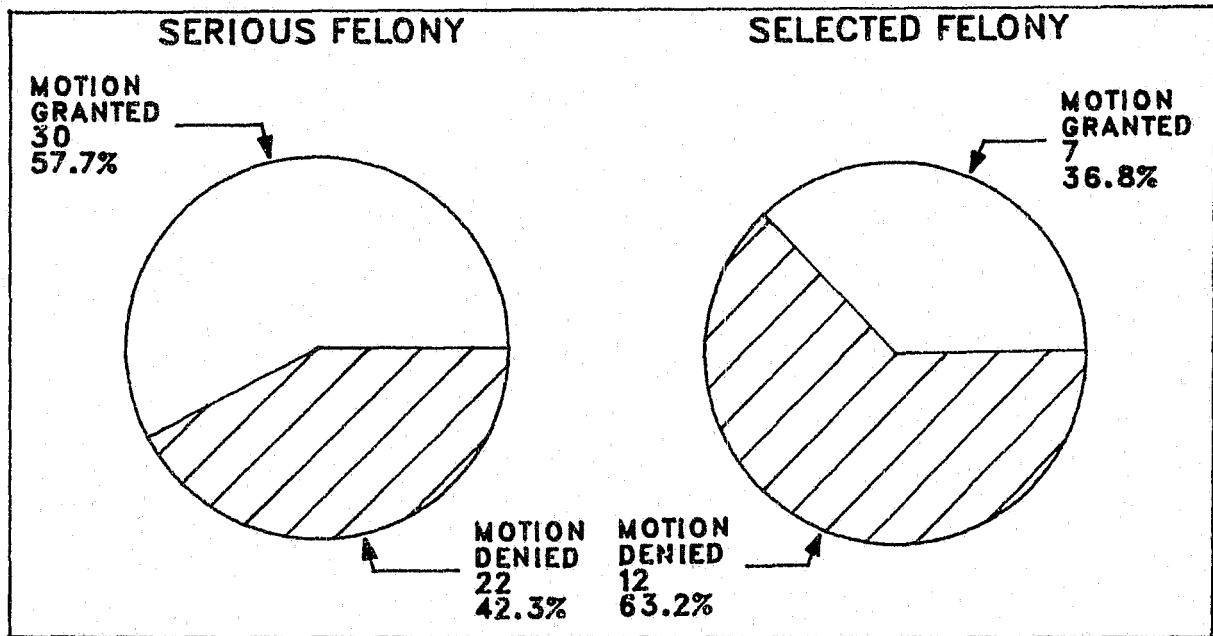
Table D3
Felony Prison Sentences (Maximum Indeterminate Term)

Serious Felony	<u>Total</u>	Non-Extended Term		Extended Term	
		<u>Nos.</u>	<u>Row Pct.</u>	<u>Nos.</u>	<u>Row Pct.</u>
4 Yrs. -	3	3	100.0	-	-
5 Yrs. -	13	13	100.0	-	-
8 Yrs. -	10	10	100.0	-	-
10 Yrs. -	55	55	100.0	-	-
20 Yrs. -	66	62	93.9	4	6.1
Life Term -	43	17	39.5	26	60.5
TOTAL -	190	160	84.2	30	15.8

**Table D3 (Cont.)
Felony Prison Sentences (Maximum Indeterminate Term)**

Selected Felony	Total	Non-Extended Term		Extended Term	
		Nos.	Pct.	Nos.	Pct.
4 Yrs. -	2	2	100.0	-	-
5 Yrs. -	20	20	100.0	-	-
8 Yrs. -	1	1	100.0	-	-
10 Yrs. -	11	5	45.5	6	54.5
20 Yrs. -	2	1	50.0	1	50.0
TOTAL -	36	29	91.7	7	8.3

**Graph D2
Motions for Extended Imprisonment Terms**



Mandatory Minimum and Mandatory Imprisonment Terms

The court can sentence an offender to a mandatory minimum term if the defendant "is a repeat offender." Repeat offenders are offenders previously convicted of certain felony crimes.²⁸

The court can also sentence an offender to a mandatory imprisonment term if a firearm was used in the commission of the felony offense.²⁹ The mandatory term for a class A felony offense is at most 10 years and for a class B felony offense 5 years. If the offender was convicted of repeated firearm offenses, the mandatory terms for both class A and B felony offenses are 10 years. The prosecutor moves during the pre-sentence hearing to impose mandatory minimum or mandatory imprisonment terms. If the court imposes either type of sentence, then the offender must serve these terms before being eligible for parole.

Serious Felony

The prosecutor moved to sentence 81 offenders to mandatory imprisonment or mandatory minimum terms. (See Graph D3.) At sentencing, the court granted 59, or 72.8 percent, of the motions. Of the 22 offenders to whom the court decided against granting the motion, 90.9 percent were sentenced to felony prison terms and 9.1 percent to non-prison terms.

The 59 offenders sentenced to mandatory imprisonment or mandatory minimum terms represents 31.1 percent of all the offenders sentenced to prison. The terms ranged from 2 to 20 years. (See Table D4.)

For 55 percent of the convicted homicide and attempted homicide offenders, the prosecutor filed motions for

mandatory imprisonment terms. The percentage of manslaughter offenders was 54.5 percent; of robbery offenders, 36.7 percent; and of forcible rape offenders, 19 percent. The court granted the motion at least one-half of the time. (See Appendix A Table 24.)

One-fourth of the offenders sentenced to prison for homicide or attempted homicide received mandatory minimum terms of 5 to 10 years. (See Appendix A Table 25.) A little over 44 percent of the offenders sentenced to prison for manslaughter and 10.5 percent sentenced to prison for forcible rape received mandatory terms of five years. About 41 percent of the offenders sentenced to prison for robbery received mandatory terms ranging from 2 to 20 years.

Selected Felony

The prosecutor moved to sentence 12 offenders to mandatory imprisonment or to mandatory minimum terms. (See Graph D3.) During sentencing, the court granted 11, or 91.7 percent, of the motions. The remaining offender was sentenced to a felony prison term.

The 11 offenders sentenced to mandatory imprisonment or mandatory minimum terms represents 30.6 percent of all offenders sentenced to prison. The terms ranged from three years to five years. (See Table D4.)

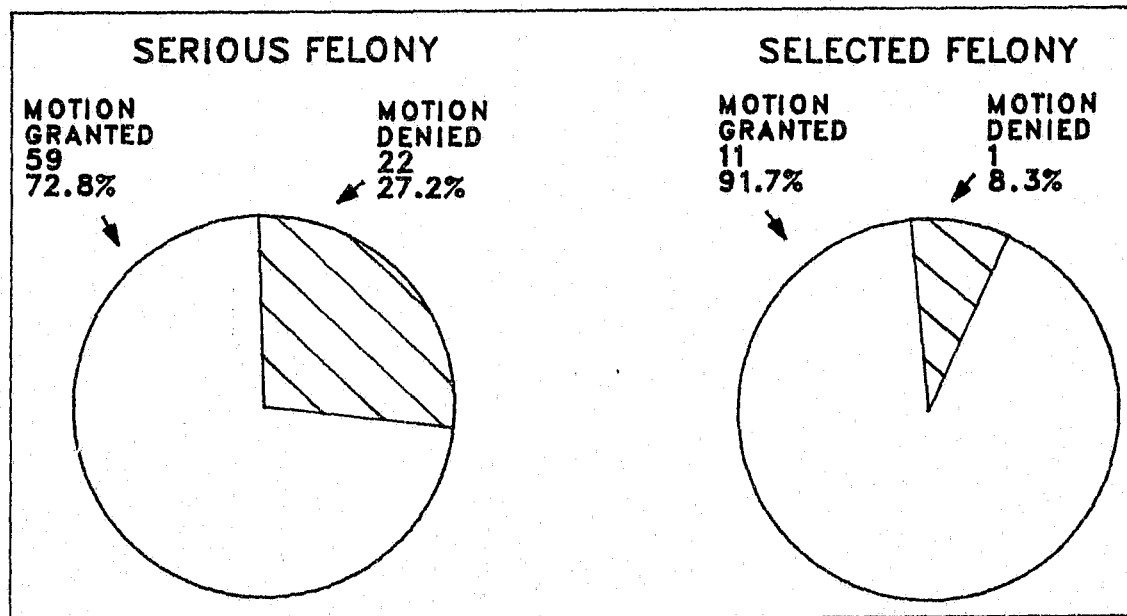
The prosecutor filed motions for mandatory terms for offenders convicted of theft 11.7 percent of the time, and

burglary offenders 9.7 percent of the time. (See Appendix A Table 24.) The prosecutor was successful in all of these cases with the exception of one defendant convicted of theft. Forty percent of the offenders sentenced to prison for theft and 37.5 percent sentenced to prison for burglary received either three or five year mandatory imprisonment or minimum terms. (See Appendix A Table 25.)

Table D4
Mandatory Minimum and Mandatory
Imprisonment Sentences

	Serious Felony		Selected Felony	
	<u>Nos.</u>	<u>Pct.</u>	<u>Nos.</u>	<u>Pct.</u>
2 Years -	1	1.7	-	-
3 Years -	5	8.5	4	36.4
5 Years -	18	30.5	7	63.6
7 Years -	1	1.7	-	-
10 Years -	33	55.9	-	-
20 Years -	1	1.7	-	-
TOTAL -	59	100.0	11	100.0

Graph D3
Motions for Mandatory Minimum and Mandatory Imprisonment



Method of Service of Imprisonment Sentence

Concurrent sentences are imposed for offenders sentenced to multiple prison terms. The offender serves each maximum indeterminate term at the same time. Consecutive sentences generally are imposed for offenders convicted of crimes while imprisoned or for offenders convicted of crimes committed after escaping imprisonment. The maximum indeterminate term would then be added to the unserved portion of the imprisonment term at the time the crime occurred or at the time of the escape.³⁰

Serious Felony

Over one-fourth (26.8 percent), or 51, of the 190 offenders sentenced to prison received single felony prison terms. (See Table D5.) Concurrent sentences were imposed for 131, or 68.9 percent, of the offenders. Of those 131 offenders, 91 were imposed with other charges belonging to the indictment, 39 were with other charges from another indictment and one was imposed on an offender with a previous non-imprisonment sentence. Consecutive sentences were imposed on 8, or 4.2 percent, of the offenders.

Of the offenders sentenced to prison for homicide and attempted homicide, 55.0 percent received concurrent sentences with charges belonging to the indictment. One offender was given a consecutive sentence. (See Appendix A Table 26.) Of the forcible rape offenders, 63.2 percent

were sentenced to concurrent terms with other indictment charges, and 10.5 percent were sentenced to concurrent terms with other felony sentences. Of the robbery offenders, 42.7 percent were sentenced to concurrent terms with other indictment charges, and 27.3 percent were sentenced to concurrent terms with other felony sentences. One robbery offender was sentenced to a concurrent term with a previous sentence, and seven were sentenced to consecutive sentences.

Selected Felony

There were 15 offenders, or 41.7 percent, who received felony prison terms and were sentenced to single prison terms and had not been previously incarcerated. (See Table D5.) Concurrent sentences were imposed for 20, or 55.5 percent, of the offenders. Of these 20 offenders, 55.0 percent of the concurrent sentences were with other charges belonging to the indictment, and 40.0 percent were with other charges from another indictment. One offender was sentenced to serve a consecutive sentence.

Of the offenders sentenced to prison for burglary, 37.5 percent were sentenced to concurrent sentences with other indictment charges. One burglary offender was sentenced to a consecutive term. (See Appendix A Table 26.) Of the offenders sentenced to prison for theft, 13.3 percent were sentenced to concurrent sentences with other indictment charges, and 40.0 percent were sentenced to concurrent terms

with other felony sentences.

**Table D5
Method of Service of Felony Prison Sentence**

	Serious Felony		Selected Felony	
	<u>Nos.</u>	<u>Pct.</u>	<u>Nos.</u>	<u>Pct.</u>
Single Sentence -	51	26.8	15	41.7
Concurrent Sentence:	131	68.9	20	55.6
with other charges -	91		11	
with other fel. charges -	39		8	
with prev. fel. sentence -	1		1	
Consecutive to Prev. Fel. Sentence -	8	4.2	1	2.8
TOTAL -	190	99.9	36	100.1

**Offenders Sentenced With Fine, Restitution and
Community Service**

Fine, restitution, and community service sentences often accompany felony prison, jail, and probation sentences. An offender can receive more than one of these sentence types at the same time, such as fine and community service. Therefore, fine, restitution and community service are reported separately as an average and is presented in terms of the actual number of offenders.

Serious Felony

Of the offenders sentenced to prison, 1 was fined \$1,080, and 46 were ordered to make, on the average, \$897 restitution. (See Table D6.)

Of the offenders sentenced to felony-probation and jail terms, 2 were fined an average of \$375, 7 were ordered to

make an average of \$430 restitution, and 11 were ordered to perform an average of 218 hours of community service. (See Table D6.)

Of the offenders sentenced to felony probation, 2 were fined an average of \$350, 7 were ordered to make an average of \$798 restitution, and 13 were ordered to perform an average of 238 hours of community service. (See Table D6.)

Of the offenders sentenced to non-felony probation and jail, 1 was ordered to make \$100 restitution and perform 50 hours of community service. (See Table D6.)

Of the offenders sentenced to non-felony probation, 1 was fined \$200, 2 were ordered to make an average of \$253 restitution, and 3 were ordered to perform an average of 100 hours of community service. (See Table D6.)

Of the offenders who received suspended sentences, 1 was ordered to perform 100 hours of community service. (See Table D6.)

Of the offenders who were granted DAGP, 1 was ordered to make \$300 restitution, and 5 were ordered to perform an average of 150 hours of community service.

Selected Felony

Of the offenders sentenced to felony prison terms, 7 were ordered to make, on the average, \$642 restitution. (See Table D6.)

Of the offenders sentenced to felony probation and

jail, 2 were fined, on the average, \$2,312; 4 were ordered to make, on the average, \$286 restitution; and 5 were ordered to perform an average of 110 hours of community service. (See Table D6.)

Of the offenders sentenced to felony probation, 10 were fined, on the average, \$720; 16 were ordered to make, on the average, \$344 restitution; and 34 were ordered to perform an average of 130 hours of community service. (See Table D6.)

Of the offenders sentenced to jail, 4 were fined, on the average, \$2,405, and 5 were ordered to make, on the average, \$1,200 restitution. (See Table D6.)

Of the offenders sentenced to non-felony probation and jail, 1 was ordered to perform 50 hours of community service. (See Table D6.)

Of the offenders sentenced to non-felony probation, 1 was ordered to make \$28 restitution, and 2 were ordered to perform an average of 100 hours of community service. (See Table D6.)

Of the offenders who were granted DAGP, 11 were fined, on the average, \$362; 9 were ordered to make, on the average, \$319 restitution; and 14 were ordered to perform an average of 101 hours of community service. (See Table D6.)

One offender was granted conditional discharge, and ordered to pay a fine of \$1,000 and perform 200 hours of community service. (See Table D6.)

Table D6
Type of Sentence with Fine, Restitution
and Community Service Hours

	Fine(\$)			Restitution(\$)			Commun. Service (Hours)	
	Nos.	Mean	Total	Nos.	Mean	Total	Nos.	Mean
Serious Felony								
Felony Prison -	1	1,080	1,080	46	897	41,262	-	-
Felony Prob. & Jail -	2	375	750	7	430	3,010	11	218
Felony Prob. -	2	350	700	7	798	5,586	13	238
Non-Fel. Prob. & Jail -	-	-	-	1	100	100	1	50
Non-Fel. Prob. -	1	200	200	2	254	508	3	100
DAGP -	-	-	-	1	300	300	5	150
Selected Felony								
Felony Prison -	-	-	-	7	642	4,494	-	-
Felony Prob. & Jail -	2	2,312	4,624	4	286	1,144	5	110
Felony Prob. -	10	720	7,200	16	344	5,504	34	130
Jail -	4	2,405	9,620	5	1,200	6,000	-	-
Non-Fel. Prob. & Jail -	-	-	-	-	-	-	1	50
Non-Fel. Prob. -	-	-	-	1	28	28	2	100
DAGP -	11	363	3,990	9	319	2,871	14	101
CDS -	1	1,000	1,000	-	-	-	1	200

Prior Conviction Record and Type of Conviction

The offender's prior felony conviction record (first felony conviction or prior felony convictions) and type of conviction (plea change or trial) were factors examined that may affect the severity or type of sentence imposed. The number of prior felony convictions reflects the offender's record at arrest.

Serious Felony

Some offenders may have strategically chosen to change their pleas in anticipation of being sentenced to some form

of probation rather than risk a guilty verdict and face the possibility of a prison sentence. (The court, however, has the discretion to impose an appropriate sentence.) Of the offenders sentenced to felony probation and jail, 78.0 percent changed their pleas. (See Table D7 and Graph D4.) Of the offenders sentenced to felony probation alone, 80.0 percent changed their pleas. Of the offenders sentenced to prison, 58.8 percent had changed their pleas. Of the offenders sentenced to prison for robbery, 73.0 percent had changed their pleas.

One of the important criteria for sentencing offenders to non-prison sentences is the prior felony conviction record. A significant number of offenders sentenced to probation did not have a history of felony convictions. Non-prison sentences accounted for 75, or 30.5 percent, of the offenders. At least 90 percent of the offenders sentenced to felony probation and jail, felony probation alone, or non-felony probation and jail did not have any prior felony convictions. Of the 171 offenders sentenced to prison, over one-half did not have any prior felony convictions. None of the offenders sentenced to prison for manslaughter, sex abuse, aggravated assault, or terroristic threatening had any prior felony convictions. (See Appendix A Table 29.) Almost three-fourths of the offenders sentenced to prison for forcible rape did not have prior felony convictions, either. However, over 58 percent of the

offenders sentenced to prison for robbery had prior felony convictions.

Prior felony conviction record and conviction type are just two of the factors that affect sentence severity. Other factors that affect sentence are researched by the Adult Probation Division in their pre-sentence report. Data from this pre-sentence report will be presented in a future report.

Selected Felony

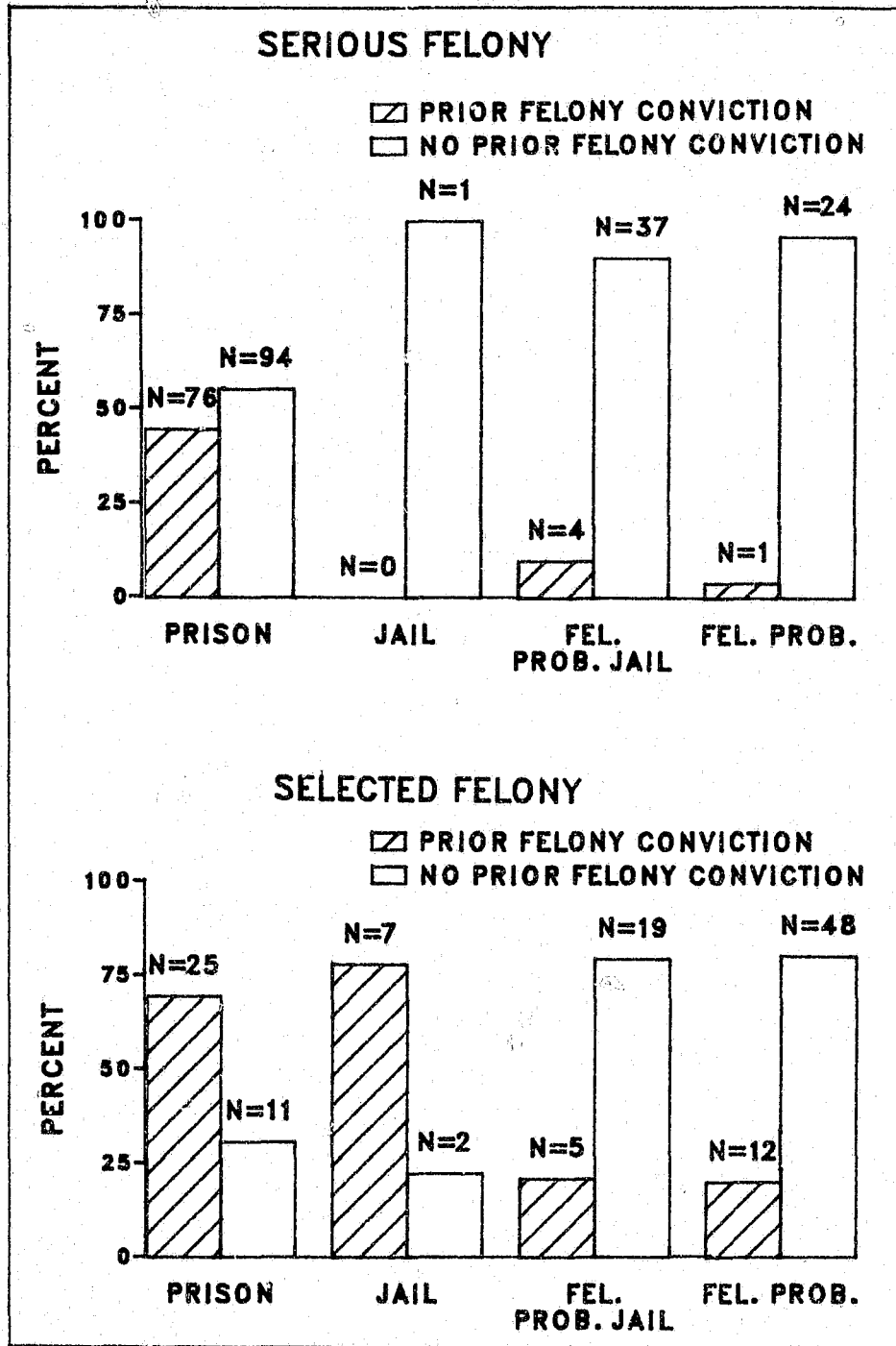
According to Table D7 and Graph D4, at least 79 percent of the offenders in each non-prison or non-jail sentence category changed their pleas. Two-thirds of the offenders sentenced to prison and 88.9 percent of the offenders sentenced to jail changed their pleas.

Of the offenders sentenced to prison, 69.4 percent had prior felony convictions. Of the offenders sentenced to jail, 77.8 percent had prior felony convictions. At least 71 percent of the offenders in each of the non-prison and non-jail sentence categories had no prior felony convictions. All offenders sentenced to prison for aggravated assault, auto theft, terroristic threatening, and forgery had prior felony convictions, while none of the offenders sentenced to prison for drug abuse had any prior felony convictions. (See Appendix A Table 29.)

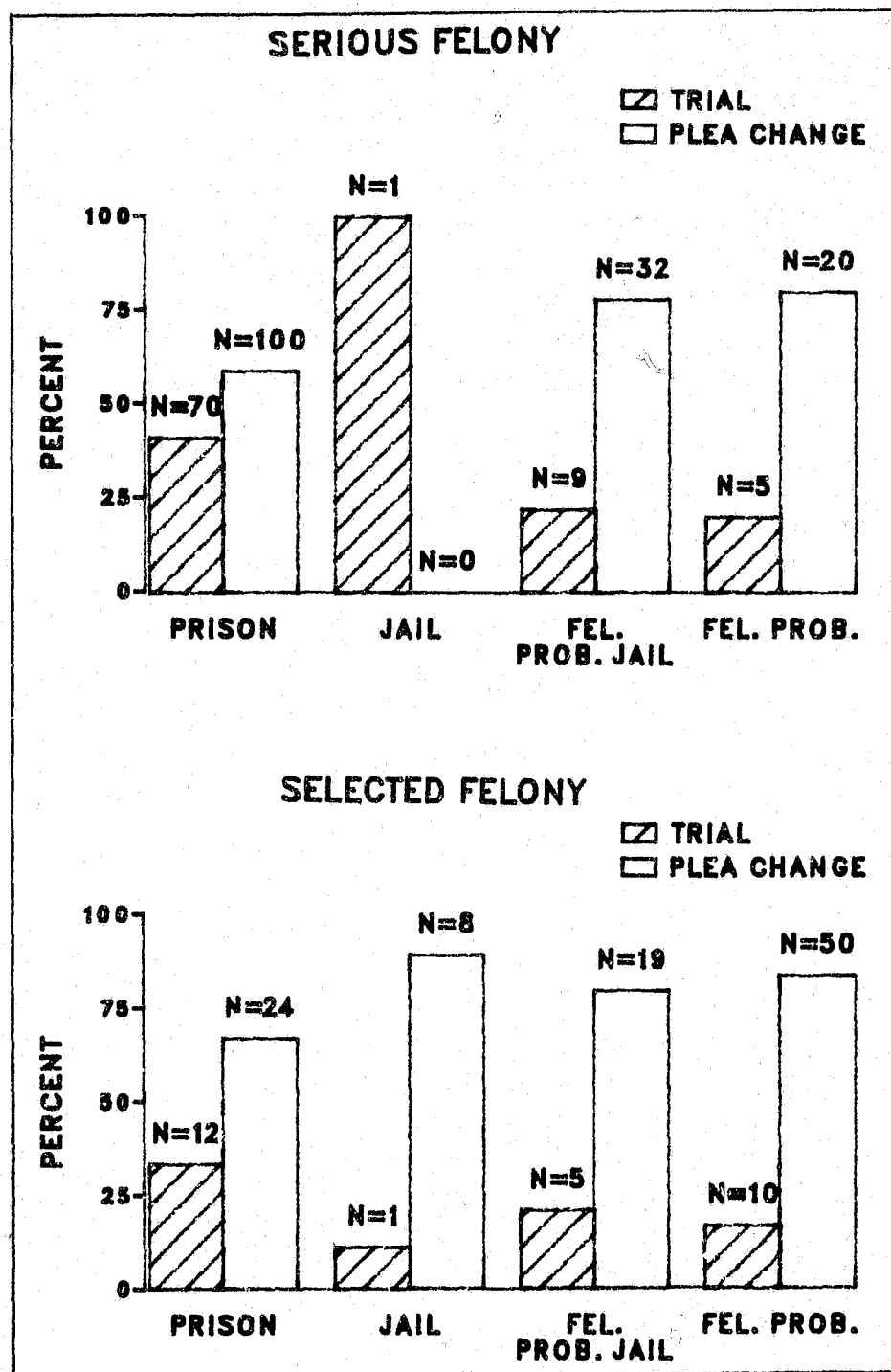
Table D7
 Type of Sentence³¹ by Prior Conviction Record
 and Type of Conviction

Serious Felony Sentence Type	Nos.	Prior Conviction Record		Conviction Type	
		First Conv.	Repeater	By Plea Change	By Trial Verdict
Felony Prison ³² -	170	94 (55.3)	76 (44.7)	100 (58.8)	70 (41.2)
Jail -	1	1 (100.0)	-	-	1 (100.0)
Fel. Prob. - & Jail	41	37 (90.2)	4 (9.8)	32 (78.0)	9 (22.0)
Fel. Prob. -	25	24 (96.0)	1 (4.0)	20 (80.0)	5 (20.0)
Non-Fel. Prob. - & Jail	2	2 (100.0)	-	1 (50.0)	1 (50.0)
Non-Fel. Prob. -	5	4 (80.0)	1 (20.0)	1 (20.0)	4 (80.0)
Fine, Rest., - Susp. Sent.	2	1 (50.0)	1 (50.0)	2 (100.0)	-
Selected Felony					
<u>Sentence Type</u>					
Felony Prison -	36	11 (30.6)	25 (69.4)	24 (66.7)	12 (33.3)
Jail -	9	2 (22.2)	7 (77.8)	8 (88.9)	1 (11.1)
Fel. Prob. - & Jail	24	19 (79.2)	5 (20.8)	19 (79.2)	5 (20.8)
Fel. Prob. -	60	48 (80.0)	12 (20.0)	50 (83.3)	10 (16.7)
Non-Fel. Prob. - & Jail	6	5 (83.3)	1 (16.7)	6 (100.0)	-
Non-Fel. Prob. -	7	5 (71.4)	2 (28.6)	6 (85.7)	1 (14.3)
Fine, Rest., - Susp. Sent.	2	2 (100.0)	-	2 (100.0)	-

Graph D4
 Prior Record Conviction and Type of Conviction



Graph D4 (Cont.)
 Prior Record Conviction and Type of Conviction



IV. NOTES

1. For a more detailed discussion of the study design refer to the first report of the felony offender study entitled, "The Felony Offender and the Criminal Justice System, Arrests."
2. The Judiciary, Annual Report, Statistical Supplement, (State of Hawaii: July 1, 1985 to June 30, 1986), Table 16.
3. Hawaii Crime Commission, Principles of Criminal Proceedings in Hawaii's Judicial System, (State of Hawaii: July 1980) p.p. 30-33.
4. Hawaii Crime Commission, 1985 Addendum to Principles of Criminal Proceedings in Hawaii's Judicial System, (State of Hawaii: January 1985) p.p. 26-34.
5. Two defendants arrested for robbery waived grand jury hearings. The prosecutor signed the complaint, and both defendants were forwarded for arraignment and plea.
6. An aggravated assault defendant, a theft defendant and a drug abuse defendant waived grand jury hearings. The prosecutor signed the complaint, and the three were forwarded for arraignment and plea.
7. Hawaii Crime Commission, Principles of Criminal Proceedings in Hawaii's Judicial System, (State of Hawaii: July 1980) p. 34.
8. Ibid, p.p. 10,12.
9. Ibid, p.p. 39-44.
10. Ibid, p. 37.
11. Ibid, p.p. 12,41.
12. Missing 1 observation. The arraignment and plea dates were not available.
13. Hawaii Crime Commission, Principles of Criminal Proceedings in Hawaii's Judicial System, (State of Hawaii: July 1980) p.p. 38-39.
Hawaii Crime Commission, Sentencing Practices and Alternatives to Incarceration in Hawaii, (State of Hawaii: December 1981) p.p. 37-39.

- Hawaii Revised Statutes, Hawaii Penal Code, State of Hawaii, Statute "853-1 - Deferred Acceptance of Guilty Plea or Nolo Contendere Plea; Discharge and Dismissal, Expungement of Records."
14. Hawaii Revised Statutes, Hawaii Penal Code, State of Hawaii, Statute "712-1255 - Conditional Discharge."
 15. Hawaii Crime Commission, Study of Bail Forfeiture in Hawaii, (State of Hawaii: March 1984) p.p. 3-11.
 16. Hawaii Crime Commission, Study of Bail Forfeiture in Hawaii, (State of Hawaii: March 1984) p. 10.
 17. SISC pre-trial recommendation report.
 18. Hawaii Crime Commission, Principles of Criminal Proceedings in Hawaii's Judicial System, (State of Hawaii: July 1980) p. 35.
 19. Ibid, p. 12.
 20. Ibid, p. 50.
 21. Ibid, p.p. 62-63.
 22. The first trial of one of the defendants resulted in a hung-jury, and he was subsequently convicted in a second trial.
 23. Hawaii Crime Commission, Principles of Criminal Proceedings in Hawaii's Judicial System, (State of Hawaii: July 1980) p.p. 68-69.
Hawaii Crime Commission, Sentencing Practices and Alternatives to Incarceration in Hawaii, (State of Hawaii: December 1981) p.p. 24-25.
Hawaii Revised Statutes, Hawaii Penal Code, State of Hawaii, Statute "706-0601 - Pre-Sentence Diagnosis and Report."
 24. Hawaii Crime Commission, Sentencing Practices and Alternatives to Incarceration in Hawaii, (State of Hawaii: December 1981) p. 24.
 25. Hawaii Revised Statutes, Hawaii Penal Code, State of Hawaii, Statute "853-1 - Deferred Acceptance of Guilty Plea or Nolo Contendere Plea; Discharge and Dismissal, Expungement of Records."
Hawaii Revised Statutes, Hawaii Penal Code, State of Hawaii, Statute "712-1255 - Conditional Discharge."

26. Hawaii Crime Commission, Principles of Criminal Proceedings in Hawaii's Judicial System, (State of Hawaii: July 1980) p.p. 64-65.
Hawaii Revised Statutes, Hawaii Penal Code, State of Hawaii, Statute "706-0660 - Sentence of Imprisonment for Felony; Ordinary Terms."
27. Hawaii Crime Commission, Principles of Criminal Proceedings in Hawaii's Judicial System, (State of Hawaii: July 1980) p. 67.
Hawaii Crime Commission, Sentencing Practices and Alternatives to Incarceration in Hawaii, (State of Hawaii: December 1981) p.p. 34-35.
Hawaii Revised Statutes, Hawaii Penal Code, State of Hawaii, Statutes "706-0661 - Sentences of Imprisonment for Felony; Extended Terms" and "706-0662 - Criteria for Sentence of Extended Term of Imprisonment for Felony."
28. Hawaii Crime Commission, Principles of Criminal Proceedings in Hawaii's Judicial System, (State of Hawaii: July 1980) p.p. 65-66.
Hawaii Crime Commission, Sentencing Practices and Alternatives to Incarceration in Hawaii, (State of Hawaii: December 1981) p. 35.
Hawaii Revised Statutes, Hawaii Penal Code, State of Hawaii, Statute "706-0606 - Sentence for Offense of Murder."
29. Hawaii Crime Commission, Sentencing Practices and Alternatives to Incarceration in Hawaii, (State of Hawaii: December 1981) p. 33.
30. Hawaii Crime Commission, Principles of Criminal Proceedings in Hawaii's Judicial System, (State of Hawaii: July 1980) p.p. 67-68.
Hawaii Revised Statutes, Hawaii Penal Code, State of Hawaii, Statute "706-0668 - Concurrent and consecutive Terms of Imprisonment."
31. Does not include DAGP sentence because the offender must not have prior felony convictions in order to motion for the DAGP.
32. Excludes homicide and attempted homicide offenses which carry mandatory imprisonment sentences.

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Hawaii Revised Statutes, Penal Code, State of Hawaii, Volume 12, Title 37.

The Judiciary, Annual Report, "Statistical Supplement," State of Hawaii, July 1, 1985 to June 30, 1986.

VI. APPENDICES

A. Statistical Tables Nos. 1 - 29.

B. Pre-Trial and Pre-Sentence Motions.

Table 1
Number of Defendants Appearing in Preliminary
Hearing (Pre-Indictment), Elapsed Time by Offense

Serious Felony	Nos.	Arrest and	Prelim. Hear.
		Prelim. Hear.	and Grand Jury
		<u>Median Days</u>	<u>Median Days</u>
Homicide	30	6.5	58.5
Forcible Rape	27	6.0	64.0
Robbery	83	7.0	45.0
Sodomy	4	6.0	61.0
Sex Abuse	4	5.5	75.0
Theft (Felony)	2	8.0	34.0
Total	150	7.0	52.0
Selected Felony			
Ag. Assault	4	6.0	96.0
Burglary	20	5.0	56.0
Theft (Felony)	14	5.5	45.0
Auto Theft	3	8.0	50.0
Drug Abuse	3	2.0	36.0
Terror. Threat	1	5.0	48.0
Weapons	1	12.0	41.0
Extortion	1	7.0	42.0
Forgery	1	4.0	93.0
Total	48	5.5	54.0

Table 2
Number of Defendants Arrested and Formally Charged,
Preliminary Hearing Not Held, Elapsed Time by Offense

Serious Felony	Nos.	Arrest and Grand Jury
		<u>Median Days</u>
Homicide	6	23.5
Manslaughter	2	22.5
Forcible Rape	6	19.0
Robbery	15	29.0
Kidnap	1	28.0
Total	30	28.0
Selected Felony		
Burglary	9	60.0
Theft (Felony)	11	23.0
Auto Theft	3	51.0
Drug Abuse	3	22.0
Terror. Threat	1	29.0
Weapons	1	12.0
Total	28	35.0

Table 3
Elapsed Time Between Grand Jury Indictment and
Post Indictment Arrest by Offense

	<u>Nos.</u>	<u>Grand Jury and Pre-Indictment Arrest Median Days</u>
Serious Felony		
Homicide	36	63.5
Manslaughter	2	22.5
Forcible Rape	33	63.0
Robbery	98	51.5
Sodomy	4	68.5
Sex Abuse	4	79.5
Theft (Felony)	2	41.0
Kidnap	1	28.0
Total	180	54.0
Selected Felony		
Ag. Assault	4	111.5
Burglary	29	59.0
Theft (Felony)	25	36.0
Auto Theft	6	54.0
Drug Abuse	6	31.0
Terror. Threat	2	40.5
Weapons	2	32.0
Extortion	1	48.0
Forgery	1	96.0
Total	76	52.0

Table 4
Elapsed Time Between Arrest-Release Pending Investigation
and Grand Jury and Post-Indictment Rearrest

	<u>Nos.</u>	<u>Arrest-RPI and Grand Jury (Indict Time) Median Days</u>	<u>Grand Jury and Post-Indictment Rearrest Median Days</u>
Serious Felony			
Homicide	7	135.0	3.0
Forcible Rape	2	85.0	10.0
Robbery	47	90.0	3.0
Sex Abuse	4	109.0	22.0
Ag. Assault	2	384.0	2.0
Burglary	1	193.0	14.0
Theft (Felony)	4	88.0	5.0
Kidnap	2	34.0	15.0
Terror. Threat	1	104.0	9.0
Hinder. Prosecution	2	118.5	4.0
Total	72	91.0	4.0
Selected Felony			
Ag. Assault	4	83.0	135.0
Burglary	15	133.0	7.0
Theft (Felony)	36	105.5	6.0
Auto Theft	14	116.0	19.5
Kidnap	1	77.0	247.0
Drug Abuse	23	128.0	10.0
Terror. Threat	4	102.0	13.5
Reckless Endang.	1	117.0	4.0
Weapons	5	111.0	14.0
Forgery	2	101.0	596.5
Crim. Trespass	1	85.0	275.0
Total	106	106.0	8.5

Table 5
Elapsed Time Between Grand Jury
and Post-Indictment Arrest

	Grand Jury and Post-Indictment Arrest	
	Nos.	Median Days
Serious Felony		
Homicide	11	2.0
Forcible Rape	11	5.0
Robbery	55	7.0
Sodomy	1	9.0
Sex Abuse	5	3.0
Burglary	2	46.5
Total	85	7.0
Selected Felony		
Ag. Assault	8	2.0
Burglary	11	305.0
Theft (Felony)	21	6.0
Auto Theft	1	6.0
Drug Abuse	3	3.0
Terror. Threat	2	2.0
Weapons	3	12.0
Extortion	1	2.0
Crim. Prop. Dmg.	5	2.0
Total	55	5.0

Table 6
Defense Counsel by Offense

	<u>Court</u> <u>Appointed</u>	<u>Public</u> <u>Defender</u>	<u>Privately</u> <u>Retained</u>	<u>Total</u>
Serious Felony				
Homicide	19	26	9	54
Manslaughter	0	1	1	2
Forcible Rape	10	30	6	46
Robbery	51	120	29	200
Sodomy	0	3	2	5
Sex Abuse	1	6	6	13
Ag. Assault	0	0	2	2
Burglary	2	1	0	3
Theft (Felony)	1	5	0	6
Kidnap	0	1	2	3
Terror. Threat	0	0	1	1
Hinder. Prosecution	0	0	2	2
Total	84	193	60	337
Selected Felony				
Ag. Assault	11	3	2	16
Burglary	11	37	7	55
Theft (Felony)	17	45	20	82
Auto Theft	1	16	4	21
Kidnap	0	1	0	1
Terror. Threat	2	3	3	8
Reckless Endang.	0	1	0	1
Weapons	1	5	4	10
Drug Abuse	6	10	16	32
Crim. Trespass	0	1	0	1
Crim. Prop. Dmg.	5	0	0	5
Forgery	1	2	0	3
Extortion	0	0	2	2
Total	55	124	58	237

Table 7
Pre-Trial Disposition By Offense

	<u>Plea</u>	<u>Set</u>	<u>Dism.</u>	<u>Dism.</u>	<u>Dism.</u>	<u>Dism.</u>	<u>Dism.</u>	<u>Dism.</u>	<u>Defen-</u>	<u>Case</u>	<u>Es-</u>	<u>Failed</u>	<u>Total</u>
	<u>Change</u>	<u>For</u>	<u>With/</u>	<u>Guilty</u>	<u>Guilty</u>	<u>Guilty</u>	<u>Insuf.</u>	<u>With/</u>	<u>dant</u>	<u>Re-</u>	<u>cape</u>	<u>To</u>	
Serious Felony		Trial	Without	Change	Indict	Testify	Evid.	Absent	Died	manded	Appea	A & P	
Homicide	13	38	1	0	0	0	1	1	0	0	0	0	54
Manslaughter	1	1	0	0	0	0	0	0	0	0	0	0	2
Forcible Rape	11	26	0	0	0	0	1	7	0	0	1	0	46
Robbery	124	51	6	8	7	0	2	2	0	0	0	0	200
Sodomy	0	3	0	0	0	0	0	0	0	0	1	1	5
Sex Abuse	10	3	0	0	0	0	0	0	0	0	0	0	13
Ag. Assault	0	1	1	0	0	0	0	0	0	0	0	0	2
Burglary	0	0	0	0	0	0	0	3	0	0	0	0	3
Theft (Felony)	4	2	0	0	0	0	0	0	0	0	0	0	6
Kidnap	0	3	0	0	0	0	0	0	0	0	0	0	3
Terror. Threat	1	0	0	0	0	0	0	0	0	0	0	0	1
Hind. Prosecution	2	0	0	0	0	0	0	0	0	0	0	0	2
Total	166	128	8	8	7	0	4	13	0	0	2	1	337
Selected Felony													
Ag. Assault	11	3	2	0	0	0	0	0	0	0	0	0	16
Burglary	29	10	10	3	1	0	1	0	0	0	0	1	55
Theft (Felony)	58	13	3	1	1	1	3	0	0	1	0	1	82
Auto Theft	16	2	1	0	1	0	0	0	1	0	0	0	21
Kidnap	0	0	1	0	0	0	0	0	0	0	0	0	1
Terror. Threat	3	4	0	0	0	0	0	0	0	0	0	1	8
Reckless Endg.	0	1	0	0	0	0	0	0	0	0	0	0	1
Weapons	4	5	0	0	1	0	0	0	0	0	0	0	10
Drug Abuse	25	3	2	0	0	0	1	0	0	1	0	0	32
Crim. Trespass	1	0	0	0	0	0	0	0	0	0	0	0	1
Crim. Prop. Dmg.	1	0	4	0	0	0	0	0	0	0	0	0	5
Forgery	2	1	0	0	0	0	0	0	0	0	0	0	3
Extortion	0	2	0	0	0	0	0	0	0	0	0	0	2
Total	150	44	23	4	4	1	5	0	1	2	0	3	237

Table 8
Type of Plea Change By Offense

	<u>Guilty As Charged</u>	<u>Guilty Reduced Charge</u>	<u>No Contest As Charged</u>	<u>No Contest Reduced Charge</u>	<u>Total</u>
Serious Felony					
Homicide	4	8	0	1	13
Manslaughter	1	0	0	0	1
Forcible Rape	5	3	3	0	11
Robbery	93	25	3	3	124
Sex Abuse	7	0	3	0	10
Theft (Felony)	2	2	0	0	4
Terror. Threat	1	0	0	0	1
Hind. Prosecution	2	0	0	0	2
Total	115	38	9	4	166
Selected Felony					
Ag. Assault	1	7	3	0	11
Burglary	20	7	2	0	29
Theft (Felony)	51	5	1	1	58
Auto Theft	13	2	1	0	16
Terror. Threat	0	3	0	0	3
Weapons	4	0	0	0	4
Drug Abuse	21	4	0	0	25
Crim. Trespass	1	0	0	0	1
Crim. Prop. Dmg.	0	1	0	0	1
Forgery	2	0	0	0	2
Total	113	29	7	1	150

Table 9
Plea Negotiation Type by Offense

	<u>Reduced Charge</u>	<u>Dismiss Other Charges</u>	<u>Dismiss Other Indict</u>	<u>Dismiss Pending Charges</u>	<u>Remain Silent at Sentencing</u>	<u>Combination Other</u>	<u>Total</u>
Serious Felony							
Homicide	6	1	0	0	0	6	13
Manslaughter	0	0	0	0	1	0	1
Forcible Rape	2	1	0	0	0	5	8
Robbery	18	20	5	0	10	53	106
Sex Abuse	0	0	0	0	1	3	4
Theft (Felony)	2	0	0	0	1	0	3
Terror. Threat.	0	0	0	0	0	1	1
Hinder. Pros.	0	0	0	0	0	1	1
Total	28	22	5	0	13	69	137
Selected Felony							
Ag. Assault	2	0	0	1	1	5	9
Burglary	5	2	3	0	1	3	14
Theft (Felony)	5	3	5	0	9	5	27
Auto Theft	0	0	0	0	3	0	3
Terror. Threat.	1	0	0	0	0	2	3
Drug Abuse	3	2	1	0	7	6	19
Crim. Trespass	0	0	0	0	0	1	1
Crim. Prop. Dmg.	0	0	0	0	0	1	1
Total	16	7	9	1	21	23	77

Table 10
Plea Change Cases Where the Indictment Offense Was
Reduced to a Lesser-Included Offense

Serious Felony Final Offense	Indictment Offense					Total
	Homicide	Forcible Rape 1	Theft 1	Robbery 1	Robbery 2	
Manslaughter	3	0	0	0	0	3
Forcible Rape 2	0	1	0	0	0	1
Robbery 2	0	0	0	15	0	15
Sex Abuse	0	2	0	0	0	2
Ag. Assault 1	3	0	0	0	0	3
Ag. Assault 2	2	0	0	1	0	3
Theft 1	0	0	0	6	6	12
Reckless Endang.	1	0	0	0	0	1
Theft	0	0	2	0	0	2
Total	9	3	2	22	6	42

Selected Felony Final Offense	Indictment Offense										Total
	Ag. Assault 1	Ag. Assault 2	Terror. Threat 1	Burglary 1	Burglary 2	Crim. Prop. Dmg. 1	Theft 1	Auto Theft	Dang. Drug 1	Harm. Drug 1	
Ag. Assault 2	2	0	0	0	0	0	0	0	0	0	2
Burglary 2	0	0	0	3	0	0	0	0	0	0	3
Theft 1	0	0	0	1	0	0	0	0	0	0	1
Terror. Threat 2	0	0	3	0	0	0	0	0	0	0	3
Dang. Drugs 2	0	0	0	0	0	0	0	0	3	0	3
Harmful Drugs 2	0	0	0	0	0	0	0	0	0	1	1
Simple Assault	0	4	0	0	0	0	0	0	0	0	4
Theft 2	0	0	0	0	1	0	4	2	0	0	7
Theft 3	0	0	0	0	0	0	2	0	0	0	2
Crim. Trespass 1	0	0	0	1	0	0	0	0	0	0	1
Crim. Trespass 2	0	0	0	0	1	0	0	0	0	0	1
Crim. Prop. Dmg. 3	0	0	0	0	0	1	0	0	0	0	1
Harassment	0	1	0	0	0	0	0	0	0	0	1
Total	2	5	3	5	2	1	6	2	3	1	30

Table 11
Elapsed Time Between Arrest or Indictment,
Plea Change and Arraignment and Plea by Offense

Serious Felony	<u>Nos.</u>	<u>Arrest or Indictment and Plea Change Median Days</u>	<u>Arraignment & Plea and Plea Change Median Days</u>
Homicide	13	664.0	652.0
Manslaughter	1	321.0	281.0
Rape	11	378.0	320.0
Robbery	124	235.0	178.5
Sex Abuse	10	313.0	276.5
Theft	4	122.5	107.0
Terror. Threat.	1	979.0	960.0
Hind. Pros.	2	213.5	198.5
Total	166	276.0	227.5
Selected Felony			
Ag. Assault	11	444.0	417.0
Burglary	29	189.0	124.0
Theft	58	145.5	107.5
Auto Theft	16	144.5	90.5
Drug Abuse	25	287.0	177.0
Terror. Threat.	3	265.0	232.0
Weapons	4	122.0	100.5
Forgery	2	683.0	70.0
Crim. Trespass	1	295.0	283.0
Crim. Prop. Dmg.	1	443.0	420.0
Total	150	183.5	132.5

Table 12
Elapsed Time Between Arrest or Indictment,
Trial Start and Arraignment and Plea by Offense

Serious Felony	Nos.	Arrest or Indictment and Trial Start Median Days	Arraignment & Plea and Trial Start Median Days
Homicide	38	392.0	316.0
Manslaughter	1	830.0	801.0
Rape	26	449.0	362.0
Robbery	51	291.0	221.0
Sodomy	3	273.0	185.0
Sex Abuse	3	259.0	186.0
Ag. Assault	1	327.0	316.0
Theft	2	121.5	83.0
Kidnap	3	147.0	134.0
Total	128	327.0	285.0
Selected Felony			
Ag. Assault	3	370.0	225.0
Burglary	10	248.0	128.0
Theft	13	309.0	211.0
Auto Theft	2	144.0	129.5
Drug Abuse	3	1,164.0	1,122.0
Terror. Threat.	4	180.0	155.0
Reckless Endg.	1	148.0	137.0
Weapons	5	518.0	365.0
Extortion	2	327.5	287.5
Forgery	1	498.0	408.0
Total	44	273.5	215.0

Table 13
Elapsed Time Between Arrest or Indictment,
Final Disposition and Arraignment and Plea by Offense

	<u>Nos.</u>	<u>Arrest or Indictment and Final Dispo Median Days</u>	<u>Arraignment & Plea and Final Dispo Median Days</u>
Serious Felony			
Homicide	3	229.0	217.0
Rape	9	419.0	311.0
Robbery	25	267.0	254.0
Sodomy	1	306.0	294.0
Ag. Assault	1	538.0	527.0
Burglary	3	380.0	359.0
Total	42	379.5	299.0
Selected Felony			
Ag. Assault	2	194.0	175.5
Burglary	16	266.0	165.0
Theft	11	237.0	218.0
Auto Theft	3	107.0	95.0
Kidnap	1	322.0	65.0
Drug Abuse	4	243.0	163.5
Terror. Threat.	1	671.0	659.0
Weapons	1	213.0	201.0
Crim. Prop. Dmg.	4	112.0	89.0
Total	43	226.0	165.0

Table 14
Pre-Trial Motion for Deferred Acceptance
Guilty Plea by Indictment Offense

	Nos. of DAGP <u>Motions</u>	<u>Motion Denied</u>	<u>Motion Granted</u>
Serious Felony			
Forcible Rape	1	1	0
Robbery	11	9	2
Sex Abuse	9	8	1
Theft	7	4	3
Hinder. Pros.	2	1	1
Total	30	23	7
Selected Felony			
Ag. Assault	1	1	0
Burglary	12	9	3
Theft	26	11	15
Auto Theft	7	4	3
Drug Abuse	19	9	10
Terror. Threat.	1	1	0
Weapons	3	2	1
Crim. Trespass	1	1	0
Total	70	38	32

Table 15
Motion for High Bail by Offense

	<u>Motion High Bail</u>	<u>Motion Granted</u>	<u>Motion Denied</u>
Serious Felony			
Homicide	1	1	0
Forcible Rape	3	3	0
Robbery	7	7	0
Sodomy	2	2	0
Total	13	13	0
Selected Felony			
Theft (Felony)	1	0	1
Terror. Threat.	1	0	1
Forgery	1	1	0
Extortion	1	1	0
Total	4	2	2

Table 16
Pre-Trial Custody Status by Bail Severity and by Offense

	Bail Release		Rlse. Own Recog.		Supervised Release		In Custody		Total	
	High Bail	Norm. Bail	High Bail	Norm. Bail	High Bail	Norm. Bail	High Bail	Norm. Bail	High Bail	Norm. Bail
Serious Felony										
Homicide	9	5	0	0	1	2	30	7	40	14
Manslaughter	0	2	0	0	0	0	0	0	0	2
Forcible Rape	3	12	0	0	0	2	18	11	21	25
Robbery	5	35	0	3	7	19	92	39	104	96
Sodomy	0	2	0	0	0	0	3	0	3	2
Sex Abuse	0	7	0	0	0	2	3	1	3	10
Ag. Assault	0	1	0	0	0	1	0	0	0	2
Burglary	0	2	0	0	0	0	0	1	0	3
Theft (Felony)	0	1	0	0	0	1	0	4	0	6
Kidnap	0	3	0	0	0	0	0	0	0	3
Terror. Threat.	0	1	0	0	0	0	0	0	0	1
Hinder. Pros.	0	1	0	0	0	0	0	1	0	2
Total	17	72	0	3	8	27	146	64	171	166
Selected Felony										
Ag. Assault	1	6	0	0	0	0	0	9	1	15
Burglary	0	19	1	3	3	10	13	6	17	38
Theft (Felony)	4	50	1	1	2	1	14	9	21	61
Auto Theft	1	8	0	1	1	2	6	2	8	13
Kidnap	0	1	0	0	0	0	0	0	0	1
Terror. Threat.	0	4	0	0	0	0	3	1	3	5
Reckless Endang.	0	1	0	0	0	0	0	0	0	1
Weapons	0	5	0	0	0	0	5	0	5	5
Drug Abuse	2	21	0	2	0	3	2	2	4	28
Crim. Trespass	0	0	0	0	0	0	0	1	0	1
Crim. Prop. Dmg.	0	0	0	0	0	0	0	5	0	5
Forgery	0	1	0	0	0	0	1	1	1	2
Extortion	0	0	0	0	0	0	2	0	2	0
Total	8	116	2	7	6	16	46	36	62	175

A14

Table 17
Pre-Trial Custody by SISC Custody Recommendation
and by Offense

Recom. = Bail Red.	Custody Status				Total
	Bail Rlse.	Rlse. Own Recog.	Supv. Rlse.	In Custody	
Serious Felony					
Homicide	4	0	0	8	12
Forcible Rape	1	0	0	6	7
Robbery	3	0	0	22	25
Total	8	0	0	36	44
Selected Felony					
Ag. Assault	1	0	0	0	1
Burglary	0	0	0	1	1
Theft (Felony)	1	0	0	4	5
Drug Abuse	0	0	0	2	2
Total	2	0	0	7	9
Recom. = Supv. Rlse.					
Serious Felony					
Homicide	0	0	3	4	7
Forcible Rape	0	0	2	4	6
Robbery	0	1	24	6	31
Sex Abuse	0	0	2	0	2
Ag. Assault	0	0	1	0	1
Theft (Felony)	0	0	1	0	1
Total	0	1	33	14	48
Selected Felony					
Burglary	0	0	12	6	18
Theft (Felony)	0	1	3	1	5
Auto Theft	0	0	3	0	3
Drug Abuse	0	0	3	1	4
Forgery	0	0	0	1	1
Total	0	1	21	9	31

Table 17 (Cont.)
Pre-Trial Custody by SISC Custody Recommendation
and by Offense

Recom. = Rlse. Own Recog.	Custody Status				Total
	Bail Rlse.	Rlse. Own Recog.	Supv. Rlse.	In Custody	
Serious Felony Robbery	0	2	1	1	4
Total	0	2	1	1	4
Selected Felony					
Burglary	0	4	0	1	5
Theft (Felony)	0	1	0	0	1
Auto Theft	0	1	0	0	1
Total	0	6	0	1	7
Recom. = Denied					
Serious Felony					
Homicide	0	0	0	18	18
Forcible Rape	0	0	0	16	16
Robbery	1	0	0	72	73
Sex Abuse	0	0	0	4	4
Sodomy	0	0	0	1	1
Theft (Felony)	0	0	0	3	3
Total	1	0	0	114	115
Selected Felony					
Ag. Assault	0	0	0	1	1
Burglary	0	0	0	7	7
Theft (Felony)	3	0	0	12	15
Auto Theft	0	0	0	7	7
Terror. Threat.	0	0	0	4	4
Weapons	0	0	0	3	3
Drug Abuse	1	0	0	0	1
Extortion	0	0	0	1	1
Total	4	0	0	35	39

Table 18
Type of Trial by Offense

	<u>Jury Trial</u>	<u>Jury Waived</u>	<u>Total</u>
Serious Felony			
Homicide	31	7	38
Manslaughter	0	1	1
Forcible Rape	24	2	26
Robbery	42	9	51
Sodomy	2	1	3
Sex Abuse	3	0	3
Ag. Assault	1	0	1
Theft (Felony)	1	1	2
Kidnap	3	0	3
Total	107	21	128
Selected Felony			
Ag. Assault	3	0	3
Burglary	7	3	10
Theft (Felony)	9	4	13
Auto Theft	0	2	2
Terror. Threat.	3	1	4
Reckless Endang.	1	0	1
Weapons	4	1	5
Drug Abuse	0	3	3
Forgery	0	1	1
Extortion	2	0	2
Total	29	15	44

Table 19
Trial Verdict and Trial Type by Offense

	Guilty as Charged		Guilty Red. Charge		Acquitted		Acquitted Insane		Motion Judgement Acquittal		Dismissed Complaint Withdrawn		Total	
	Jury	Judge	Jury	Judge	Jury	Judge	Jury	Judge	Jury	Judge	Jury	Judge	Jury	Judge
Serious Felony														
Homicide	20	1	9	4	2	0	0	2	0	0	0	0	31	7
Manslaughter	0	0	0	0	0	0	0	1	0	0	0	0	0	1
Forcible Rape	15	2	2	0	5	0	0	0	1	0	1	0	24	2
Robbery	34	5	6	1	2	0	0	3	0	0	0	0	42	9
Sodomy	2	1	0	0	0	0	0	0	0	0	0	0	2	1
Sex Abuse	3	0	0	0	0	0	0	0	0	0	0	0	3	0
Ag. Assault	1	0	0	0	0	0	0	0	0	0	0	0	1	0
Theft (Felony)	1	0	0	1	0	0	0	0	0	0	0	0	1	1
Kidnap	1	0	0	0	2	0	0	0	0	0	0	0	3	0
Total	77	9	17	6	11	0	0	6	1	0	1	0	107	21
Selected Felony														
Ag. Assault	2	0	1	0	0	0	0	0	0	0	0	0	3	0
Burglary	5	2	1	0	1	0	0	1	0	0	0	0	7	3
Theft (Felony)	6	3	0	0	3	0	0	1	0	0	0	0	9	4
Auto Theft	0	0	0	0	0	0	0	2	0	0	0	0	0	2
Terror. Threat.	3	1	0	0	0	0	0	0	0	0	0	0	3	1
Reckless Endang.	1	0	0	0	0	0	0	0	0	0	0	0	1	0
Weapons	2	0	0	0	1	0	0	1	1	0	0	0	4	1
Drug Abuse	0	1	0	1	0	1	0	0	0	0	0	0	0	3
Forgery	0	1	0	0	0	0	0	0	0	0	0	0	0	1
Extortion	0	0	0	0	1	0	0	0	0	0	1	0	2	0
Total	19	8	2	1	6	1	0	5	1	0	1	0	29	15

Table 20
Length of Trial

Serious Felony	<u>Nos.</u>	<u>Median Days</u>
Homicide	38	8.0
Manslaughter	1	9.0
Forcible Rape	26	3.5
Robbery	51	3.0
Sodomy	3	11.0
Sex Abuse	3	2.0
Ag. Assault	1	16.0
Theft (Felony)	2	8.5
Kidnap	3	3.0
Total	128	4.0
Selected Felony		
Ag. Assault	3	2.0
Burglary	10	2.0
Theft (Felony)	13	1.0
Auto Theft	2	1.5
Terror. Threat.	4	2.5
Reckless Endang.	1	5.0
Weapons	5	2.0
Drug Abuse	3	4.0
Forgery	1	1.0
Extortion	2	30.5
Total	44	2.0

Table 21
Type of Sentence by Offense

	Pri- son	Jail	Fel. Prob. Jail	Fel. Prob.	Non-Fel. Prob. Jail	Non-Fel. Prob.	Fine, Rest., Susp.	DAGP	Cond. Disch.	Total
Serious Felony	20	0	0	0	0	0	0	0	0	20
Homicide	9	0	0	2	0	0	0	0	0	11
Manslaughter	19	0	1	1	0	0	0	0	0	21
Forcible Rape	110	0	23	11	0	0	1	2	0	147
Robbery	3	0	0	0	0	0	0	0	0	3
Sodomy	7	0	4	3	0	0	1	1	0	16
Sex Abuse	4	0	4	4	0	0	0	0	0	12
Ag. Assault	2	0	0	0	0	0	0	0	0	2
Burglary	5	0	6	3	0	0	0	3	0	17
Theft (Felony)	6	0	0	0	0	0	0	0	0	6
Kidnap	1	0	1	0	0	0	0	0	0	2
Terror. Threat.	0	0	1	1	0	1	0	0	0	3
Reckless Endang.	0	0	0	0	1	2	0	0	0	3
Simple Assault	0	1	0	0	1	2	0	0	0	4
Theft (Non-Fel.)	4	0	0	0	0	0	0	0	0	4
Crim. Conspiracy	0	0	1	0	0	0	0	1	0	2
Hinder. Pros.										
Total	190	1	41	25	2	5	2	7	0	273
Selected Felony										
Ag. Assault	1	0	6	1	0	0	0	0	0	8
Burglary	8	0	6	14	0	0	0	3	0	31
Theft (Felony)	15	0	5	24	0	0	1	15	0	60
Auto Theft	3	0	3	4	0	0	0	3	0	13
Terror. Threat.	3	0	0	0	2	1	0	0	0	6
Weapons	2	0	1	3	0	0	0	1	0	7
Drug Abuse	3	1	1	12	1	0	0	9	2	29
Simple Assault	0	4	0	0	0	0	0	0	0	4
Theft (Non-Fel.)	0	2	0	0	3	3	1	0	0	9
Crim. Trespass	0	0	1	1	0	2	0	0	0	4
Crim. Prop. Dmg.	0	1	0	0	0	0	0	0	0	1
Harassment	0	1	0	0	0	1	0	0	0	2
Forgery	1	0	1	1	0	0	0	0	0	3
Total	36	9	24	60	6	7	2	31	2	177

A20

Table 22
Extended Felony Prison Terms

Serious Felony	<u>Motions for</u> <u>Extended Term</u>	<u>Motion</u> <u>Granted</u>	<u>Motion</u> <u>Denied</u>
Homicide	2	0	2
Manslaughter	1	0	1
Forcible Rape	8	6	2
Robbery	33	21	12
Sodomy	2	2	0
Sex Abuse	3	1	2
Ag. Assault	1	0	1
Theft (Felony)	1	0	1
Weapons	1	0	1
Total	52	30	22
Selected Felony			
Ag. Assault	1	1	0
Burglary	2	1	1
Theft (Felony)	10	3	7
Auto Theft	2	1	1
Terror. Threat.	2	1	1
Drug Abuse	1	0	1
Forgery	1	0	1
Total	19	7	12

Table 23
 Felony Prison Sentences (Maximum Indeterminate Term)
 by Offense

	Non-Extended Terms						Extended Terms			Total
	4 Years	5 Years	8 Years	10 Years	20 Years	Life	10 Years	20 Years	Life	
Serious Felony										
Homicide	0	0	2	0	1	17	0	0	0	20
Manslaughter	0	0	0	9	0	0	0	0	0	9
Forcible Rape	0	0	1	2	10	0	0	0	6	19
Robbery	0	2	6	33	48	0	0	3	18	110
Sodomy	0	0	0	0	1	0	0	0	2	3
Sex Abuse	1	6	0	0	0	0	0	0	0	7
Ag. Assault	0	1	0	3	0	0	0	0	0	4
Burglary	0	0	0	2	0	0	0	0	0	2
Theft (Felony)	2	3	0	0	0	0	0	0	0	5
Kidnap	0	0	1	2	2	0	0	1	0	6
Terror. Threat.	0	1	0	0	0	0	0	0	0	1
Crim. Conspiracy	0	0	0	4	0	0	0	0	0	4
Total	3	13	10	55	62	17	0	4	26	190
Selected Felony										
Ag. Assault	0	0	0	0	0	0	1	0	0	1
Burglary	1	3	0	3	0	0	0	1	0	8
Theft (Felony)	0	12	0	0	0	0	3	0	0	15
Auto Theft	0	2	0	0	0	0	1	0	0	3
Terror. Threat.	1	1	0	0	0	0	1	0	0	3
Weapons	0	1	0	1	0	0	0	0	0	2
Drug Abuse	0	0	1	1	1	0	0	0	0	3
Forgery	0	1	0	0	0	0	0	0	0	1
Total	2	20	1	5	1	0	6	1	0	36

A22

Table 24
Mandatory Imprisonment and Mandatory Minimum Terms

Serious Felony	<u>Motions for Mand. Imprism. & Min. Terms</u>	<u>Motion Granted</u>	<u>Motion Denied</u>
Homicide	11	5	6
Manslaughter	6	4	2
Forcible Rape	4	2	2
Robbery	54	46	8
Sodomy	1	0	1
Sex Abuse	1	0	1
Ag. Assault	1	0	1
Burglary	1	1	0
Theft (Felony)	2	1	1
Total	81	59	22
Selected Felony			
Ag. Assault	1	1	0
Burglary	3	3	0
Theft (Felony)	7	6	1
Terror. Threat.	1	1	0
Total	12	11	1

Table 25
Mandatory Imprisonment and Mandatory Sentences by
Offense

	<u>2 Years</u>	<u>3 Years</u>	<u>5 Years</u>	<u>7 Years</u>	<u>10 Years</u>	<u>20 Years</u>	<u>Total</u>
Serious Felony							
Homicide	0	0	1	0	4	0	5
Manslaughter	0	0	4	0	0	0	4
Forcible Rape	0	0	2	0	0	0	2
Robbery	1	4	10	1	29	1	46
Burglary	0	0	1	0	0	0	1
Theft (Felony)	0	1	0	0	0	0	1
Total	1	5	18	1	33	1	59
Selected Felony							
Ag. Assault	0	0	1	0	0	0	1
Burglary	0	1	2	0	0	0	3
Theft (Felony)	0	2	4	0	0	0	6
Terror. Threat.	0	1	0	0	0	0	1
Total	0	4	7	0	0	0	11

A24

Table 26
Method of Service of Prison Sentences by Offense

	Single Sentence	Concurrent With Other Charge	Concurrent With Other Sentence	Concurrent With Previous Sentence	Consecutive With Previous Sentence	Total
Serious Felony						
Homicide	8	11	0	0	1	20
Manslaughter	5	4	0	0	0	9
Forcible Rape	5	12	2	0	0	19
Robbery	25	47	30	1	7	110
Sodomy	0	3	0	0	0	3
Sex Abuse	3	3	1	0	0	7
Ag. Assault	2	1	1	0	0	4
Burglary	0	2	0	0	0	2
Theft (Felony)	3	0	2	0	0	5
Kidnap	0	6	0	0	0	6
Terror. Threat.	0	1	0	0	0	1
Crim. Conspiracy	0	1	3	0	0	4
Total	51	91	39	1	8	190
Selected Felony						
Ag. Assault	0	1	0	0	0	1
Burglary	3	3	1	0	1	8
Theft (Felony)	6	2	6	1	0	15
Auto Theft	3	0	0	0	0	3
Terror. Threat.	1	1	1	0	0	3
Weapons	1	1	0	0	0	2
Drug Abuse	1	2	0	0	0	3
Forgery	0	1	0	0	0	1
Total	15	11	8	1	1	36

A25

Table 27
Fine, Restitution, and Suspended Sentences

Serious Felony	Fine (\$)		Restitu- tion (\$)		Suspended Sentences (Days)		Community Service (Hours)	
	<u>Nos.</u>	<u>Mean</u>	<u>Nos.</u>	<u>Mean</u>	<u>Nos.</u>	<u>Mean</u>	<u>Nos.</u>	<u>Mean</u>
Robbery	0	0	0	0	1	1,825	0	0
Sex Abuse	0	0	0	0	1	1,825	1	100
Total	0	0	0	0	2	1,825	1	100
Selected Felony								
Theft (Felony)	2	900	2	446	0	0	0	0
Total	2	900	2	446	0	0	0	0

Table 28
Sentences with Fine, Restitution,
and Community Service Hours

Sentence Type =	Fine (\$)		Restitution (\$)		Community Service (Hours)			
	<u>Nos.</u>	<u>Mean</u>	<u>Nos.</u>	<u>Mean</u>	<u>Nos.</u>	<u>Mean</u>	<u>Nos.</u>	<u>Mean</u>
Prison								
Serious Felony								
Homicide	0	0	4	2,175	0	0		
Manslaughter	0	0	3	1,922	0	0		
Forcible Rape	0	0	1	60	0	0		
Robbery	0	0	17	1,139	0	0		
Ag. Assault	0	0	1	5,232	0	0		
Theft (Felony)	1	1,080	1	60	0	0		
Kidnap	0	0	1	2,082	0	0		
Total	1	1,080	46	897	0	0		
Selected Felony								
Ag. Assault	0	0	1	50	0	0		
Burglary	0	0	1	90	0	0		
Theft (Felony)	0	0	4	789	0	0		
Drug Abuse	0	0	1	1,200	0	0		
Total	0	0	7	642	0	0		
Sentence Type =								
Felony								
Probation-Jail								
Serious Felony								
Forcible Rape	0	0	0	0	1	200	1	365
Robbery	2	375	6	402	7	271	23	251
Sex Abuse	0	0	0	0	1	100	4	154
Ag. Assault	0	0	0	0	2	100	4	196
Theft (Felony)	0	0	1	600	0	0	6	109
Terror. Threat.	0	0	0	0	0	0	1	180
Reckless Endang.	0	0	0	0	0	0	1	180
Hinder. Prosecution	0	0	0	0	0	0	1	30
Total	2	375	7	430	11	218	41	209
Selected Felony								
Ag. Assault	1	3,000	0	0	0	0	6	227
Burglary	0	0	1	175	0	0	6	238
Theft (Felony)	1	1,624	2	295	2	75	5	131
Auto Theft	0	0	1	379	1	100	3	184
Weapons	0	0	0	0	1	50	1	20
Drug Abuse	0	0	0	0	0	0	1	90
Crim. Trespass	0	0	0	0	0	0	1	48
Forgery	0	0	0	0	1	250	1	21
Total	2	2,312	4	286	5	110	24	174

Table 28 (Cont.)
Sentences with Fine, Restitution,
and Community Service Hours

Sentence Type =	Fine (\$)		Restitution (\$)		Community Service (Hours)			
	<u>Nos.</u>	<u>Mean</u>	<u>Nos.</u>	<u>Mean</u>	<u>Nos.</u>	<u>Mean</u>	<u>Nos.</u>	<u>Mean</u>
Felony Probation								
Serious Felony								
Manslaughter	1	2,000.0	0	0.0	2	300.0		
Robbery	1	500.0	4	1,116.0	7	271.0		
Sex Abuse	0	0.0	2	532.0	1	150.0		
Ag. Assault	0	0.0	0	0.0	1	300.0		
Theft (Felony)	0	0.0	1	58.0	1	50.0		
Reckless Endang.	0	0.0	0	0.0	1	100.0		
Total	2	1,250.0	7	798.0	13	238.0		
Selected Felony								
Ag. Assault	1	100.0	0	0.0	0	0.0		
Burglary	0	0.0	3	244.0	7	164.0		
Theft (Felony)	2	1,000.0	9	414.0	14	114.0		
Auto Theft	0	0.0	2	469.0	3	113.0		
Weapons	1	500.0	0	0.0	1	100.0		
Drug Abuse	6	617.0	2	55.0	9	137.0		
Total	10	720.0	16	344.0	34	130.0		
Sentence Type = Jail								
Serious Felony								
Theft (Non-Felony)	0	0.0	0	0.0	0	0.0	1	365.0
Total	0	0.0	0	0.0	0	0.0	1	365.0
Selected Felony								
Drug Abuse	0	0.0	0	0.0	0	0.0	1	30.0
Simple Assault	3	1,291.0	4	1,125.0	0	0.0	4	341.2
Theft (Non-Felony)	0	0.0	0	0.0	0	0.0	2	212.2
Crim. Prop. Dmg.	1	2,873.0	1	1,500.0	0	0.0	1	365.0
Harassment	0	0.0	0	0.0	0	0.0	1	30.0
Total	4	2,404.8	5	1,200.0	0	0.0	9	246.1

**Table 28 (Cont.)
Sentences with Fine, Restitution,
and Community Service Hours**

Sentence Type = DAGP	Fine (\$)		Restitution (\$)		Community Service (Hours)		Deferment Period (Days)	
	<u>Nos.</u>	<u>Mean</u>	<u>Nos.</u>	<u>Mean</u>	<u>Nos.</u>	<u>Mean</u>	<u>Nos.</u>	<u>Mean</u>
Robbery	0	0.0	1	300.0	1	200.0	2	912.5
Sex Abuse	0	0.0	0	0.0	1	150.0	1	1,825.0
Theft (Felony)	0	0.0	0	0.0	3	133.3	3	790.0
Hinder. Prosection	0	0.0	0	0.0	0	0.0	1	545.0
Total	0	0.0	1	300.0	5	150.0	7	937.9
Selected Felony								
Burglary	1	200.0	1	25.0	0	0.0	3	1,398.3
Theft (Felony)	5	318.4	6	434.5	6	115.0	15	814.3
Auto Theft	1	200.0	1	220.0	3	74.7	3	911.7
Weapons	1	250.0	0	0.0	1	100.0	1	545.0
Drug Abuse	4	562.5	1	20.0	5	100.0	10	784.5
Total	12	363.0	9	319.1	15	101.0	32	852.9
Sentence Type = Conditional Discharge								
Serious Felony								
Drug Abuse	1	1,000.0	0	0.0	1	200.0	1	1,825.0
Total	1	1,000.0	0	0.0	1	200.0	1	1,825.0

**Table 28 (Cont.)
Sentences with Fine, Restitution,
and Community Service Hours**

Sentence Type =	Fine (\$)		Restitution (\$)		Community Service (Hours)		Jail (Days)	
	Nos.	Mean	Nos.	Mean	Nos.	Mean	Nos.	Mean
Non-Felony								
Probation-Jail								
Serious Felony								
Simple Assault	0	0.0	1	100.0	0	0.0	1	30.0
Theft (Non-Felony)	0	0.0	0	0.0	1	50.0	1	12.0
Total	0	0.0	1	100.0	1	50.0	2	21.0
Selected Felony								
Theft (Non-Felony)	0	0.0	0	0.0	0	0.0	3	30.0
Terror. Threat.	0	0.0	0	0.0	1	50.0	2	5.0
Drug Abuse	0	0.0	0	0.0	0	0.0	1	30.0
Total	0	0.0	0	0.0	1	50.0	6	21.7
Sentence Type =								
Non-Felony								
Probation								
Serious Felony								
Reckless Endang.	0	0.0	1	500.0	1	200.0		
Simple Assault	0	0.0	1	7.0	1	50.0		
Theft (Non-Felony)	1	200.0	0	0.0	1	50.0		
Total	1	200.0	2	253.5	3	100.0		
Selected Felony								
Theft (Non-Felony)	0	0.0	0	0.0	2	100.0		
Crim. Trespass	0	0.0	1	28.0	0	0.0		
Total	0	0.0	1	28.0	2	100.0		

Table 29
Type of Sentence by Prior Conviction Record
and Type of Conviction By Offense

Sentence =	Nos.	Prior Conviction Record		Conviction Type	
		First Conviction	Repeater	By Plea Change	By Trial Verdict
Prison					
Serious Felony					
Manslaughter	9	9	0	3	6
Forcible Rape	19	14	5	5	14
Robbery	110	46	64	73	37
Sodomy	3	2	1	0	3
Sex Abuse	7	7	0	6	1
Ag. Assault	4	4	0	2	2
Burglary	2	1	1	0	2
Theft (Felony)	5	3	2	4	1
Kidnap	6	4	2	2	4
Terror. Threat.	1	1	0	1	0
Criminal Conspiracy	4	3	1	4	0
Total	170	94	76	100	70
Selected Felony					
Ag. Assault	1	0	1	0	1
Burglary	8	3	5	6	2
Theft (Felony)	15	4	11	12	3
Auto Theft	3	0	3	3	0
Terror. Threat.	3	0	3	0	3
Weapons	2	1	1	0	2
Drug Abuse	3	3	0	2	1
Forgery	1	0	1	1	0
Total	36	11	25	24	12

Table 29 (Cont.)
Type of Sentence by Prior Conviction Record
and Type of Conviction By Offense

Sentence Type =	Nos.	Prior Conviction Record		Conviction Type	
		First Conviction	Repeater	By Plea Change	By Trial Verdict
Probation-Jail					
Serious Felony					
Forcible Rape	1	1	0	1	0
Robbery	23	21	2	21	2
Sex Abuse	4	3	1	3	1
Ag. Assault	4	4	0	0	4
Theft (Felony)	6	5	1	5	1
Terror. Threat.	1	1	0	0	1
Reckless Endang.	1	1	0	1	0
Hinder. Prosecution	1	1	0	1	0
Total	41	37	4	32	9
Selected Felony					
Ag. Assault	6	5	1	5	1
Burglary	6	4	2	4	2
Theft (Felony)	5	4	1	5	0
Auto Theft	3	2	1	3	0
Weapons	1	1	0	0	1
Drug Abuse	1	1	0	1	0
Crim. Trespass	1	1	0	1	0
Forgery	1	1	0	0	1
Total	24	19	5	19	5

Table 29 (Cont.)
 Type of Sentence by Prior Conviction Record
 and Type of Conviction By Offense

Sentence Type =	Nos.	Prior Conviction Record		Conviction Type	
		First Conviction	Repeater	By Plea Change	By Trial Verdict
Felony Probation					
Serious Felony					
Manslaughter	2	2	0	1	1
Forcible Rape	1	1	0	1	0
Robbery	11	10	1	9	2
Sex Abuse	3	3	0	3	0
Ag. Assault	4	4	0	4	0
Theft (Felony)	3	3	0	2	1
Reckless Endang.	1	1	0	0	1
Total	25	24	1	20	5
Selected Felony					
Ag. Assault	1	1	0	1	0
Burglary	14	8	6	11	3
Theft (Felony)	24	21	3	18	6
Auto Theft	4	3	1	4	0
Weapons	3	2	1	2	1
Drug Abuse	12	11	1	12	0
Crim. Trespass	1	1	0	1	0
Forgery	1	1	0	1	0
Total	60	48	12	50	10

Table 29 (Cont.)
 Type of Sentence by Prior Conviction Record
 and Type of Conviction By Offense

Sentence Type =	Nos.	Prior Conviction Record		Conviction Type	
		First Conviction	Repeater	By Plea Change	By Trial Verdict
Jail					
Serious Felony					
Theft (Non-Felony)	1	1	0	0	1
Total	1	1	0	0	1
Selected Felony					
Drug Abuse	1	1	0	1	0
Simple Assault	4	0	4	4	0
Theft (Non-Felony)	2	1	1	2	0
Crim. Prop. Dmg.	1	0	1	1	0
Harassment	1	0	1	0	1
Total	9	2	7	8	1

Table 29 (Cont.)
 Type of Sentence by Prior Conviction Record
 and Type of Conviction By Offense

Sentence Type = Non-Felony	Nos.	Prior Conviction Record		Conviction Type	
		First Conviction	Repeater	By Plea Change	By Trial Verdict
Probation-Jail					
Serious Felony					
Simple Assault	1	1	0	0	1
Theft (Non-Felony)	1	1	0	1	0
Total	2	2	0	1	1
Selected Felony					
Terror. Threat.	2	2	0	2	0
Drug Abuse	1	1	0	1	0
Theft (Non-Felony)	3	2	1	3	0
Total	6	5	1	6	0

Table 29 (Cont.)
 Type of Sentence by Prior Conviction Record
 and Type of Conviction By Offense

Sentence Type = Non-Felony	Nos.	Prior Conviction Record		Conviction Type	
		First Conviction	Repeater	By Plea Change	By Trial Verdict
Probation					
Serious Felony					
Reckless Endang.	1	1	0	0	1
Simple Assault	2	1	1	0	2
Theft (Non-Felony)	2	2	0	1	1
Total	5	4	1	1	4
Selected Felony					
Terror. Threat.	1	1	0	1	0
Theft (Non-Felony)	3	3	0	3	0
Crim. Trespass	2	1	1	1	1
Harassment	1	0	1	1	0
Total	7	5	2	6	1

Table 29 (Cont.)
Type of Sentence by Prior Conviction Record
and Type of Conviction By Offense

Sentence Type = Fine, Rest., and Suspended Sentence	Nos.	Prior Conviction Record		Conviction Type	
		<u>First Conviction</u>	<u>Repeater</u>	<u>By Plea Change</u>	<u>By Trial Verdict</u>
Serious Felony					
Robbery	1	0	1	1	0
Sex Abuse	1	1	0	1	0
Total	2	1	1	2	0
Selected Felony					
Theft (Felony)	1	1	0	1	0
Theft (Non-Felony)	1	1	0	1	0
Total	2	2	0	2	0

**APPENDIX B
PRE-TRIAL AND PRE-SENTENCE MOTIONS**

Pre-Trial

Motions Filed by the Defense Counsel

Motion to Dismiss Indictment - the following are variations of the motion:

- Because of lack of speedy trial
- Due to excessive hearsay
- Due to pre-indictment delay
- For failure to state an offense (lack of essential elements of the instant offense)
- Due to vagueness or insufficient evidence
- Because there was no independent counsel during grand jury proceedings
- Due to 14th amendment (excessive probable cause)
- For failure to prosecute
- For prosecutorial misconduct.

Motion to Suppress - the following are variations of the motion:

- Evidence
- Weapons and return property to the defendant
- Identification
- Testimony
- Confession
- Pre-trial I.D. of defendant and preclude in court I.D. of defendant by the alleged victim.

Motion for Mental Examination of the Defendant.

Motion for Conditional Release from Oahu Community Correctional Center or Hawaii State Hospital.

Motion for Supervised Release or Bail Reduction or for the Alternative of Setting Aside Bail.

Motion in Limine.

Motion for Discovery - for Pre-Indictment Discovery.

Motion for Photograph of Victim.

Motion for Fingerprint I.D.

Motion for Disclosure of State's Exhibits.

Motion to Release Defendant to Supervision of Addiction Treatment Facility.

Motion to Remand.

Motion for Deferred Acceptance of Guilty Plea.
Motion for Deferred Acceptance of Nolo Contendere Plea.
Motion for Conditional Discharge.
Motion for Severance of Trial.
Motion for Severance of Defendants and Separate Trials.
Motion to Quash Indictment.
Motion for Severance and Remand to District Court.
Motion for Bills of Particular.
Motion to Strike.
Motion for Deposition of Witnesses.
Motion to Continue Trial.
Ex-Parte Motion for Issuance of Order to Show Cause Why
Prosecutor Should not be Held in Contempt and Order for
Failure to Comply with the Decision and Order.
Motion for Entry of Order NUNC PRO TUNC.
Motion for Mental Examination of Complaining Witness.
Motion to Reserve Right to File Further Pre-Trial Motions.
Motion for Leave to File Interlocutory Cross-Appeal.
Motions Filed by the Prosector
Motion for Nolle Prosequi.
Motion for Mental Examination of the Defendant.
Motion to Amend or Correct the Indictment.
Motion to Consolidate Defendants into 1 Trial.
Motion for Commitment Without Bail.
Motion to Set for Trial.
Motion for Protective Order.
Motion to Rescind Order as to Reduction of Bail and to
Reinstate Original Bail.

Pre-Sentence

Motions Filed by the Defense Counsel

Motion for Conditional Discharge.

Motion for Conditional Release.

Motion for Supervised Release or Bail Reduction or for the
Alternative of Setting Aside Bail.

Motion to Permit Withdrawal of Guilty Plea.

Motions Filed by the Prosecutor

Motion for Extended Term of Imprisonment.

Motion to Sentence Repeat Offender.