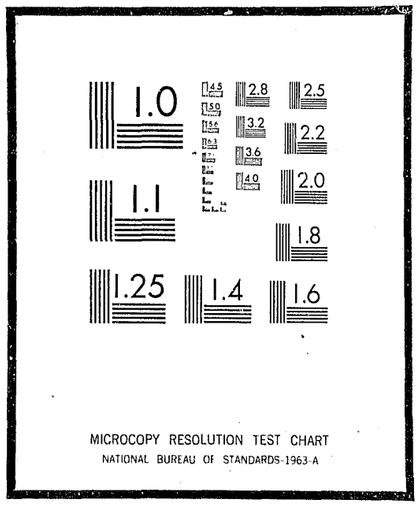

March 12, 1975

A COMPARISON OF FELONY ARREST DATA
IN GAINESVILLE, FLORIDA

January 1, - June 30, 1973, and
January 1, - June 30, 1974

In 1974, the Gainesville Police Department prepared a felony arrest study for the period covering the first six months of 1973. That study attempted to follow individuals arrested by this agency for felonies through the criminal justice system until our charge was disposed of. We used data not only from our own files, but also from the courts and the office of the State Attorney. This data was presented in categories designed to render it meaningful to readers both within and without the criminal justice system.

In 1975, we have done approximately the same thing and have compared our results from the earlier study. We believe that we have learned from experience and that our data collection methods have been refined. Comparisons are sometimes difficult because we have changed certain categories to more closely reflect the true operation of the Office of the State Attorney.

This year's format is somewhat different. It seems that not everyone who is interested in the results of our study fully appreciates the distinctions between some of our categories. For this reason, we have offered a section of definitions and explanations which should be read before turning to the charted data. While the format and the methodology have changed, the conclusions and the philosophy they support remain intact.

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Director of Police Services

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To thoroughly appreciate the meaning of the data in this study, it is necessary to understand the meaning of various categories of dispositions. Below are some definitions and examples to further explain these categories.

Insufficient Evidence

This category is necessarily broad in that the reason for the lack of evidence does not necessarily appear on the face of the State Attorney files. There are several common possibilities represented in this category.

1) The officer had probable cause for arrest and assumed that further investigation would develop the highest level of proof beyond any doubt necessary for conviction. There may have been a finding of probable cause at the preliminary hearing, but the proof of guilt was never established beyond and to the exclusion of a reasonable doubt.

2) The officer had probable cause at the time of the arrest, but an indispensable element of the offense could not be proved. The element of intent frequently provides the fatal blow since convincing proof of intent is difficult to establish.

3) One of the more common reasons for a case being dropped is a ruling by the court that we will not be permitted to use our evidence at trial. This is the case of an apparently solid case being destroyed by suppression of evidence by the court under the exclusionary rule.

4) A final possibility is that the arrest was based on reasonable suspicion or some other standard short of probable cause. These cases may be disposed of at a preliminary hearing or even as early as intake at the Charge Division of the State Attorney's Office.

5) In some cases, the facts to not make out a case for the offense charged but do support a lesser charge. In some of these cases, the notation in the State Attorney's files indicate merely a "No Information" for insufficient evidence when in fact the defendant was convicted of something arising from the arrest.

Plea Bargains

This method of disposition is frequently referred to as a "necessary evil" of the system. It allows the State Attorney to dispose of cases without the trouble or expense of trial under circumstances where he unilaterally decides that an acceptable level of justice will be meted out for the offense the defendant is willing to plead to. There are several variations of this technique.

1) Plea to a "lesser included offense". Where one of the elements of the charged offense is missing or difficult to prove, the State Attorney may accept a plea to an offense arising from the same actions which he is sure he can prove. An example is an original charge of Aggravated Battery to which the State Attorney accepts a plea of Assault and Battery.

2) Plea to a related offense. Where the defendant has been charged with several offenses arising from the same general set of actions, the State Attorney may drop all but one felony charge in exchange for a guilty plea to that single charge. The State Attorney justifies this by pointing out that the defendant would only be sentenced to a single offense by the court anyhow. The argument goes on that even if the court sentenced for more than one offense, the sentences would be concurrent (served at the same time) so nothing is gained by prosecuting all of the charges.

3) Plea to an unrelated offense. Here the State usually has one very strong case and one or more weaker cases. In exchange for a guilty plea to the strongest case, the State drops the other charges and dispenses with any trials.

4) Reduction for extenuating circumstances. In some cases, the State Attorney may permit a first offender to plead to a lesser included misdemeanor to prevent a felony record on someone who would not be eligible for Pretrial Intervention but who seems worthy of another chance. Frequently a probation period as part of the misdemeanor sentence is part of the deal.

Pretrial Intervention

This is a procedure whereby certain qualified defendants are not brought to trial but placed under a form of court approved, pretrial probation. Speedy trial is waived and the State reserves the right to file the charges if the defendant fails to fulfill the conditions of his probation.

Charge Changed by State Attorney

In each case in this category, the defendant was charged with an offense related to the action which occasioned the arrest. There are two possibilities which could result in this kind of charge:

1) There was probable cause for arrest for the offense charged but a problem of proof requires the charge be amended.

2) There was probable cause for an offense other than the offense charged but not for the charge listed in the booking papers.

This change will occur at one of two places:

1) At the Charge Division on intake of the charging papers.

2) By the assigned Assistant State Attorney on initial investigation before the filing of an information.

An example of this type of charge would be a charge of Aggravated Assault against a defendant who was angrily threatening a group with a gun. Since it is difficult to prove a specific victim of the Aggravated Assault, the State Attorney might change the charge to Reckless, Careless or Angry Display of a Dangerous Weapon. There was probable cause for the original charge but the new charge stands a better chance of resulting in conviction.

Victim Declined Prosecution

This category represents one of the real problems faced by the criminal justice system - an apathetic public. Here the victim has requested charges be dropped. Since experience indicates than an uncooperative victim will almost always result in an acquittal of trial, the State has little choice but to terminate the prosecution. There are several situations which cause this to happen. Among them are:

1) "Victim" use of criminal justice system for civil relief. This is the classic worthless check case. The merchant wants his money but does not want to be bothered with the giving of testimony etc. He files the charge simply to get the "defendant" to make the checks good.

2) Closely related is the "victim" of a theft who is more desirous of getting his property back than prosecuting the thief. Sometimes he gets his property back faster if the case is dropped. Auto theft charges often are terminated after the police have "repossessed" the car.

3) Crimes between family or friends. The criminal justice system is sometimes used to chastize family members or friends following violent arguments where the "victim" has no intention of following through with the prosecution. Assault charges between spouses sometimes end up in this category.

Speedy Trial Rule

The State has 180 days to bring a case to court after the defendant is charged or it is barred by this rule from prosecuting it. The rule is a court-made procedural device intended to enforce the mandates of the Constitutional guarantee of speedy trial. The rule is tightly enforced, so if for instance a judge's illness makes it impossible to reschedule within the time period, the charges are dismissed.

Accused Incompetent

There are two possibilities here which could prevent adjudication of an accused:

1) The accused was incompetent at the time of the crime. If he was either legally insane or presumptively incapable of developing the necessary criminal intent, then he has a complete defense and cannot be prosecuted.

2) The accused was incompetent at the time of trial. In this case the accused may be committed to treatment until he is able to stand trial. Since proof of sanity at a later trial may be difficult following commitment, these defendants are seldom brought to trial.

Court Dismissal

The court may find as a matter of law that a defendant was entrapped and dismiss the case. The court could also order dismissal of a case based on a defense motion to dismiss at the conclusion of the State's case.

Extradited

We frequently pick up persons in possession of stolen vehicles and then extradite them back to the state where they stole the vehicle. The State will also forgo prosecution of a property crime to extradite the accused back to a state which has an outstanding charge for Murder or some other major crime.

Fugitives

Persons accused of crimes can become fugitives anytime from the issuance of a warrant to the time while on bond awaiting appeal. In at least one case in our study, a defendant had been convicted and fled while under pre-sentence investigation.

Unknown

There are a few persons who appear among our arrest records but do not appear in the records of the State Attorney. We have no satisfactory explanation of what happened to these people after they were arrested. These could have been juveniles improperly logged, cases dropped prior to the filing of any prosecutive paperwork, but most probably they were simple bookkeeping errors that do not represent arrests. The list used for the study was not designed specifically for this study, but was used for another purpose.

ARREST DISPOSITION DATA

	1973		1974	
	#	# of Total	#	# of Total
Accused found guilty of original charge	23	23.7%	15	10.9%
Accused found guilty of other charge from same set of facts	--	--	10	7.3%
Pre-Trial Intervention	--	--	3	2.2%
Plea Bargaining for incidents unrelated to original charge	25	25.8%	27	19.7%
Total arrests contributing to a conviction for some offense	48	49.5%	55	40.1%
Insufficient Evidence	13	13.4%	26	19.0%
Victim Declined Prosecution	9	9.3%	18	13.1%
Unknown Nolle Prosequi or No Information	8	8.2%	4	2.9%
Total arrests not prosecuted for evidentiary reasons	30	30.9%	48	35.0%
Speedy Trial Rule	6	6.2%	9	6.6%
Accused Mentally Incompetent	3	3.1%	3	2.2%
Judicial Dismissal	2	2.1%	3	2.2%
Extradited to other jurisdictions	--	--	4	2.9%
Total arrests not prosecuted for procedural reasons	11	11.4%	19	13.9%
Unknown Disposition	--	--	9	6.6%
In Prosecution	3	3.1%	--	--
Jury Trial - Not Guilty	1	1.0%	--	--
Fugitives	4	4.1%	6	4.4%
GRAND TOTALS	97	100.0%	137	100.0%

NOTE: Because of differing sample sizes for the two years, comparisons of one year to another are only valid in terms of percent.

SENTENCING DATA

1973		1974	
Probation	Incarceration	Probation	Incarceration
5 years	5 years	2 years	Life
3 years	5 years	3 years	15 years
3 years	5 years		5 years
3 years	5 years		5 years
2 1/2 years	3 years		5 years
2 1/2 years	3 years		5 years
2 years	1 year		
2 years	6 mos-3 yrs	* Split Sentences	
2 years		Probation	Incarceration
2 years		3 years plus	9 months
2 years		3 years plus	3 months
2 years		3 years plus	6 months
1 year		3 years plus	6 months
		3 years plus	6 months
		2 years plus	5 days

*The difference in the types of sentences can probably be explained by the changes in presiding circuit judges. The Circuit Court Criminal Bench was occupied by one particular judge for most of the first half of 1973. This also holds true for 1974, but it was a different judge, thus there are two different sentencing philosophies represented in the studies.

RECIDIVISM ARREST DATA*

FELONY

Recidivism Arrest Rate	1973 # Persons	1973 % Persons	1974 # Persons	1974 % Persons
7 - more	6	6.2%	3	2.2%
5 - 6	4	4.1%	1	.7%
3 - 4	11	11.3%	6	4.4%
1 - 2	31	31.9%	34	24.8%
0	45	46.4%	93	67.9%
TOTALS	97	99.9%	137	100.0%

MISDEMEANOR

Recidivism Arrest Rate	1973 # Persons	1973 % Persons	1974 # Persons	1974 % Persons
7 - more	1	1.0%	7	5.1%
5 - 6	3	3.1%	3	2.2%
3 - 4	6	6.2%	8	5.8%
1 - 2	27	27.8%	34	24.8%
0	60	61.9%	85	62.0%
TOTALS	97	100.0%	137	99.9%

1. In 1974, the number of arrestees with prior felony arrests declined by 31.6% as compared to 1973.

2. The comparison on prior misdemeanor arrests shows that the situation in 1974 was almost identical to that in 1973.

3. Of those persons with more than seven felony arrests, the highest was seventeen and the lowest was ten.

4. Of those persons with more than seven misdemeanor arrests, the highest was twelve, the lowest was eight and the average for all seven was ten.

*The prior arrests shown on this chart pertain only to those arrests made by the Gainesville Police Department and no other jurisdiction. It is very possible that those individuals in the study have been arrested many more times than shown here.

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