

COST ANALYSIS OF CORRECTIONAL STANDARDS:

Pretrial Programs

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NATIONAL INSTITUTE OF LAW ENFORCEMENT AND CRIMINAL JUSTICE
LAW ENFORCEMENT ASSISTANCE ADMINISTRATION
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COST ANALYSIS OF CORRECTIONAL STANDARDS: PRETRIAL PROGRAMS

By

Susan Weisberg *

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* Ann M. Watkins assisted in preparing Chapter IV.

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CORRECTIONAL ECONOMICS CENTER

The Correctional Economics Center was a project of the American Bar Association Commission on Correctional Facilities and Services, joined by the Association of State Correctional Administrators and Council of Criminal Justice Planning Agency Administrators as cooperating organizations. Initiated in December, 1973, the Center was supported by a discretionary grant from the Edna McConnell Clark Foundation of New York City. The overall goal of the Center was to demonstrate how economic concepts and analysis can be applied to the corrections sector of the criminal justice system.

Implementation of innovations and system reform will require sound economic and cost analysis to help correctional systems and administrators employ limited budget resources to translate proposed innovations into fiscal reality. The Center offered assistance to correctional administrators analyzing policy decisions and sought to promote economic analysis within corrections by stimulating evaluation by economists, correctional researchers and others.

STANDARDS AND GOALS PROJECT

The Correctional Economics Center was granted funds from the Law Enforcement Assistance Administration to undertake a Standards and Goals Project. The purpose of this Project was to perform a cost analysis of the Corrections Report of the National Advisory Commission on Criminal Justice Standards and Goals, and present it in a form which would aid state and local decision-makers as they set and implement their own standards and goals for corrections. Included in the Report are priorities and Standards for upgrading corrections and other criminal justice functions impacting on that process.

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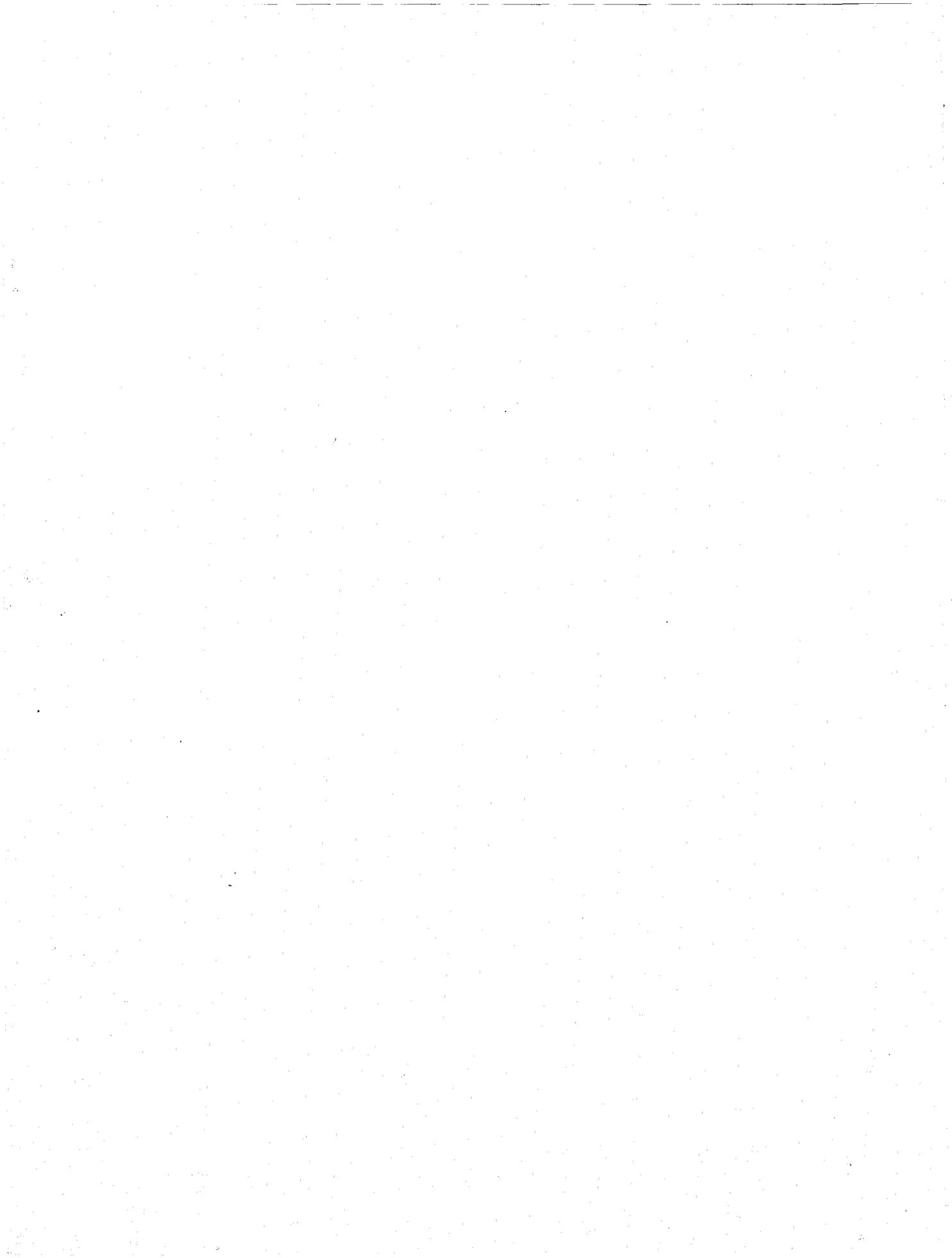


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PREFACE

The subject of this report is the cost and resource implications of correctional standards related to alternatives to pretrial confinement. Standards used as a basis for the analysis are those contained in the 1973 Corrections Report of the National Advisory Commission on Criminal Justice Standards and Goals.¹ This is one of several program reports prepared by the Standards and Goals Project of the ABA Correctional Economics Center. Others cover such topics as "Institutional-Based Programs and Parole," "Halfway Houses," and "Pretrial Diversion."

The purpose of the Project's program reports is to provide state and local decision makers and analysts with cost information on the many different kinds of activities advocated in the Standards of the Corrections Report. The decision makers are assumed to include:

- State criminal justice planning agencies
- State correctional administrators
- State budget officers
- State legislators
- Similar planners and administrators at the local level.

Project reports are intended to supplement the Corrections Report by providing these decision makers, and the analysts who support them, with information needed to adopt and to implement state and local standards and goals for corrections.

The result of the Project's analysis of alternatives to pretrial detention are presented in this volume. It is intended primarily for use by analysts, providing them with detailed techniques useful for cost analysis in their own jurisdictions, as well as "benchmark" estimates against which their own findings on pretrial program costs may be compared. The initial summary is intended for use by decision-makers, but analysts will find it a quick guide to the balance of the report.

In addition, this volume includes the following appendices:

- A. Significant Events in the History of Bail Reform which provides information to enable readers to relate recent developments to their historical antecedents.

¹ National Advisory Commission on Criminal Justice Standards and Goals, Corrections (Washington, D.C.: Government Printing Office, 1973); hereafter referred to as Corrections.

- B. Typology of Costs which provides definitions for technical terms used in the report.
- C. Methodological Note on the Derivation of Sample and Model Budgets Used in Standards and Goals Project Reports.
- D. Selected Data which collects information referred to or underlying text and figures in the body of the report.
- E. Federal Pretrial Services Agencies which provides information on the initial experience of the federal government with directly operated programs.
- F. Research Needs and Data Requirements to enable analysts to replicate all or a portion of this study and to enhance the study of pretrial programs in the future.

The form and content of this program analysis have been guided by the Project's Plan for a Cost Analysis of the Corrections Report. Tabular data presented in Chapter IV of the analysis were first reported by Ann M. Watkins in a Standards and Goals study on pretrial diversion. Ms. Watkins' current contribution to the preparation of Chapter IV and Appendix A of this report is very gratefully acknowledged. Special thanks are also due the directors and staff of several agencies for the time they devoted to interviews and for the information and insights they contributed. Included are the directors and/or staff of pretrial services agencies in: The District of Columbia; San Francisco, California; Indianapolis (Marion County), Indiana; Des Moines, Iowa; Ann Arbor (Washtenaw County), Michigan; Minneapolis (Hennepin County), Minnesota; St. Paul (Ramsey County), Minnesota; New York City, New York (staff of the Vera Institute of Justice); and Charlotte (Mecklenburg County), North Carolina. Also included are the director and staff of the Probation Division, Administrative Office of the United States Courts, Washington, D.C. Responsibility for compilation, analysis, reporting and general use of any information supplied by these participants however, rests solely with the author of this report.

'What sort of things do you remember best?' Alice ventured to ask.

'Oh, things that happened the week after next', the Queen replied in a careless tone. 'For instance, now', she went on, sticking a large piece of plaster on her finger as she spoke, 'there's the King's Messenger. He's in prison now, being punished: and the trial doesn't even begin till next Wednesday: and of course the crime comes last of all'.

'Suppose he never commits the crime?' said Alice.

'That would be all the better wouldn't it?', the Queen said, as she bound the plaster round her finger with a bit of ribbon.

-- Lewis Carroll, Through the Looking-Glass

CHAPTER I

INTRODUCTION

People accused of crime, not yet tried, and therefore innocent under the law, constituted 36 percent of the known jail population in the United States in 1972.¹

If the history of the criminal justice system can explain this phenomenon, the majority of people in jail awaiting trial were there because they could not afford to pay the money bail that would free them. In 1972, pretrial detainees' average reported income for the year prior to incarceration was \$3,200.² Bail had been set at over half this amount for nearly 60 percent of the pretrial detention population.³

Traditionally, persons accused of crime in the United States have had two pretrial options: 1) securing pretrial liberty by posting financial bail, or 2) going to jail. Poor people have tended to go to jail.⁴

¹This figure represents the proportion of pretrial inmates held in local jails authorized to detain adults for 48 hours or longer. Included in the pretrial population are those not yet arraigned, those arraigned and awaiting trial and those with unknown arraignment status who are not convicted. Inmates awaiting or appealing sentences are excluded. U.S. Department of Justice, Law Enforcement Assistance Administration, National Criminal Justice Information and Statistics Service, Survey of Inmates of Local Jails 1972: Advance Report (Washington, D.C., U.S. Government Printing Office, 1974) Table B, p. 17.

²This figure is a weighted average based on data for the population arraigned and awaiting trial; this is presented in 1971 dollars and the method used for estimating it is shown in Appendix D, Figure 22, pg. 138.

³Ibid.

⁴This problem has been well-documented in research findings dating from the 1920's. Among the most notable are: Arthur L. Beeley, The Bail System in Chicago, (Chicago: University of Chicago Press, 1927; reprinted in 1966) and two studies by Professor Caleb Foote of the University of Pennsylvania: Note, "Compelling Appearance in Court: Administration of Bail in Philadelphia," University of Pennsylvania Law Review, Vol. 102 (1954) pp. 1031-1079; and Note, "The Administration of Bail in New York City," University of Pennsylvania Law Review, Vol. 106 (1958) pp. 693-730. In 1960, the Supreme Court found such discrimination to be a denial of equal protection. Bandy v. U.S., 81 S. Ct., 197-8 (1960).

Economic class discrimination and concern for the rights of the accused have spurred movements for fundamental change in the traditional criminal justice system. Social policy, as reflected in the 1973 standards of the National Advisory Commission on Criminal Justice Standards and Goals,¹ has advocated specific alternatives to pretrial bail and detention. Standard 4.4 of the Corrections report, shown as Figure 1 on the following page, enumerates a major set of alternatives to the traditional system.

In its commentary on this Standard, the Commission noted that the historical purpose of money bail is to ensure the appearance of an accused for trial. Subversion of this purpose through the commercial bail bond system was one force behind the Commission's recommendation:

...The practice of compensated sureties -- bail bondsmen -- adds to the oppression of the [pretrial] system. The determination of whether a person is detained prior to trial rests with them, not with the courts. The extent to which the accused is financially committed to appear is determined by the amount of collateral the bail bondsman requires for writing the bond, not how high the bail is set.²

The Commission buttressed the alternatives proposed in Standard 4.4 by urging criminal justice jurisdictions to draft legislation 1) promoting the use of non-financial conditions, and 2) discouraging the use of money bail and detention as a means of assuring appearance in court. Such legislation "should require that the judicial officer impose the least onerous condition consistent with the risk of non-appearance represented by the individual accused."³

Consistent with its emphasis on non-financial release, the Commission urged that the practice of commercial bonding be eliminated. Other significant features of the proposed Standard include the following:

- Reinforcement of the principle, articulated in federal law and rules of criminal procedure, that the bail decision should be made on an individual basis with judicial officers

¹National Advisory Commission on Criminal Justice Standards and Goals, Task Force Report: Corrections (Washington, D. C.: U. S. Government Printing Office, 1973), primarily Chapter 4. (Hereafter cited as Corrections.)

²Corrections, p. 121.

³Ibid.

FIGURE 1

ALTERNATIVES TO PRETRIAL DETENTION
STANDARD 4.4

Each criminal justice jurisdiction, State or local as appropriate, should immediately seek enabling legislation and develop, authorize, and encourage the use of a variety of alternatives to the detention of persons awaiting trial. The use of these alternatives should be governed by the following:

1. Judicial officers on the basis of information available to them should select from the list of the following alternatives the first one that will reasonably assure the appearance of the accused for trial or, if no single condition gives that assurance, a combination of the following:

a. Release on recognizance without further conditions.

b. Release on the execution of an unsecured appearance bond in an amount specified.

c. Release into the care of a qualified person or organization reasonably capable of assisting the accused to appear at trial.

d. Release to the supervision of a probation officer or some other public official.

e. Release with imposition of restrictions on activities, associations, movements, and residence reasonably related to securing the appearance of the accused.

f. Release on the basis of financial security to be provided by the accused.

g. Imposition of any other restrictions other than detention reasonably related to securing the appearance of the accused.

h. Detention, with release during certain hours for specified purposes.

i. Detention of the accused.

2. Judicial officers in selecting the form of pretrial release should consider the nature and circumstances of the offense charged, the weight of the evidence against the accused, his ties to the community, his record of convictions, if any, and his record of appearance at court proceedings or of flight to avoid prosecution.

3. No person should be allowed to act as surety for compensation.

4. Willful failure to appear before any court or judicial officer as required should be made a criminal offense.

considering a range of factors that applies to each defendant's circumstances and that should be taken into consideration in assessing the likelihood of future appearances in court; and,

- Substitution of legal for financial penalties in the case of a released defendant's willful failure to appear in court.

Related Standards of the Corrections Report also identify justice system options during the pretrial period. Specifically, Standard 3.1 addresses "diversion" from the criminal justice process, and Standard 4.3 recommends alternatives to traditional arrest and custody.¹ The National Advisory Commission defined diversion as "formally acknowledged and organized efforts to utilize alternatives to initial or continued processing into the justice system".³ Diversion is distinguished from other release modes in that it is designed to 'halt or suspend' criminal proceedings entirely. The others are designed as interim devices with a goal of assuring a defendant's appearance for future criminal proceedings. Standard 4.3 of the Corrections Report urged jurisdictions to enumerate "minor offenses for which a police officer should be required to issue a citation [or ticket] in lieu of making an arrest or detaining the accused...".² It advocated the release of arrestees upon their promise to appear in court. Standard 4.3 may be viewed as the pre-arraignment or pre-bail hearing counterpart to the previous Standard on "Alternatives to Pretrial Detention."

The cited Standards share philosophical roots common to nearly all recommendations of the National Advisory Commission:

- The notion of minimum penetration of an accused into the criminal justice process; and,
- Advocacy of the "least drastic" means that will assure a criminal justice system goal (in this case, the appearance of an accused in court or the avoidance of court processing entirely).

In addition, these Standards represent the use of a hierarchy of release options, where the presumptive form of release is non-financial.

¹Each of these Standards is treated in a companion report of the Standards and Goals Project. See: Ann M. Watkins, Cost Analysis of Correctional Standards: Pretrial Diversion (Washington, D. C.: American Bar Association, Correctional Economics Center, October 1975) (Hereafter cited as Cost Analysis: Pretrial Diversion) and Susan Weisberg, Cost Analysis of Correctional Standards: Alternatives to Arrest (Washington, D. C.: American Bar Association, Correctional Economics Center, October 1975) (Hereafter cited as Cost Analysis: Alternatives to Arrest).

²Corrections, p. 116.

³Corrections, p. 73.

As reinforcement for recommendations on the release of accused persons, the Commission stated specifically:

*Detention before trial should be used only in extreme circumstances and then only under careful judicial control.*¹

This study examines the cost implications of implementing pre-trial programs as envisioned by the Corrections Standards. The Standards above on diversion, alternatives to arrest and alternatives to detention deal with major options for the justice system at points where the accused and "the system" meet. The Standards are "defendant related" in that sense. In addition to such Standards, there are others which would impact the current organization and management of pretrial programs. Their impact on defendants is indirect. The cost implications of both types of recommendations are assessed in this report. A broad range of Standards has been drawn upon in the analysis in order to depict a pretrial system in which the options above play an important part. The following sections of this chapter 1) provide background on efforts to reform the bail system through use of some of the recommended measures and 2) provide perspective on the relevance of cost analysis to the study of pretrial programs.

BAIL AND THE INDIGENT ACCUSED: IMPETUS FOR REFORM OF THE BAIL SYSTEM

Before the Law stands a door-keeper. To this doorkeeper there comes a man from the country and prays for admittance to the Law. But the doorkeeper says that he cannot grant admittance at the moment.

-- Franz Kafka, "Before the Law"²

The right of an accused to post money bail in non-capital cases is guaranteed by Federal law and corresponding constitutional provisions in most states.³ The Federal Constitution, which does not guarantee an

¹Corrections, p. 3. This is discussed further in Chapter II.

²Subsequent quotations not otherwise designated are from this source.

³Preceded by English law and custom, this principle was established in the United States with passage of the Judiciary Act of 1789. Appendix A contains a time line showing precursors to the American law as well as other milestones in the development of bail practices for the period 1275-1976. For a more thorough discussion of the traditional bail system than can be provided here, see Daniel J. Freed and Patricia M. Wald, Bail in the United States: 1964 (Washington, D. C.: U.S. Department of Justice and Vera Foundation, Inc. 1964) (Hereafter cited as Bail in the United States).

absolute right to bail, does contain an Eighth Amendment proscription against the imposition of "excessive bail". The courts, in interpreting this provision, however, have declared that a bail amount is not "excessive" simply because it is beyond the defendant's ability to pay.¹ While the defendant may not have an absolute protection against the setting of high bail, there is an alternate protection in that judicial bail decisions are to be made on an individual basis taking into account the financial circumstances of the accused.² Traditionally, however, courts have not had such financial information available to them for bail setting purposes. They have relied instead on the most ready bit of information -- nature of the current charge against the accused -- as the main and often sole criterion for establishing bail.³ Higher bail amounts have corresponded to the severity of the offense, rather than the likelihood of failure to appear in court. As a result, it has "not [been] uncommon to find that in many jurisdictions the minimum bail for any felony is \$1,000...".⁴

¹For a critique of traditional bail practices on Constitutional grounds, see Steven Wisotsky, "Use of a Master Bond Schedule: Equal Justice Under Law?", 24 University of Miami Law Review, 808-831 (1970). (Hereafter cited as "Master Bond".)

²For example, in federal courts and in most state courts, the "financial resources" of the defendant may be considered in making bail decisions. See for example, 18 U.S.C. § 3146(b).

³The traditional system most frequently relied on bond schedules in which a specific bail amount was attached to each offense recognized in the jurisdiction. Schedules were normally established by the prosecutor and used in two ways: 1) as a guide to police authorized to accept "stationhouse bail" for prearrest release of defendants (usually misdemeanors only), and 2) as a basis for prosecutorial bail recommendations to the court at arraignment. For further discussion of this system and its impact on judicial decision-making, see Wisotsky, "Master Bond"; Bar Association of the District of Columbia, Junior Bar Section, The Bail System of the District of Columbia, Report of the Committee on the Administration of Bail (Washington, D. C.: 1963) p. 19; American Bar Association Project on Standards for Criminal Justice, Standards Relating to Pretrial Release (New York: Institute of Judicial Administration, Approved Draft, 1968). (Hereafter cited as ABA Standards.)

⁴ABA Standards, pp. 55-56.

Nor is it surprising that the average felony bail bond in 1962 was approximately \$3,400.¹

Notwithstanding the wording of the Constitution, federal and state laws or rules of criminal procedure, studies throughout the last fifty years have indicated that the traditional bail system discriminates against indigent defendants.²

These are difficulties the man from the country has not expected; the Law, he thinks should surely be accessible at all times and to everyone....

The traditional system may be viewed as "taxing" people for being poor; the tax on poverty has been the loss of liberty for those accused and the problem has extended beyond the bail setting process just discussed.

The man, who has furnished himself with many things for his journey, sacrifices all he has, however valuable, to bribe the doorkeeper.

Defendants not able to post the full amount of their bail have had the option of purchasing bail bonds from private compensated sureties,

¹This was found for a sample of large, medium and small counties in 1962. The same study identified several factors promoting higher bail in the smallest counties studied. Lee Silverstein, "Bail in the State Courts - A Field Study and Report", 50 Minnesota Law Review 621-652 (1966). A study of sample cases in 20 jurisdictions for the same year found slightly over 50 percent of felony bail settings in the \$1,000-\$2,999 range. This distribution reflects bail amounts in force after any bail reductions had been granted by the court. Wayne H. Thomas, Jr., Bail Reform in America (Berkeley, California, University of California Press) forthcoming. (Hereinafter cited as Bail Reform in America.)

²Documentation of major research findings over this period as well as a bibliography of additional sources may be found in: National Center for State Courts, An Evaluation of Policy Related Research on the Effectiveness of Pretrial Release Programs (Denver, Colo.: National Center for State Courts, October 1975). (Hereafter cited as An Evaluation of Policy Related Research.)

or commercial bondwriters.¹ Under this system, the bondwriter posts security against the face value of the bond, and does so in exchange for a non-refundable premium, normally 10 percent of the face value, paid by the defendant. In addition to the premium payment, the bondwriter can require collateral from the defendant. The collateral is designed to increase the defendant's stake in appearing for court as scheduled, thus indemnifying the bondwriter.

When the commercial bond system was the only option for pre-trial release, defendants had to pass significant hurdles to make use of it. Only the first of these hurdles was the ability to pay a bond premium. Even with money in hand (an unlikely prospect for indigent defendants), the accused had to gain access to the bondwriter. While bondwriters might be seen actively soliciting business during peak hours at a local jail, defendants' release at these or other times was still contingent upon the bondwriters' willingness to be there.²

Further, finding a surety accessible did not mean finding him willing to write a bond. For example, bondwriters could make relatively

¹Traditional bail practices in several jurisdictions are relevant here. A study of such practices in Illinois found 1) that defendants were rarely allowed to sign their own bond without sureties and 2) that "[p]ersonal bonds of local citizens who [owned] property or [had] been local residents for years [were] frequently refused". From a study by the Champaign County [Ill.] Bar Association, cited in Charles A. Bowman, "The Illinois Ten Percent Bail Deposit Provision", 1965 University of Illinois Law Forum 35 (1965). In some of the earliest documentation on the subject, bail was found to be furnished by professional bondwriters in approximately 50 percent of felony cases bailed after arrest. Wayne Morse and Ronald Beattie, "Bail in Felony Cases", 11 Oregon Law Review 113 (1932). A substantial percentage of released defendants relied on commercial bail, particularly in higher bail ranges, in a majority of 17 counties supplying estimates for Silverstein's 1962 study of "Bail in the State Courts". See p. 7, note 1.

²Though there is little documentation on the subject, this may have been a significant problem for female defendants housed in outlying facilities. Among defendants studied in Connecticut, "several" attributed their continued incarceration to the inability to persuade a bondwriter to come to the jail. Paul R. Rice and Mary C. Gallagher, "Alternatives to Professional Bail Bonding: 10% Cash Deposit for Connecticut", 5 Conn. Law Review 1973 (Fall 1972) (Hereinafter cited as "Alternative to Professional Bail").

little from low bail amounts and could refuse to post bond simply because doing so would provide insufficient financial return. Misdemeanor arrestees could easily be prevented from securing release on these grounds.¹

Part of the bonding industry's "willingness" to accommodate defendants can be related to the least documented aspect of the bail system: ability of defendants to post collateral. While questionable collateral requirements have been identified in writings on the subject of bail, there is little information on the magnitude of required collateral in bail releases. Reporting requirements in states that regulate the bonding industry appear less than thorough and the monitoring system described for one state may be typical of others:

...the judicial system keeps no records on the bail practices in its courts and insurance bondsmen are required to report neither the number and amount of bail bonds written nor the income made from those bonds.²

Attempts to document the impact of collateral requirements on defendants have been made in two studies. In a 1972 sample of 179 incarcerated defendants in Connecticut, 33 (18 percent) specifically attributed their continued detention to the inability to provide collateral.³ A 1957 sample of defendants in New York City showed that 17 out of 89 incarcerated (19 percent) remained in jail for the same reason.⁴

The series of obstacles from initial bail setting to the posting of collateral characterizes the only means of release traditionally

¹This was found to be the case in a study conducted for the Oakland, California Police Department during 1971. The study also revealed that commercial sureties in the area would not write bonds for bail amounts of less than \$150. Comment, "Pretrial Release Under California Penal Code §853.6: An Examination of Citation Release", 60 California Law Review 1341 (1972).

²For these reasons, it was concluded "there is no way of ascertaining either the size or make-up of the entire bond bail market in Connecticut ...". Rice and Gallagher, "Alternative to Professional Bail", p.157.

³Ibid., p. 174.

⁴Note, "A Study of the Administration of Bail in New York City", 106 University of Pennsylvania Law Review 693, 709 (1958).

available to the accused, The defendant who could afford bail at all lost the value of a paid premium. The defendant who had no money or property paid more dearly. He or she remained in jail and suffered the attendant consequences, including possibly increased chances of detention if convicted.¹

The doorkeeper gives him a stool and lets him sit down at one side of the door. There he sits for days and years.

Indictments of the commercial bail system have been eloquent and legion. Most have focused on: 1) the inequities caused by reliance on money or property as exchange media for pretrial freedom; 2) the ineffectiveness of the judicial bail setting process when it involved financial release to guarantee court appearance (since financial terms are dictated in fact by bondwriters and not by the courts); and/or 3) the profit motive and documented violations of law that have characterized the commercial bonding industry.²

In the traditional system, private sector decision-making, that of the bonding industry, has had a significant impact on public sector resource allocation -- specifically, criminal justice system expenditures for detention facilities rather than expenditures for other means of defendant processing. The decision-making power of bondwriters in the system made them the effective regulators of defendant flow into local institutions. This becomes more obvious in the extreme, as shown in a report on traditional bail practices in New York City:

¹This type of consequence will be discussed as an "opportunity cost" of the traditional system in Chapter IV. Opportunity costs are defined and discussed in Appendix B.

²For information on all these aspects of the bail critique, see Freed and Wald, Bail in the United States. For primarily descriptive analysis of the bail system see Ronald Goldfarb, Ransom: A Critique of the American Bail System (New York: Harper and Row Company 1965); for a review of bail practices, abuses and probably the most colorful portrayal of bondwriters, see Paul B. Wice, Bail and Its Reform: A National Survey (Ann Arbor, Mich.: Xerox University Microfilms, 1975) Ph.D. dissertation for the University of Illinois, 1972, Chapters I, II and III.

It has even been intimated that hostile actions by the Judges or others, particularly with respect to the vacating of forfeitures and stricter supervision of bondsmen, might result in their refusal to write bonds, a strike which under today's statutory scheme would have a genuinely chaotic effect upon the City prisons in very short order.¹

In fact, the New York detention rate escalated with bondwriters' demands, or their threat of demands, for 100 percent collateral on all bonds.²

It becomes clear that the defendant with access to sufficient money and/or property could survive even the worst vagaries of the traditional bail system. The indigent defendant, however, had little protection but the theory of an individual bail decision that would take into account his or her financial circumstances. If these circumstances were not considered by the courts, they were by the bondwriters, which effectively terminated the bail option for defendants who were poor.

*[Doorkeeper to County man:]
No one else could ever be
admitted here, since this gate
was made only for you. I am
now going to shut it.*

While writings on the subject date from the 1920's, modern-day efforts at bail system reform were not begun until the 1960's in New York. Initial efforts were designed to benefit only indigent defendants.³ Since the problem in bail administration went beyond its impact (albeit great) upon the poor, however, the remedy soon became available not only

¹"Bail or Jail", 19 The Record 11-13, (January 1964) quoted in Freed and Wald Bail in the United States, p. 27.

²Ibid.

³The first plan, by the Vera Foundation, Inc., now the Vera Institute of Justice, was to establish a bail fund that could subsidize financial releases of those who otherwise could not post bail. The plan was rejected in favor of one that would produce more fundamental changes recommended thirty years earlier in Beeley's study of the Chicago bail system. The chosen approach, described in the text above, initially benefited indigent defendants only. Programs in Criminal Justice Reform: Vera Institute of Justice Ten Year Report, 1961-1971 (New York: Vera Institute of Justice, 1972), Chapter II. (Hereinafter cited as Vera Ten Year Report.)

to the poor but to defendants of all economic classes.¹ The basic approach was to provide a means of pretrial release that could reasonably assure the appearance of an accused without reliance on money or property as media of exchange. The chosen method was to supply courts with what had not been available previously: verified facts concerning the individual defendant which could be used to gauge the likelihood of his/her future appearance in court. It was hypothesized that defendants with sufficient social ties to the community could be released on their own recognizance with high probability of appearance as scheduled. Release on Recognizance (ROR) then, was the first type of non-financial release to be used systematically as a substitute for money bail and detention. A substantially greater variety of release options is available today as the result of several influences, including:

- publicity and widespread interest in the initial New York experiments with non-financial release
- experiments elsewhere in the use of alternatives to surety bail and detention
- passage of the Federal Bail Reform Act of 1966 which:
 - established the priority of unconditional release on recognizance as a means of assuring appearance in court
 - set forth a hierarchy of non-financial release conditions that could be used if necessary
 - permitted the use of money bail (posted by the accused or through "solvent sureties") only when non-monetary forms of release would be inadequate to assure the appearance of an accused
- statutes, court rules and judicial decisions mandating the use of non-financial release
- federal expenditures of over \$26 million to support pretrial projects during the 1970's.

¹ Equity of treatment for all defendants became a goal of the Vera project late in its demonstration period, and was maintained as a goal when the project was institutionalized under the New York City Office of Probation in 1964. Vera Ten Year Report, pp. 31-35. Effects of the equity goal from an economic perspective are treated in Lee S. Friedman, "The Evolution of A Bail Reform" (Berkeley, California; Working Paper #26 for the Graduate School of Public Policy, University of California at Berkeley, May 1975). (Hereafter cited as "Working Paper #26".)

Federal expenditures are discussed in a subsequent section of this chapter. Other influences on the development of the bail reform movement are documented more specifically in Appendix A.¹

Two factors influenced what were to be common characteristics of projects funded as part of the "bail reform movement": 1) the fact-finding mission that would make individual bail determinations possible and 2) the continued imperative to assure the appearance of defendants in court. As a result, nearly all projects performed the following functions to some degree:

- investigation, including:
 - interviews with defendants to collect information required for the bail decision
 - verification of defendant-supplied information, through cross-check with police and court records and/or contacts with third parties known to the defendant
- presentation of information and/or recommendations to the court at a bail hearing
- follow-up for released defendants including notification of required court appearances and/or confirmation that defendants were aware of scheduled appearances.

These functions have tended to be performed within single (though not necessarily independent) organizational units expressly devoted to the pretrial stage of the criminal justice process. Much of the history of the bail reform movement is told through reference to specific "pretrial services or bail agencies", "pretrial release projects", "ROR projects", "pretrial divisions", and so forth. Recognition of this common institutional arrangement and the core functions executed within it are important to an understanding of the pretrial process as it exists today -- both from the defendant-related standpoint and from the perspective of the criminal justice system as a whole. Both perspectives, as noted earlier, are considered in Corrections Standards for defendant processing during the period from apprehension to trial.

¹Also, Lee Friedman, in "Working Paper #26", analyzes: 1) dissemination of knowledge and technical expertise from the original Vera experiments and 2) results in terms of subsequent implementation of bail reforms in New York and elsewhere. This process is known as "technology transfer" or, as in Friedman's analysis, "technological diffusion".

The traditional system has involved arrest, custody and bail. The first major alternative to this pattern was release on recognizance, but the options today are much expanded. They include means of avoiding official processing entirely. Not only pretrial agencies, but other organizations within the justice system are involved in their operation. Alternatives of concern in this analysis may be available at any intervention point from the time of a citizen complaint to the time of trial. Though not all will be considered in detail, all affect defendant flow up to the trial stage. Further, options now available for defendant processing during the pretrial period mesh considerably with what the Standards recommend. Each type of option, such as release on recognizance, citation release or bail, is termed an "activity" in this report. Figure 2 on the following page provides definitions for a series of such activities and shows for each:

- the typical point of intervention at which it occurs, e.g., pre-booking, pre-arraignment, (but post-booking), etc.
- typical auspices for the activity, e.g., law enforcement, courts, etc.
- examples of variations from the norm that may be found where such activities have been implemented.

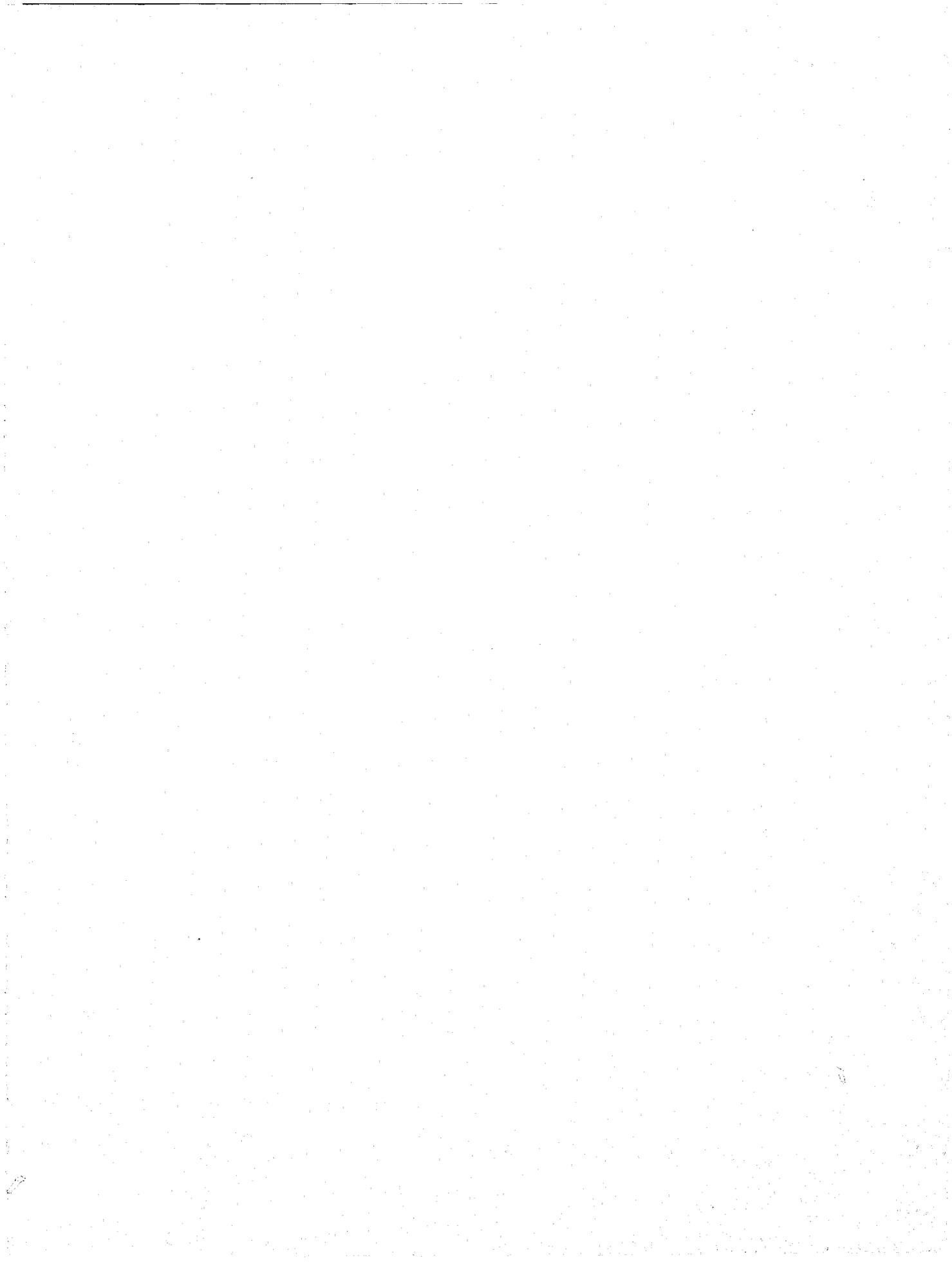


FIGURE 2

DEFINITION AND CHARACTERISTICS OF SAMPLE PRETRIAL ACTIVITIES

Pretrial Activity	Description	Normal Intervention Point	Typical Auspices	Sample Variations
CONFLICT RESOLUTION	Attempt to arbitrate disputes most typically in domestic relations, which might otherwise lead to formal charges.	Pre-charge	Law Enforcement	<ul style="list-style-type: none"> • Team approach may be used involving law enforcement and social service agencies.
CITATION	Defendant is issued a "ticket" which constitutes his/her signed promise to appear for a future court proceeding.	Pre-arraignment <u>a/</u>	Law Enforcement	<ul style="list-style-type: none"> • May occur: <ul style="list-style-type: none"> -At point of apprehension with or without requirement of a formal booking procedure prior to arraignment (field citation). -At jail site or stationhouse pre- or post-booking (jail or stationhouse citation). • Agencies other than law enforcement may be involved in screening persons eligible for release through this activity.
RELEASE ON RECOGNIZANCE	Defendant gives his/her signed promise to appear for one or more future court proceedings.	Arraignment	Court and Pre-trial Service Agency	<ul style="list-style-type: none"> • May be known as Personal Recognizance, Personal Bond, Own Recognizance, Pretrial Parole, Promise to Appear. • Authority to approve this type of release, usually in misdemeanor cases only, may be delegated by the court to other agencies. The typical designee would be a pretrial services agency with ongoing responsibility for screening persons eligible for release and making recommendations to the court on the appropriate type of release in each case.

Figure 2 (continued)

DEFINITION AND CHARACTERISTICS OF SAMPLE PRETRIAL ACTIVITIES

Pretrial Activity	Description	Normal Intervention Point	Typical Auspices	Sample Variations
UNSECURED APPEARANCE BOND	Same as Release on Recognizance but with added stipulation that defendant be liable for a specified sum of money in the event of his/her failure to appear in court.	Arrest	Court	<ul style="list-style-type: none"> • Nominal Bond is a related form theoretically requiring prepayment of a small sum (e.g., less than \$5). • Though forfeiture requirement is rarely enforced, legal liability of defendant may be quite high (as in a \$50,000 "personal recognizance bond").
CONDITIONAL RELEASE	Any non-financial alternative to bail or detention that imposes restrictions on a defendant as a prerequisite for his/her release. In its simplest form, conditional release requires a defendant to 1) maintain the status quo (maintain residence, employment, school attendance) or 2) restrict movement or associations (remain within jurisdiction, stay away from complaining witnesses). Such conditions normally involve monitoring by some third party to promote compliance; other conditions may require the provision of more intensive services to enhance compliance (such conditions might include a requirement to secure employment or discontinue use of drugs or alcohol).	Arrest	Court and Third Party Agencies or Individuals	<ul style="list-style-type: none"> • Varies from minimum supervision (agency or individual notifies defendant of all court appearances) to maximum supervision and services (defendant required to [1] call or physically "check in" daily with a third party and [2] participate in a designated program of services such as drug, alcohol or mental illness treatment, job placement or vocational training).

Figure 2 (continued)

DEFINITION AND CHARACTERISTICS OF SAMPLE PRETRIAL ACTIVITIES

Pretrial Activity	Description	Normal Inter- vention Point	Typical Auspices	Sample Variations
<ul style="list-style-type: none"> • THIRD PARTY RELEASE. 	<p>Release on the condition that someone in addition to the defendant assume responsibility for his/her appearance in court.</p>	<p>Arrestment</p>	<p>Court and Designated Individuals</p>	<ul style="list-style-type: none"> • May occur prior to arraignment and may accompany other forms of release, for example, the case of a defendant cited for drunk driving and released to a family member. • Third parties may include attorneys, family and/or friends of the defendant, employers, members of clergy, other volunteers, and human service agencies of various sorts, including agencies established specifically for this purpose. <u>b/</u> • Third party agencies may directly provide or may arrange for specialized services in addition to supervisory services strictly called for in this type of release.

Figure 2 (continued)

DEFINITION AND CHARACTERISTICS OF SAMPLE PRETRIAL ACTIVITIES

Pretrial Activity	Description	Normal Inter- vention Point	Typical Auspices	Sample Variations
<ul style="list-style-type: none"> ● SUPERVISED RELEASE 	<p>Technically a type of third party release. Normally the case in which a pretrial service agency acts as third party and performs a greater range of functions than simply notifying a defendant of court appearances or requiring his/her presence prior to court proceedings.</p>	<p>Arraignment</p>	<p>Court and Pre-trial Services Agency</p>	<ul style="list-style-type: none"> ● May involve requirement that defendant frequently call in or appear at pretrial agency. Frequency varies and is normally governed by characteristics and circumstances of individual defendants. ● May include arrangements for services specifically associated with release conditions as well as those requested by defendants. ● May include services available in-house and/or those provided by outside agencies.
<ul style="list-style-type: none"> ● PRETRIAL DIVERSION 	<p>Designation of specific conditions which, if met, result in dismissal of criminal charges against the defendant.</p>	<p>Arraignment</p>	<p>Court and Specialized Diversion Agencies</p>	<ul style="list-style-type: none"> ● Also referred to as Pretrial Intervention, Deferred Prosecution, Trial Avoidance. ● May occur as early as pre-charge stage with charge and prosecution held in abeyance and dropped if conditions are met; may be offered as a post-arraignment option to defendants already released on their own recognizance or on other conditions.

Figure 2 (continued)

DEFINITION AND CHARACTERISTICS OF SAMPLE PRETRIAL ACTIVITIES

<i>Pretrial Activity</i>	<i>Description</i>	<i>Normal Inter- vention Point</i>	<i>Typical Auspices</i>	<i>Sample Variations</i>
(Pretrial Diversion continued)				<ul style="list-style-type: none"> ● Auspices may vary to include law enforcement or prosecutors depending on the point of intervention at which diversion becomes an option. ● Possibly best known conditions include defendant participation in drug or employment programs, but less stringent requirements may include attendance at training or "awareness" sessions or submission of essays on subjects related to the offense charged.
● FINANCIAL BAIL RELEASE	Payment of money and/or posting of security such as real property in order to gain pretrial release	Post-arrest; Arraignment	Prosecutor, Court, Bondwriters	● Bail amount required to secure release may be governed by fixed schedule set by prosecutor or court, and geared to offense charged; may be payable at station house upon arrest, usually for minor offense (station-house bail).

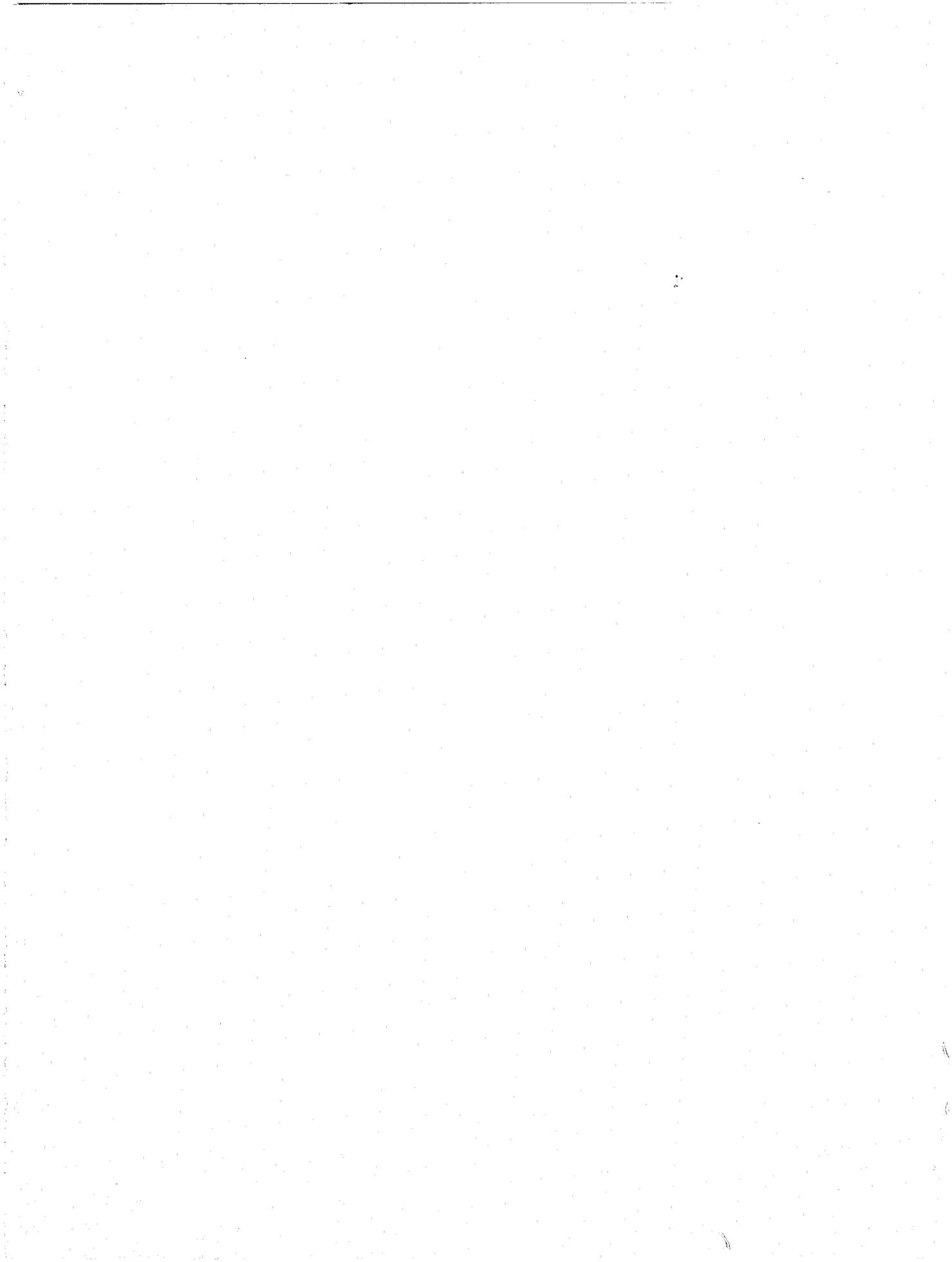
a/ 'Arraignment' is used here to indicate first court appearance at which bail can be set.

b/ In the context of this report, the term "third parties" will be used to designate individuals and agencies other than a pretrial services agency. Where reference is made to individuals and agencies whose purpose is solely or primarily to assure defendant appearance in court (through notification or by transporting and/or accompanying the defendant), they will be designated as "third party custodians" or "custodial" agencies. They may be said to perform a "custodial" function. When third party agencies or individuals are responsible for providing specialized services such as vocational training, drug treatment, specialized counseling or diagnosis, they will be designated as "service providers" or "human service agencies" engaging in a "service delivery" function.

Figure 2 (continued)

DEFINITION AND CHARACTERISTICS OF SAMPLE PRETRIAL ACTIVITIES

Pretrial Activity	Description	Normal Inter- vention Point	Typical Auspices	Sample Variations
Financial Bail Release (continued)				<ul style="list-style-type: none"> ● Bail amount may be set by court and based on circumstances of accused. Security may be posted in lieu of or in addition to cash and in an amount equal to all or part of the bail amount set, refundable upon defendant's appearance for trial. (Fully or partially secured bail, respectively). ● Cash and/or security may be posted by defendant or by third party, normally a family member or a private compensated surety (bondwriter). If posted by the latter, non-refundable premium equal to a percentage of bail amount set will be required of defendant by bondwriter; collateral also may be required (surety bail). Percentage of set bail amount may be paid directly to court by defendant; deposit would be forfeited in the case of defendant's failure to appear, and all or nearly all of deposit would be returned upon appearance for trial (deposit bail; percentage bond).



GOVERNMENT INVESTMENT IN THE BAIL REFORM MOVEMENT

Bail reform projects have proliferated from 1961 until the present day. Of the several hundred projects estimated to have emerged within this period,¹ few have been financed solely by private sources. There was an early government investment in bail reform efforts, most of it by local government, in the period before 1969. Figure 3 on the following page displays sources of funding, where known, for the 89 bail reform projects begun prior to March 1969. Funding for the bulk of projects during this period was a mix of private and local government monies. The involvement of federal and state governments in financing program operations appears minimal.

The federal government however, was not uninvolved in the bail reform movement during this period. With a small investment, it contributed substantially to the emergence of new projects, most, if not all, funded by other sources. Three federal grants totalling approximately \$200,000 were made in the mid-1960's. These financed a conference and related activities that would "spread the word" about experiments in and options for non-financial release. The effort was funded by the Department of Health, Education and Welfare, Office of Juvenile Delinquency and Youth Development. Official co-sponsors of the conference (but not

¹"Several hundred" is given as a loose estimate by the National Center for State Courts in An Evaluation of Policy Related Research, p. 82. Also, survey findings on pretrial release projects initiated in the '60's and '70's have been reported in each year from 1973 through 1976. See Lee S. Friedman, The Evolution of Bail Reform (New Haven, Conn.: Working Paper of the Center for the Study of the City and Its Environment, Institution for Social and Policy Studies, Yale University, 1972, pp. 102-104) (Hereinafter cited as The Evolution of Bail Reform); Hank Goldman, Devra Bloom and Carolyn Worrell, The Pretrial Release Program (Washington, D.C.: Office of Planning, Research and Evaluation of the U.S. Office of Economic Opportunity, July 1973) p. 3 (Hereafter cited as OEO Report); Friedman, "Working Paper #26", p. 38; "Assessment of the Present State of Knowledge Concerning Pretrial Release Programs" (Denver, Colo.: Work Product Four of the Phase I Evaluation of Pretrial Release Programs, Draft Report, National Center for State Courts, February 1976) Table 7. (Hereafter cited as "NCSC Draft Work Product Four".)

FIGURE 3

SOURCES OF FUNDING FOR ALL BAIL REFORM
PROJECTS KNOWN TO HAVE STARTED PRIOR TO MARCH, 1969

<u>Source</u>	<u>Number of Projects</u>	<u>Percentage of Projects with Known Funding Sources</u>
Local Government	30	(55.6)
Private Sources	9	(16.7)
Federal Government	5	(9.3)
Local/Private	3	(5.6)
Local/State	3	(5.6)
Local/Federal	2	(3.7)
State	2	(3.7)
Subtotal	54	(100.0)*
N. A.	35	
TOTAL.....	89	

* Figures do not add to 100.0 due to rounding.

SOURCES: National Conference on Bail and Criminal Justice, Proceedings and Interim Report, (Washington, D. C., 1963); 1968-69 Survey by the Vera Foundation (unpublished). Data report in: Lee S. Friedman, The Evolution of Bail Reform (New Haven, Connecticut: Working Paper of the Center for the Study of the City and Its Environment, Institution for Social and Policy Studies, Yale University, December, 1972) (Mimzographed) pp. 102-104.

funding sources) included one federal agency, the U.S. Department of Justice, and one private organization, the Vera Foundation. Aside from supporting a major national conference, the grants subsidized:

- travel expenses for Vera Foundation staff who provided technical assistance in organizing new projects,
- several publications, among them Bail in the United States: 1964 by Daniel Freed and Patricia Wald.

Though there was a spurt of development activity as a result of the conference and related events, funding sources for project operations did not change during this period, and no particular source was a guarantee of project longevity.¹ It is interesting to note, for example, that while private funding gave birth to some projects now legendary for their durability, it also produced some that, however effective, are now defunct.²

The overall pattern of investment in the bail reform movement changed radically in the 1970's as the federal government expanded its role. Compared with its first set of investments, the most notable of which were conference-related expenditures, the second set of federal monies was a massive infusion: at least \$26 million over a six year

¹Project longevity, or turnover, is discussed with respect to projects starting prior to, during and after the (federally-financed) conference period in Lee S. Friedman "Working Paper #26" pp. 37-39. The conference was the National Conference on Bail and Criminal Justice held in Washington, D.C. in May, 1964. The publication by Freed and Wald was the conference working paper. Additional publications included an interim report and Bail and Summons: 1965. (New York City, N.Y.: Proceedings of the Institute on the Operations of Pretrial Release Projects, October 1965). A more detailed account of these events and their funding is contained in Friedman's working paper. The total value of the three federal grants according to that source was \$197,467.

²Among the legends are projects in Washington, D.C., New York City and Des Moines, Iowa. Among the defunct are early projects in Philadelphia and Oakland, California.

period. Approximately \$25 million was devoted to direct project operations, and the rest was channeled to research, development and technical assistance efforts. These figures must be viewed as a tentative minimum bound on the federal investment. They reflect the documented allocation of funds from only one agency, the Law Enforcement Assistance Administration of the Department of Justice. This was the major federal funding source during the period, but it was not the only one. At a minimum, resources have been made available through two or more Labor Department programs.¹ Further, the \$26 million total may not reflect all monies spent by LEAA for the following reasons:

- The total represents an unduplicated count of pretrial grant monies awarded for expenditure from January 1971 through December 1976 as documented in LEAA's computerized Grants Management Information System (GMIS). However, the system itself was new during this period and may not have captured all data with peak accuracy.²

- Data on block grants, distributed by State Law Enforcement Planning Agencies and accounting for approximately \$20 million of the documented total, are reported by the states to LEAA and may not reflect the total distribution of LEAA monies to pretrial programs.

- The data on non-block or discretionary awards, made directly by LEAA to operational projects and to research and demonstration efforts, reflect a total of approximately \$6 million but are incomplete. The funding to conduct this study, for example, is not included because it was part of a larger research effort not exclusively related to pretrial programs.

¹A 1975 report listed only one out of 55 release projects surveyed as relying on Department of Labor support but there is a reason to believe this is a low estimate. See Appendix C to "An Evaluation of Policy Related Research on the Effectiveness of Pretrial Release Programs" (Denver, Colo.: National Center for State Courts, April 1975) pp. 9-10. Funding for pretrial release under the New York City Office of Probation, for example, included Emergency Employment Act monies. See Friedman, "Working Paper #26". In addition, projects surveyed in the course of this study were found to be using staff whose salaries were subsidized by the Labor Department under the Comprehensive Employment and Training Act (CETA).

²Printouts of the following GMIS data were used for this analysis: Department of Justice, Law Enforcement Assistance Administration, Grants Management Information System, Block and Non-Block Awards Relating to Release on Recognizance, Nominal Bond, Trial Avoidance and Pretrial Release. States contribute data voluntarily. Hence, the GMIS data base has never fully reflected all grant activity.

While they must be used with caution, the data are illuminating. For example, the documented LEAA investment (excluding research-related expenditures of approximately \$1.4 million):

- could have supported all projects started before 1969 at the current median reported budget level for nearly four years;¹
- could support the current number of release projects at their current median reported budget level for three years;²
- could have supported over two years of funding at the current median reported budget level for all projects started since 1961.³

Though not all projects at any given time actually rely on LEAA money, many do. Forty-five percent of projects surveyed in 1973 and the same percentage of projects surveyed in 1975 placed primary or secondary reliance on LEAA funding.⁴

Figure 4 on page 26 shows the distribution of approximately \$20 million in documented block grants from the agency over the period of January 1971 through December 1976. Again care must be used in interpreting the data. The distribution is based on the project narrative accompanying each grant as reflected in the LEAA Grants Management Information System. The narratives may not have reflected all efforts actually supported by each of the grants. Further, the narratives

¹The median annual budget reported by 109 projects surveyed in May 1975 was \$72,000. See "NSCS Draft Work Product Four" Table 4.

²109 projects x \$72,000 per year = \$7,848,000 = estimated total reported budgetary costs for one year. \$24,800,000 (LEAA six year expenditure exclusive of research) divided by \$7,848,000 = 3.2 years support for the total budgetary cost of all current projects.

³There is a documented total of at least 169 projects from 1961 to 1975. This is discussed later in the text and shown in Figure 6 on page 34.

⁴The figures for 1973 are reported in Goldman, Bloom and Worrell, OEO Report, p. 8. For 1975 they are shown in "NCSC Draft Work Product Four", Tables 2 and 3.

FIGURE 4

DISTRIBUTION OF LEAA BLOCK GRANTS FOR PRETRIAL PROGRAMS FOR THE PERIOD 5/19/72 - 12/31/76

Type of Program Funded	Total Value of all Grants	% of Block Grant Funds	No. of Grants	Avg. Value Per Grant	Number of Jurisdictions	Smallest Single Grant (City)	Largest Single Grant (City)
A. Single Pretrial Activity <u>a/</u>	\$ 6,646,430	(33.5)	87	\$ 76,396	71	\$ 3,330 (New Orleans, La.)	\$ 663,429 (Phila., Pa.)
B. Combination of Pretrial Activities by Number of Activities: <u>a/</u>							
2	1,379,589		21	65,695			
3	3,639,192		11	330,836			
4	2,201,057		2	1,100,529			
Total	7,219,838	(36.4)	34	212,348	29	\$ 13,860 (Huntington, W. Va.)	\$2,996,694 (NYC, N. Y.)
C. Combination Pre- and Post-Trial Program by Number of Pretrial Activities Included: <u>a/</u>							
1	563,457		14	40,247			
2	4,256,015		17	250,354			
3	397,165		4	99,291			
4	91,020		2	45,510			
Total	5,307,657	(26.8)	37	143,450	28	\$ 7,500 (St. Charles, Mo.)	\$1,975,890 (NYC, N. Y.)
B ¹ Pretrial Program with Unspecified Number of Activities	497,174	(2.5)	14	35,512	13	\$ 5,760 (Moultrie, Ga.)	\$ 115,000 (Dayton, Ohio)
N. A.	162,647	(.8)	5	32,529	5	\$ 4,500 (Akron, Ohio)	\$ 64,292 (Wilmington, Del.)
ALL PROGRAMS <u>a/</u>	\$ 19,833,746	(100.0)	177	\$ 112,055	125 <u>b/</u>		

a/ Some programs may also include presentence investigation. See Appendix D for more detailed breakdown by program type.

b/ Unduplicated count of jurisdictions.

SOURCE: Department of Justice, Law Enforcement Assistance Administration, Grants Management Information System, printouts dated 2/27/76 showing block awards relating to Nominal Bond, Trial Avoidance & Pretrial Release; printout dated 3/2/76 showing Block Awards Related to Release on Recognizance. Data above represent an unduplicated count of block grants known to LEAA, but because the data are state-reported, they may not reflect all monies subgranted. Projects relating to juveniles only have been excluded from data.



differed in their specificity and in the terminology used to describe pretrial activities.¹ To counteract these problems, a classification scheme was developed that would be as broad as possible without sacrificing its usefulness as an indicator of LEAA spending patterns. The classification therefore focuses on pretrial activities, but is based on the numbers of distinct pretrial activities funded in a single grant rather than on the specific type of activity funded. In essence, it depicts the "product" of each grant as a distinct pretrial activity (R.O.R. would be a single distinct pretrial activity), or as a combination of such activities (R.O.R. and conditional release would be a combination of two pretrial activities), and so forth.²

In Figure 4 on page 26, each of a total of 177 LEAA block grants over the 1971-1976 period has been classified as one of the following types;

• Type A supports a single pretrial activity from among the following;

- conflict resolution or dispute settlement
- citation
- release on recognizance or nominal bond with no further conditions
- arrangements for or provision of specialized services in contemplation of case dismissal (diversion)
- arrangements for or provision of custodial or other services with no specific option for dismissal (includes conditional release, release with services, supervision, third party release, and services to pretrial detainees)

¹"Activities" as used here refers to a fairly specific set of options available to the defendant during the pretrial period; these include detention, bail and various alternative forms of non-financial pretrial release. See also Figure 2.

²Since the classification reflects the end product of the grant, or output, it does not distinguish among grants supporting different types of resource inputs. Thus, the classification will show numbers of activities included in a grant (whatever the activities may be). But in the case of two grants, each awarded for a single activity, it will not show that one grant supported an additional staff member and the other paid for all operating costs; both grants would be classified in the same way.

- an activity related to the setting or payment of money bail
- an activity related to the reduction of an initial bail amount set by the court
- miscellaneous (including determination of eligibility for indigent defense)

• Type B supports a combination of pretrial activities that includes more than one of the above, thus Type B contains subclassifications showing the number of activities in the combination.

• Type B¹ supports a pretrial program with an unspecified number of activities.

• Type C supports a combination of pretrial and post-trial activities (for example, services available to defendants and probationers) including one or more of the pretrial activities listed above; thus there are subclassifications showing the number of pretrial activities in the combination.

From available data on block grants, the following patterns emerge for the six year period:

• Eighty-seven of the grants (49%) funded single pretrial activities, but such activities accounted for only 34% of total block grant monies.

• Out of the documented 125 jurisdictions awarded block grant funds, 71 (57%) were receiving them to support a single pretrial activity. The average value of the LEAA contribution to that activity was approximately \$76,400. Some jurisdictions received more than one grant of this type, making the average award per jurisdiction approximately \$93,600.¹

¹In fact, a single jurisdiction may have received two Type A grants, each supporting a different activity. Exclusion of such an event would not alter the findings with respect to frequency of Type A grants, but would result in an understatement in terms of money spent on essentially combination, or more comprehensive, pretrial programs. Due to time constraints, no attempt was made to control for this event. It could result in a substantial (\$2,444,800) undercount in terms of money spent on essentially combination programs (the case in which all 16 jurisdictions receiving two Type A grants, valued at \$76,400 each, received them for separate activities). However, the overall findings in terms of the type of grant most frequently awarded and the direction of LEAA spending would not be altered. (Reducing Type A grants by 16 and increasing Type B grants by the same number still leaves Type A the most frequently awarded, and the bulk of LEAA monies would still be invested in combination programs).

• The greatest percentage of block grant funds (slightly over 36 percent) subsidized combinations of two to four pretrial activities).

- Thirty four grants of this type were awarded among 29 jurisdictions. The average value per grant was approximately \$212,400 and per jurisdiction, \$249,000.
- The most frequent number of activities included in the combinations was two and such combinations accounted for 62% of the grants but only 19% of the funds awarded in this class.
- Approximately 50% of Type B funds were awarded through 11 grants to support combinations of three pretrial activities.
- The remainder of Type B funding, approximately \$2.2 million, went to two grants supporting four activities each.

• In addition, slightly less than one half million dollars (2.5 percent of the total documented for block grants) was spent on grants of Type B' supporting 14 pretrial programs with an unspecified number of activities.

• For grant types A, B and C (and excluding Type B') there is an inverse relationship between total number of grants awarded and average grant amount.

	1	2	3
Ranking by average grant amount:	B (\$212,348)	C (\$143,450)	A (\$76,396)
Ranking by number of grants:	A (87)	C (37)	B (34)

Many project narratives specifically mentioned some type of involvement with the traditional probation function of presentence investigation (PSI), and grants of each type identified above were subclassified to indicate inclusion or exclusion of PSI activity. This breakdown is shown in Figure 23, page 139. The data indicate that efforts not specifically including PSI received the preponderance of grant monies in each classification: 98%, 91% and 69% of grant funds for Types A, B and C respectively. It is logical that there should be a significantly lower percentage for Type C grants since they funded combinations of pretrial and post-trial activities.

Another distinction was drawn to show the relative proportion of funds devoted to efforts exclusively pretrial in nature as opposed to those with some post-trial component, including PSI. The distribution shows 69%

of block grant monies invested in efforts that were exclusively pretrial.

LEAA data included both start and end dates for each grant. It was hypothesized that if investment priorities were shifting in favor of greater institutionalization of pretrial programs, or greater coordination between pretrial and post-trial systems (for example, in arranging for provision of treatment and other services), then one indicator would be a greater percentage of concluded grants among those that were "exclusively pretrial" than among those that included some post-trial component. While the data were necessarily limited in signalling such trends, there did not appear to be a significant difference in funding for the two groups. Seventy-four percent of the "post-trial" grants and sixty seven percent of the "exclusively pretrial" group were set to expire in June of 1976.

In addition to LEAA block grant funds dispersed by the states, slightly more than six million dollars over a five year period was made available in the form of LEAA discretionary grants. Of 26 projects whose largest source of funding in 1973 was LEAA, 7 relied on discretionary grants.¹ Of 41 projects with primary reliance on LEAA funding in 1975, 5 were dependent on discretionary grants.² Funds for these projects came from the portion of discretionary monies devoted to program operations. Figure 5 on the following page shows the distribution of documented LEAA discretionary grants over the period from the end of December 1971 through the end of December 1976. As shown in the figure, nearly 80% of the total expenditure financed program operations. Included in this category were continuation grants for already-operational projects as well as start-up grants for new projects, many of them established as demonstration efforts or "replications" of demonstrations conducted elsewhere.

As previously noted, it is unlikely that available data tell the complete story of investment of LEAA funds during the 1970's. However, it appears clear that a high priority was placed on efforts that would reach defendants and the courts directly. This priority appears in the contrast between block and discretionary monies devoted to program operations and those devoted to research.

¹Goldman, Bloom and Worrell, OEO Report, p. 8.

²"NCSC Draft Work Product Four", Table 2.

FIGURE 5

DISTRIBUTION OF LEAA NON-BLOCK [DISCRETIONARY]
GRANTS RELATING TO PRETRIAL PROGRAMS
FOR THE PERIOD 12/20/71 - 12/31/76

<u>Type of Effort Funded</u>	<u>Value of Grants</u>	<u>% of Non-Block Grant Funds ^{c/}</u>	<u>No. of Grants</u>	<u>Avg. Value Per Grant</u>
Program Operations ^{a/}	\$ 4,769,555	(77.7)	25	\$ 190,782
Research and Evaluation	1,192,785	(19.4)	9	132,531
Other ^{b/}	<u>172,300</u>	<u>(2.8)</u>	<u>3</u>	57,433
Total	<u>\$ 6,134,641</u>	<u>(100.0)</u>	37	165,801

^{a/} Includes demonstration projects, which account for 15 grants (60%) and 73% of grant monies in this classification.

^{b/} Includes one grant for technical assistance to pretrial projects and two grants, to a single source, for implementation of statewide standards and goals.

^{c/} Total does not add to 100 due to rounding.

SOURCE: Department of Justice, Law Enforcement Assistance Administration, Grants Management Information System, printouts dated 3/2/76 for Non-block Awards Relating to Release on Recognizance, Nominal Bond, Trial Avoidance and Pretrial Release. Projects relating to juveniles only have been excluded from data above.

Out of documented LEAA expenditures of nearly \$26 million, less than 5% was devoted to research and evaluation.¹ This may be significant in light of the following:

1. The federal government entered the bail reform field on the basis of compelling philosophical and practical arguments for the overhaul of a traditional system, and in response to the reported success of early projects, but:

2. the federal government made a substantial investment in the movement without knowing what specifically contributed to reported success among some of the early programs; and most important,

3. though no one knew then what made programs effective, it has been 15 years since the start of these efforts and major questions regarding program effectiveness remain unanswered. It may be hypothesized that a larger investment in research and evaluation would have reduced the remaining unknowns.

One of the most telling indicators on the current state of knowledge is provided in a very recent study expressly designed to evaluate research on the effectiveness of pretrial programs. The research team originally

¹Though LEAA funding for research does not appear substantial, research funding also has come from agencies other than LEAA. At least five major studies bearing on pretrial release have been funded by the National Science Foundation, for example. These include evaluations of policy-related research on: Effectiveness of Alternative Pretrial Intervention Programs (funds awarded to Abt Associates, Cambridge, Massachusetts) Effectiveness of Pretrial Release Programs (National Center for State Courts, Denver, Colo.), Effectiveness of Volunteer Programs in the Area of Courts and Corrections (University of Illinois, Department of Political Science, Chicago, Ill.), Exercise of Discretion by Law Enforcement Officials (College of William and Mary, Norfolk, Virginia), Exercise of Police Discretion (National Council on Crime and Delinquency Research Center, Davis, Calif.). An additional NSF award was made to the American Bar Association for a study of formalized pretrial diversion programs in municipal and metropolitan courts. The product of this grant was the study by Roberta Rovner-Piecznik, Pretrial Intervention Strategies: An Evaluation of Policy-Related Research and Policymakers Perceptions (Washington, D. C.: National Pretrial Intervention Service Center of the American Bar Association Commission on Correctional Facilities and Services, November 1974).

intended to study evaluation research conducted over the last decade, but managed instead to survey all research conducted in this field over the last 50 years. Several of their comments are worth noting here:

- "It turns out that among the most valuable contributions to the field are some of the early studies [circa 1930 through the late 1950's] ... on how the traditional money bail system worked in practice in specific jurisdictions."
- Evaluation of the Vera Manhattan Bail Project of the early 1960's "involved the only true 'experimental' research design...that has to date been implemented in the pretrial release field".
- "Although the large body of literature that has been developed over the past decade contains much that is helpful and useful for understanding the bail system and its alternatives, the research that has been done since 1965 leaves most of the critical policy questions unresolved."¹

It appears that the LEAA priority for program operations may have been more costly than expenditures alone would indicate. It may have resulted in forsaken policy and program improvements and therefore a relatively lower overall return on investment. Figure 6 on the following page, represents a tentative picture of project survival and turnover through 1975. Basically, it shows what happened to projects during the intervals between major surveys of the bail reform movement, each of which provided a count of the number of projects identifiable at the time. When the first survey was taken by the Vera Foundation in 1968-69, there were 89 operational projects that had started since 1961. When Lee Friedman assessed the field, he found that only 66% of these were still alive in 1973. New projects had been born during the period 1969-73 however, and at its end there was a count of 101 identifiable projects. Of these, it is estimated that 70% survived until 1975. They were joined during the period by approximately 38 new projects. Longevity of the 109 projects identified in May 1975 remains to be seen.

¹National Center for State Courts, An Evaluation of Policy Related Research, pp. xvi-xvii.

FIGURE 6

ESTIMATED TURNOVER OF BAIL REFORM PROJECTS
FOR THE PERIOD 1969-1975

<u>Time Period</u>	<u>Number of Projects Carried Over From Previous Period</u>	<u>Number of Carry-Over Projects Terminating During Current Period</u>	<u>Carry-Over Projects Surviving Until End of Current Period</u>	<u>New Projects Surviving Until End of Current Period</u>	<u>Total Projects at End of Period</u>
Oct. 1961-Mar. 1969	---	---	---	89 <u>a/</u>	89
Mar. 1969-Feb. 1973	89	30 <u>b/</u>	59 <u>b/</u> (66%)	42	101 <u>c/</u>
Feb. 1973-May 1975	101	30	71 <u>d/</u> (70%)	38 <u>d/</u>	109 <u>d/</u>

Average Net Growth Rate -- 1969-1975: 3.3 projects/year
Estimated Total New Projects -- 1961-1975: 169 e/

a/ Source: 1968-69 Survey by Vera Foundation (unpublished) reported in source cited in b/ below.

b/ Source: Lee S. Friedman, Evolution of a Bail Reform (Berkeley, California: Working Paper #26, Graduate School of Public Policy, University of California at Berkeley, May, 1975) p. 38.

c/ Source: Hank Goldman, Devia Bloom and Carolyn Worrell, The Pretrial Release Program. (Washington, D. C.: Office of Planning, Research and Evaluation of the U. S. Office of Economic Opportunity, July, 1973) p. 3.

d/ Source: "Assessment of the Present State of Knowledge Concerning Pretrial Release Programs" (Denver, Colorado: Work Product Four of the Phase I Evaluation of Pretrial Release Programs, Draft Report, National Center for State Courts, February, 1976) Table 7. The draft report total of 109 projects has been used here, though the final report will place the number at 110. The count does not reflect specialized diversion projects that have expanded to include other forms of pretrial release. The draft total including such projects was 134. It should be noted that remaining figures for 1973-1975 do not give a precise picture of turnover during the period. The draft report identified 38 projects that were "less than 2 years old" as of May, 1975, thus started after May, 1973. The start date of the measurement period above, however, is February, 1973 and published sources do not document the number of projects starting between February and May of that year. The number of new projects listed above, therefore, is probably undercounted and raising it would require shifts in the number of carry-over projects terminating in and surviving the period.

e/ This is undoubtedly a low estimate for two reasons. First, there has been a problem in identifying release projects in surveys from which the data have been drawn. Researchers have noted that some agencies with minimal funding and some housed within parent organizations may ^{have} been omitted inadvertently. Second, there is a downward bias in the count of total new projects over the period, due to the undercount explained in note d/ above. It should also be noted that none of the data above reflect efforts of the courts to facilitate non-financial pretrial release in the absence of a project or agency to assist with that task.

It would be misleading to draw conclusions from the limited set of data available. At best, one can point out possible meanings:

- Based on the number of years between survey periods, and project survival rates in the interim, it is possible that any given new project has about a 65% chance of surviving beyond a three year period.
- It is possible that projects started during the period of federal investment in bail reform have no greater a survival rate than those started during the period of primarily local government and private funding.
- There appears to be a substantial difference between the rate of project emergence and the net growth rate over the time period studied. According to the data, the ratio of these rates for the period 1969-75 would be approximately 4:1 (80 projects emerging but a net increase of only 20 projects over the period).

The last item would imply, at least theoretically, that better investment choices could have produced a higher rate of stable growth in the movement (i.e., a greater net increase in projects) and at the same time less dynamism (i.e., relative high rates of project emergence and demise).

Federal investment in the movement is continuing. The latest development is the establishment of ten demonstration pretrial services agencies that will serve the Federal court system. Authorized under Title II of the Speedy Trial Act of 1974, these are being funded with a fiscal 1975 appropriation of \$10 million. This does not include costs borne by the Administrative Office of the U. S. Courts, which is implementing and evaluating the demonstration effort. It also excludes pre-implementation planning grants to that agency.¹

Considering the past and future of the bail reform movement as a whole, it is quite possible that major investment decisions will have been made by all levels of government--federal, state and local. The movement's first sustenance came from local government (as well as private) sources. Fiscal responsibility largely shifted to the federal government in the 1970's. It is important to note however, that much of the federal contribution was provided in the form of "seed money". This would subsidize a demonstration period after which local jurisdictions were expected to assume the costs of program operations. While the cost of

¹Data on the federal agencies is presented in Appendix E.

many projects has been absorbed by county and/or municipal governments (most projects surveyed in 1975 reported primary reliance on these funding sources)¹, high turnover rates point to the difficulty in mobilizing local fiscal resources at the expiration of a "seed money" investment. To the extent that trends toward local fiscal responsibility continue, this problem may be exacerbated. Among all levels of government, the revenue-generating capacity of local governments is the weakest. In a sense, this means that the need to justify pretrial program costs is greatest when local government is being asked to assume the burden.

Theoretically, however, each new source of financial support would require new program justification, and there is some evidence that another major transfer of fiscal responsibility may occur--this time toward state governments as a major source of funding.

Corrections Standards themselves call for a revolutionary shift in criminal justice financing that would undoubtedly affect pre-trial programs. A recent analysis has shown that full implementation of the National Advisory Commission Standards would produce a dramatic reversal of state and local shares in total criminal justice system expenditures nationally. These shares have remained fairly constant over the last decade, but would shift from a 70% local/30% state distribution to a 40%/60% distribution with states assuming the higher share.² Further, the analysis indicates that these reversals would take place in each major criminal justice sector. Again considering only state and local contributions nationally:

- Courts would be almost totally state financed (the local government share has been 75%).
- Corrections and indigent defense would be virtually 100% state-supported (local government shares for the two sectors have been approximately 40% and 60% respectively).
- State governments would also take on approximately a one-third share of police costs.

Such changes could have the following types of implications,

¹"NCSC Draft Work Product Four", Table 2.

²The analysis of changes in financing was done by Daniel L. Skoler and presented in his address to the Criminal Justice Planning and Budget Workshop on the Fiscal Impacts of Criminal Justice Standards, sponsored by the American Bar Association, Criminal Justice Section, St. Paul, Minnesota, March 26, 1976.

among others, for pretrial programs:

- The source of funding for pretrial agencies housed within courts and probation departments could change; independent projects seeking institutionalization would likely be competing for state rather than local dollars.
- The funding for specific functions performed by the agencies could be altered (e.g., screening for indigent defense eligibility, which has been taken on by some projects).
- The funding for certain pretrial activities might be wholly or partially state-subsidized, (e.g., police citation or conflict resolution activities; pretrial detention).

Most important is that the pattern of government investment in the bail reform movement appears to be evolving. But as the viability of current pretrial programs is challenged by competition for local funds, (which now support the major share of criminal justice costs), so too will it be tested with a transfer of fiscal responsibility, when that responsibility implies weighing the value of bail reform projects against a wide range of alternate investment choices. The question must be asked: "What does government get and what does government give up when it buys pretrial programs?"

A first step toward answering the question is discussed in the following section.

NEED TO EXAMINE THE FULL RANGE OF PROGRAM COSTS

The line items of an agency budget do not often reflect the full cost of operating agency programs. The budget cannot reflect the full cost of programs which the agency does not administer, but in which it participates. Many criminal justice agencies for example, administer programs that draw on in-kind resources (staff, facilities, and so forth) supplied by other organizations. Many make referrals to other organizations or individuals whose services are essential to the agency's effective performance. Among the "other organizations and individuals" on which a criminal justice agency may rely are:

- allied agencies of the criminal justice system (such as courts, police, corrections, criminal justice planning agencies);

- agencies external to the criminal justice system (such as educational institutions, health and welfare agencies, and so forth);
- units of general purpose government.

From the cost perspective, when a criminal justice agency draws upon resources of a governmental unit, public expenditures are incurred. Conversely, private expenditures will accrue from the use of non-governmental organizations or individuals.

Costs of the following type may be produced in operating a program, though all may not be reflected in the budget:

- public expenditures of the criminal justice system.
- private expenditures of the criminal justice system.
- public and private costs external to the criminal justice system.

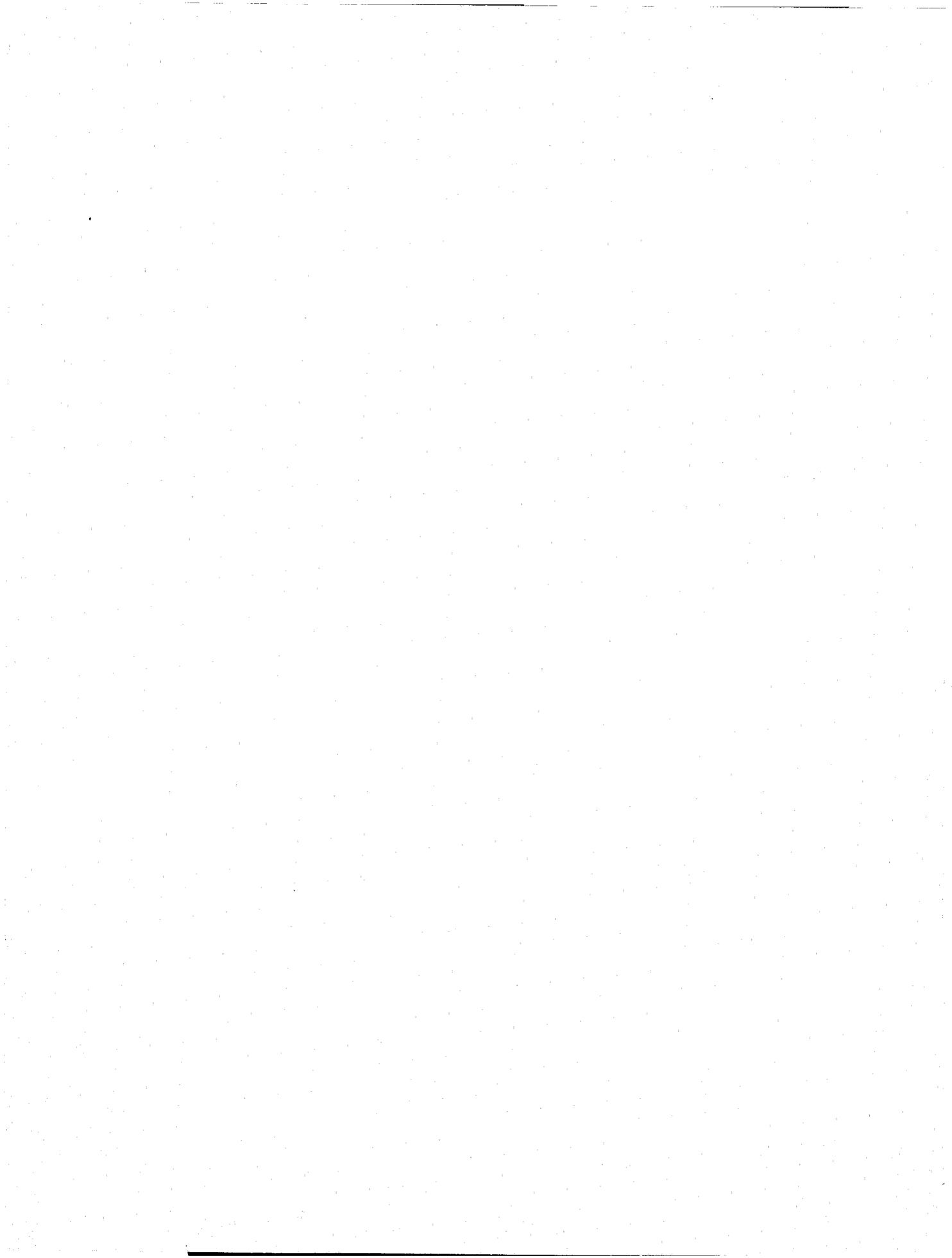
An additional cost may result from the simple fact that when one activity is undertaken another is foregone. Costs of undertaking one activity at the expense of another are known as opportunity costs. Such costs, in many cases, are not quantifiable, though they too may be incurred in the course of public or private sector activities. Private opportunity costs for example, play a role in the decision to incarcerate or release people pending trial: If jailed, accused persons may sustain opportunity costs in the form of lost earnings, inability to prepare an adequate defense, or inability to contact witnesses who might appear on their behalf. If accused persons are released, the risk of non-appearance in court is introduced. Though the individuals may be liable to some degree, society may bear the potential cost of trial delay or of not seeing justice done. If society perceives a risk of possible crime as a result of pretrial release, the opportunity cost of a release decision may be public perception of decreased security.

Frequently, such issues are debated in the political arena, where they may be seen as "side effects" of an otherwise well-planned program. As economic costs however, they can be anticipated and accounted for in the planning process, and can contribute to more informed resource allocation decisions.

All of the costs identified above may be produced by a single activity--any of those, for example, designated as an option for pretrial release. The relevant costs may be seen in terms of the typology on the following page. A more detailed discussion of the typology and each of its component costs is presented in Appendix B.

Typology of Costs

	Criminal Justice System Costs	External Costs	Opportunity Costs
Public			
Private			



CHAPTER II

CRIMINAL JUSTICE SYSTEM COST IMPLICATIONS OF OPERATING A COMPREHENSIVE PRETRIAL SYSTEM

The previous chapter highlighted: 1) types of activities (release and detention) available for defendant processing during the pretrial period, 2) the bail reform movement that gave birth to new organizations, designed to make the various forms of release possible, and 3) the types of cost, the pattern of financing and the role of economics generally in that movement. But only part of the picture has been presented.

Corrections Standards compel a broader approach. This chapter addresses the following questions:

- What vision of pretrial programs was presented by the National Advisory Commission in its Corrections Report recommendations?
- How might this formulation be approached from a cost perspective?

COST AND RESOURCE IMPLICATIONS OF CORRECTIONS STANDARDS FOR PRETRIAL PROGRAMS

The primary aim of the Corrections Standards is to eliminate excessive pretrial detention. Such detention was promoted by traditional bail practices, but it persisted because the criminal justice system was fragmented and lacked accountability for what occurred during the pretrial stage. The National Advisory Commission was strong in its critique:

Among the problems plaguing the criminal justice process, few match the irrationality of decision-making, the waste of resources and the unsystematic efforts at reform that characterize the pretrial period. [Emphasis added.]¹

The Commission supplied a broad definition of the problems in pretrial justice, and recommended a comprehensive approach to reform. Adding a conceptual framework to these recommendations, it may be said that the Corrections Report identifies:

¹Corrections, p. 98.

- Three major goals for a pretrial reform effort, with the primary goal being elimination of excessive detention;
- Institutional or system barriers that impede achievement of pretrial goals, including the barrier of reliance on money bail;
- Recommended policies for the removal of system barriers, with non-financial release as one of the policies.

Figure 7 on the following page shows the concept of pretrial reform envisioned by the National Advisory Commission. As depicted in the figure, each of the recommended policies has implications in terms of criminal justice system costs. With adequate information, and with all other things being held constant, it would be possible to say whether each would produce a net increase or decrease in public expenditures. (An example of predicted organization/management impacts is shown in the figure.) The clear implication of the Commission's recommendations, however, is that all other things cannot be held constant. The policies are interactive; together they represent a system aimed at common goals. This means that costs will be interactive as well, that a change in one part of the system will have cost and resource implications for other parts. (An example of reciprocal speedy trial/pretrial release impacts is shown in the figure.)

The seven basic policies produce seven sets of costs. Analyzing them alone and in combination with others would involve assessing a 49-cell matrix, with 42 of the cells containing possible costs of an interaction. Though such an analysis is beyond the scope of this study, it emphasizes the breadth of the Commission's recommendations and the critical need to look beyond specific agencies and institutions in examining pretrial criminal justice system costs.

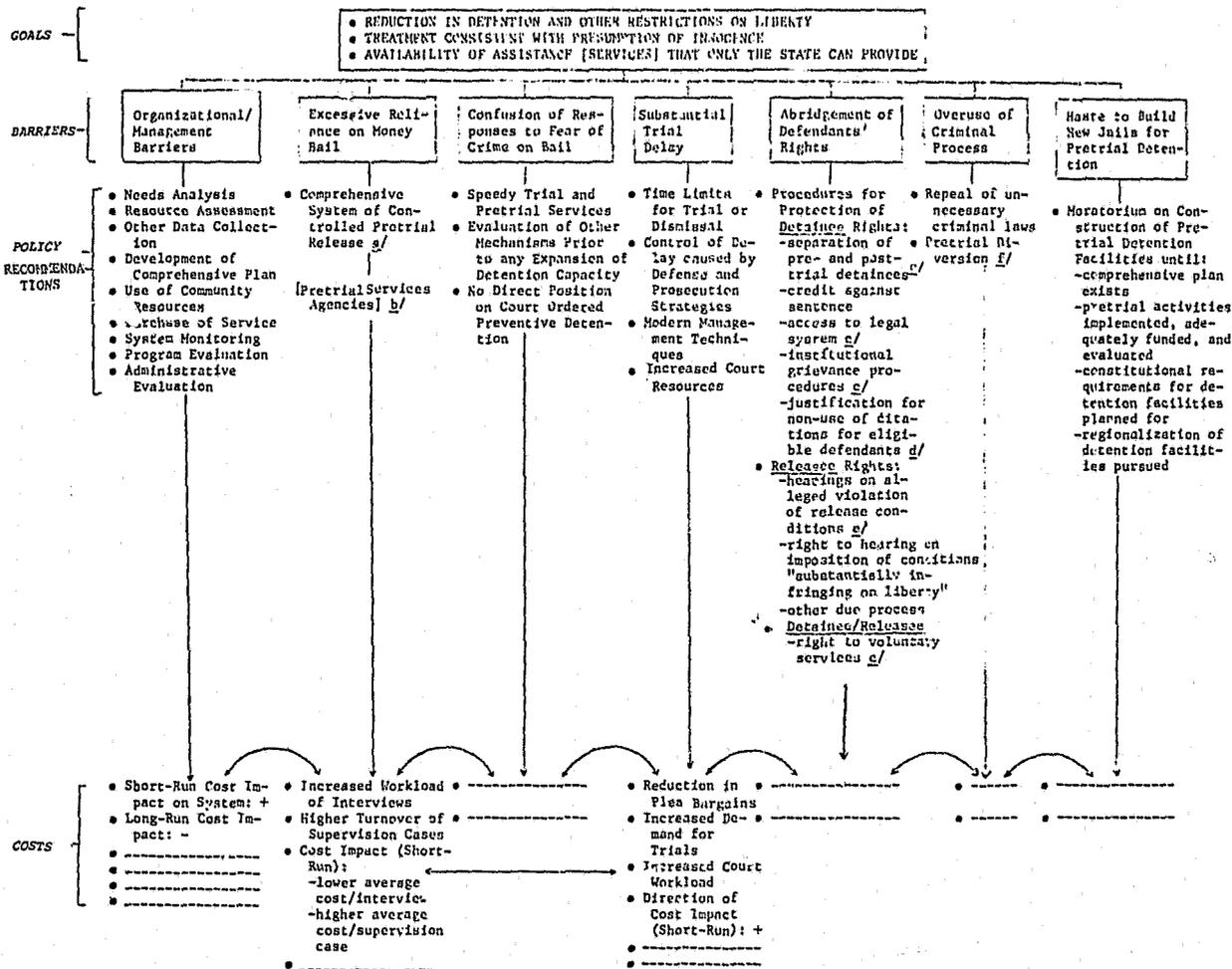
To limit the analysis here, examples are given of interaction involving pretrial release. Their possible cost and resource impacts are considered. Also, many components of the various policies have been analyzed in other reports of the Standards and Goals Project. These reports, referenced in footnotes to Figure 7 provide cost estimates that could be used by jurisdictions in assessing additional system interactions.

ORGANIZATION/MANAGEMENT AND PRETRIAL RELEASE

The use of community resources, the purchase of contract services, system monitoring and program evaluation are very much linked to each other and are important to the financing and management of pretrial release activities.

FIGURE 7

PRETRIAL SYSTEM AS PROPOSED IN CORRECTIONS STANDARDS



a/ Use of citations and summons in lieu of traditional arrest and warrant procedures are analyzed in: Susan Weisberg, Cost Analysis of Correctional Standards: Alternatives to Arrest (Washington, D. C.: American Bar Association Correctional Economics Center, October 1975); halfway houses, which can be used for community-based partial detention during the pretrial period, are analyzed in Donald J. Thalheimer, Cost Analysis of Correctional Standards: Halfway Houses (Washington, D. C.: American Bar Association Correctional Economics Center, October 1975).

b/ Discussed in Chapter III of this report.

c/ Analyzed in: Neil B. Singer and Virginia B. Wright, Cost Analysis of Correctional Standards: Institutional-Based Programs and Parole (Washington, D. C.: American Bar Association Correctional Economics Center, October 1975).

d/ See Weisberg, Alternatives to Arrest, cited in a/ above.

e/ Hearing procedures for parole violations are analyzed in Singer and Wright Institutional-Based Programs and Parole, see b/ above. Estimates were adapted to apply to probation revocation hearings in: Donald J. Thalheimer, Cost Analysis of Correctional Standards: Reliance on Community-Based Supervision: Probation, Restitution and Community Services (Washington, D.C.: American Bar Association Correctional Economics Center, August, 1976). Estimates are applied to pretrial release in Chapter III of this report.

f/ See Ann M. Watkins, Cost Analysis of Correctional Standards: Pretrial Diversion (Washington, D.C.: American Bar Association Correctional Economics Center, October 1975).

The National Advisory Commission has advocated the use of community-based resources in no less than fifteen of the 126 standards of the Corrections Report.¹ (Such resources would include: employment, health and social services, vocational rehabilitation, basic education and so forth.) Conditional release in particular depends on the availability of such ancillary resources. Basically, there are three ways to secure them for defendant use:

- The criminal justice system can provide services directly (as in the case of employment counselors on the staff of pretrial agencies);
- The criminal justice system may make "compact" arrangements whereby services are subsidized and provided by external agencies at no direct cost to the criminal justice system (this was the method used in most release projects surveyed for this study);
- The criminal justice system may purchase services through contracts negotiated with outside providers.

Of the three methods the only one that promotes accountability in service delivery is the purchase or contract method. It is more than a means of financing services, it is a management system that would involve the following:

- "Requests for Proposals", issued by the criminal justice system to potential service vendors. These documents could specify for example: type and quantity of service to be provided; quality of service (e.g., minimum staff/facilities requirements for the provider agency); duration and frequency of service delivery, number of "slots" required for criminal justice system clients, maximum allowable cost, and expected results (for example, minimum allowable failure to appear rate for third party custodial services);
- Competitive bidding by potential service providers;
- Contracting for a specific quantity and quality of service at a specific price;

¹Corrections, Chapter 4 (Standards 4.1, 4.4, 4.5, 4.7); Chapter 6 (Standard 6.3); Chapter 7 (Standards 7.1, 7.2, 7.3); Chapter 9 (Standards 9.1, 9.4); Chapter 13 (Standard 13.2); Chapter 14 (Standards 14.5, 14.6, 14.10, 14.11); Chapter 16 (Standard 16.4).

- Contract monitoring by the criminal justice system to assure compliance with all contract provisions;
- Performance evaluation to measure whether results specified in the contract were achieved.

The purchase mechanism can have the following types of impacts on pretrial release:

- It creates an effective demand for needed conditional release (and voluntary) services, and induces supply;
- It can transfer otherwise external costs to the criminal justice system, thereby increasing justice system public expenditures for pretrial release;
- It can be significantly less expensive than direct service provision by the criminal justice system¹;
- Where an adequate supply of services has been called forth, purchase contracts can be directed toward the most efficient and effective providers, thereby increasing the return on criminal justice system expenditures.

There may be further economic impacts in jurisdictions that house both a federal pretrial services agency and an agency serving state and municipal courts. If service resources in those jurisdictions are operating at capacity, introduction of the federal agencies (which will be purchasing services) may in effect create high service demand cities and a resulting net inflow of service vendors. This can have corresponding "spillover" benefits to non-federal releasees [and to post-trial releasees] in terms of their access to needed services.

¹Federal government surveys have shown an average savings of 30 percent when some types of services are contracted rather than directly provided. These savings are estimated prior to a new change in the computation of federal retirement benefits, which will have the effect of further raising government costs relative to those of private vendors. Updating the federal benefit rate in this case will have an effect on who provides services now valued at \$12 billion in capital investment and \$7 billion in annual operating costs. "Contracting Federal Services", The Washington Post, August 24, 1976. In a report of the Standards and Goals Project, the costs of programs providing in-house services are contrasted with those using external resources. See Donald J. Thalmeimer, Cost Analysis of Correctional Services: Halfway Houses (Washington, D.C., American Bar Association Correctional Economics Center, October, 1975) (Hereafter cited as Cost Analysis: Halfway Houses).

This is but one set of examples designed to show 1) that management practices advocated in the Corrections Standards may have various types of cost implications for pretrial release and 2) that developments in pretrial release and simultaneous developments in management practices will have additional implications for justice system costs and benefits.

SPEEDY TRIAL AND PRETRIAL RELEASE

Standard 4.10¹ of the Corrections Report contains three proposals for expediting criminal trials:

- Time limits within which a defendant must be brought to trial (for felonies, 60 days from the date of arrest, receipt of a summons or citation, filing of an indictment, information or complaint; for misdemeanors, 30 days);
- Allowance for periods that can be excluded in computing the time to trial, in order to protect the rights of prosecution and defense to a fair trial;
- Authorization for a shift of judicial and related resources to courts operating at or near full capacity, so that their compliance with speedy trial time limits will not be jeopardized.

In addition, since the time to trial would be collapsed, allowable time between specific pretrial proceedings would also be limited. For example, Standard 4.5, which treats procedures relating to release and detention decisions, proposes that no longer than six hours elapse from the time a defendant is taken into physical custody until the time of first appearance before a judicial officer.²

In the federal court system, where pretrial release was mandated with the Bail Reform Act of 1966, the impact of release upon trial capacity has been acknowledged: absent the coercive effects of a jail cell, plea bargaining would tend to be diminished, and the demand for trials would tend to increase.³ Thus to the extent that 1) pretrial release policies

¹Corrections, pp. 138.

²Corrections, pp. 122.

³See, for example, comments of Daniel I. Freed in Hearings Before the Subcommittee on Constitutional Rights, U. S. Senate Committee on the Judiciary on S895, (Washington, D. C.: Government Printing Office, 1971) p. 133. Freed also points out that "perhaps the greatest [social opportunity] cost of trial delay lies in compelling the reduction of charges through plea bargaining, thereby impairing society's ability to establish guilt." Increased demand for trials is also treated within the context of an economic model in William Landes, "The Bail System: An Economic Approach", Journal of Legal Studies, Vol. 2 (1972), pp. 79-105.

are in effect in a given jurisdiction and 2) courts are operating at or near full capacity, a short-run transfer of resources to the court system would seem necessary to assure compliance. As commentary on the Standards implies, the magnitude of the reallocation would depend on the speed with which management improvements, especially improved calendaring procedures, could take place. Thus in assessing the magnitude of pretrial release impact on speedy trial compliance, various rates become important. For example;

- the rate at which cases are now processed through the court system (for example, average annual felony case turnover as compared to the maximum turnover of nearly six times per year [365 ÷ 60]) that would occur with implementation of the Standards;
- the annual rate of pretrial release, and primarily, any increase in the release rate attributable to those who would have been detained in the absence of non-financial release options.

The time lag between implementation of pretrial release procedures and speedy trial procedures has a direct bearing on the average and marginal costs of case processing. For courts not now operating at full capacity, each additional case will represent a lower (marginal) cost than the one preceding it: court output is being increased by one case, and that case is utilizing a lesser share of resource inputs (staff, facilities) than the one before it. Average cost per case is reduced as available and relatively fixed resources are spread across a greater number of cases. For courts operating at capacity, marginal cost (the cost of adding one more case) will exceed average cost, since one more case will require additional resource inputs. (Thus, the short-run need to transfer judges and other personnel to courts with overloaded dockets in order to assure their compliance with speedy trial provisions.)

Expediting criminal trials has reciprocal impacts on pretrial release in terms of ongoing workload and apparent effectiveness. To the extent that speedy trials reduce actual failure to appear in court, release efforts will appear more effective (since failure to appear is the major performance measure for such efforts). An actual reduction in failure to appear will represent cost savings 1) to law enforcement, to the extent that rearrests for the sole charge of failing to appear may be reduced, and 2) to release agencies now exercising authority to apprehend persons failing to appear. Speedy trial will impact workloads by reducing the "time on release" for cases under pretrial supervision. With no change in intake policies, this could result in a higher (short-run) average cost per case, with relatively fixed resources (primarily staff) spread over a diminished workload. Theoretically then, pretrial services agencies with flexible staffing arrangements (for example, those using part-time staff, students, volunteers and so forth) would be in a better position to control costs resulting from speedy trial implementation than would release agencies operating under a civil service structure and/or union agreements which constrain staff reallocation.

Both speedy trial and pretrial release strategies are aimed at eliminating excessive detention. The average daily cost of such detention nationally has been estimated at approximately \$20 per defendant.¹

As envisioned in the Corrections Standards, the strategies of pretrial release and speedy trial work in tandem: the first frees those who traditionally would have been detained, the second gives priority in trial scheduling to those who for some reason remain incarcerated. If release efforts actually free those who would not have posted bail, and therefore could have been detained, then the interaction of the release and trial strategies can operate as planned. However, to the extent that non-financial release eludes those who also could not post money bail, the pretrial detention rate will not change significantly and the burden will fall on the courts. There is some indication that this outcome would not be unlikely. As the Corrections Standards emphasize, there are powerful influences contributing to continued pretrial detention. One strategy alone (or two in combination) cannot be expected to eliminate the human (or dollar) costs that continued jailing represents. All of the influences supporting continued detention cannot be analyzed here, but an example can be cited:

- Equity: Pretrial release policies originally favored indigent defendants. Pursuing an equitable distribution of benefits to all defendants, however, has necessarily drawn resources from those most in need.² This is mitigated by the fact that surety bail and stationhouse bail are still permitted in most jurisdictions, and those who can post it need not call upon public justice system resources to ensure their release. Corrections Standards on pretrial release would maintain the equity goals and would eliminate these two most frequently used bail options. The Standards retain a third bail option (posting of cash or security by the defendant him/herself) but this could be used only after non-financial release had been considered.³ Thus, under the Standards, public resources would necessarily be committed to some who would not have been detained, and it will be incumbent on other parts of the pretrial system to accommodate those who may remain incarcerated.

¹See Neil Singer and Virginia B. Wright, Cost Analysis of Correctional Standards: Institutional-Based Programs and Parole, (Washington, D.C., American Bar Association Correctional Economics Center, October 1975) (Hereinafter cited as Cost Analysis: Institutional-Based Programs and Parole.)

²For a discussion of the equity goal and its possible impact on pretrial workload distribution and effectiveness, See Friedman, "Working Paper #26".

³Two methods of administering deposit bail provisions are now in use. One is to allow defendants the choice of posting a cash deposit from the time of arrest, the other leaves the matter to judicial discretion at a bail hearing. The Standards reflect the latter approach.

INTERACTIONS AMONG PRETRIAL RELEASE ACTIVITIES

Release activities such as citation, conditional release or deposit bail are frequently analyzed in isolation and justified in terms of the "savings" each produces for the criminal justice system. (These "averted costs" may be expressed as savings in police resources or "jail days" or some other measure). Yet it is unlikely that if all the activities coexisted, savings to the criminal justice system would equal the sum of savings attributed to each form of pretrial release. The magnitude of costs or savings cannot be discerned without examining the effect that one form of release has upon others.

Savings in one place may mean costs in another. The implementation of specific pretrial activities involves trade-offs, just as the implementation of the more broadly defined pretrial policies involved interactions and trade-offs. For example, implementation of a citation activity would have an impact on the use of stationhouse bail, another pretrial release activity. Results of this interaction would include:

- A reduction in private criminal justice system expenditures (those of defendants, family and friends who would normally post bail);
- A change in public criminal justice system expenditures to the extent that issuing citations involves greater or fewer justice system resources than did processing bond payments.

In addition of course, the citation activity would impact public criminal justice costs associated with other pretrial practices (but not necessarily release practices). For example, it could eliminate typical arrest procedures such as transportation and booking, and it eliminates pre-arraignment custody.

Figure 8 beginning on the following page presents examples of the types of interactions that can occur when the various forms of release co-exist with each other. Each interaction will have a predicted impact on criminal justice system costs (private or public or both). While the magnitude of the cost impact may not be discernable, the direction of the impact (in terms of an increase or decrease in expenditures) can be predicted. Thus, Figure 8 shows for each interaction, a type of criminal justice cost affected and the direction of the cost impact.

FIGURE 8

INTERACTIONS AMONG PRETRIAL ACTIVITIES

<u>Pretrial Activity</u>	<u>Examples of Impact on Other Types of Pretrial Activity a/</u>	<u>Type of Criminal Justice Cost Affected</u>	<u>Direction of Cost Impact (+/-)</u>
Citation <u>b/</u>	• Can eliminate use of stationhouse bail	Private	-
	• Eliminates imposition of money bail at arraignment for most defendants cited (enhances the possibility of OR)	Private	-
	• May reduce percentage of low-risk defendants who must be screened for other types of release.	Public	Depends on difference in value of resources used for citation screening. For example: • Estimated total cost of a patrol officer hour: \$10.40 <u>c/</u> • Estimated total cost of a pretrial agency interviewer hour: \$13.45 <u>d/</u>
	• May eliminate pre-arraignment transportation, booking and paperwork (as well as custody)	Public	-
	• May increase number of people officially entering the criminal justice system	Public	+
Stationhouse Bail <u>e/</u>	• Eliminates background investigation and possible notification associated with non-financial release (Can allow more immediate release than non-financial activities, particularly in the case of multiple or mass arrests).	Public	-
Surety Bail <u>e/</u>	• Same as above, though theoretically, responsibility for investigation and notification is transferred to bondwriter.	Public Private (bondwriter)	- +
	• May cut into the group of defendants who could have posted bail; some indication that these defendants would have had bail set in the \$1000-\$2999 range.	Public (interviews and possible notification and processing of failure to appear)	+
Own Recognizance <u>f/</u>	• In the absence of other forms of non-financial release, leaves cases with highest risk of flight to bondwriters.	Private (bondwriter)	+
	• Takes higher risk cases away from bondwriters.	Public (assumption of risk)	+
Conditional Release <u>g/</u>	• Can increase overall rate of non-financial release.	Private (defendants)	-
	• Nearly assures that rate of OR release will not expand and may decline	Public (supervision and processing of failure to appear)	+
	• Requires explanation of conditions, and penalties for violations, to all defendants on conditional release.	Public (difference in cost between unconditional and conditional release)	+
	• Requires explanation of conditions, and penalties for violations, to all defendants on conditional release.	Public	+
	• Decreases need for bail reductions.	Public (court, legal resources) Private (legal)	- -
Deposit Bail <u>h/</u>	• Can reduce normal stationhouse bail payment if defendant has option of posting deposit prior to court appearance.	Private (defendant)	-
	• If discretion in use of deposit bail is left to court, defendants released on stationhouse bail (especially through sureties) may pay more than defendants released on deposit at arraignment.	Private (difference in cost to pre-arraignment and post-arraignment bailees)	+
	• If discretion in use of deposit provision is left to defendants, can eliminate surety bail.	Private (defendants)	-
	• May increase bail amounts set at arraignment, without necessarily reducing the percentage of defendants able to post bail.		
	• Requires explanation of deposit procedures to all defendants released on deposit bail.	Public	+

a/ Footnotes on following pages.

Footnotes for Figure 8.

- b/ Comment, "Pretrial Release Under California Penal Code §853.6: An Examination of Citation Release", 60 California Law Review (1972) pp. 1339, 1344, 1360-61. Gary G. Taylor, An Evaluation of the Supervised Pretrial Release Program [in Santa Clara County, California] (Sacramento, California: American Justice Institute, June 1975), p. 9. Wayne H. Thomas, Jr., Bail Reform in America, (Berkeley, California: University of California Press 1976), forthcoming. Merry Morash, "The Impact of the Community Arbitration Program on the Police", (Community Arbitration Program, January 1976) pp. 27-32, mimeographed [contains finding that use of citation increased pool of juvenile arrestees]. Interviews with members of Des Moines, Iowa Police Department, March 1976. Susan Weisberg, Cost Analysis of Correctional Standards: Alternatives to Arrest (Washington, D. C.: American Bar Association Correctional Economics Center, October 1975).
- c/ Discussed in Chapter III and shown in Appendix D.
- d/ Discussed in Chapter III and shown in Figure 14 on page 83.
- e/ Steven Wisotsky, "Use of a Master Bond Schedule: Equal Justice Under Law?", 24 University of Miami Law Review (1970) p. 829. In some cities where these forms of bail coexist with non-financial release activities, significant numbers of misdemeanor defendants (e.g., 16.5% in Oakland, California) have been able to post bail before being interviewed for non-financial release. Obviously, the speed with which such interviews, and corresponding release decisions, can be made is critical. The example implies however, that other things being equal, non-financial release decisions for more people will mean an increase in public expenditures of the criminal justice system (and of course, a decrease in private expenditures for bail).
- f/ Thomas, op. cit. Also, though some bail releases can take place quickly as noted above, many do not come until the defendant has spent a whole week or so in jail. In such cases, OR can afford a much quicker form of release, reducing both direct and opportunity costs to the defendant as well as public expenditures for jail custody.
- g/ Conditional release represents a middle ground between jail and OR, thus to the extent that a court wants to exercise some control in assuring defendants' appearance and finds jail too strict an alternative, it may tend toward this alternative. Cases that might have been OR'd in the absence of a conditional release alternative may be subject to stricter control when conditional release is available. The same principle was noted earlier with respect to citation release: Where the only police options would be to give a warning or to subject someone to traditional arrest procedures, the tendency might be to give a warning. However, when the "middle ground" citation option becomes available, many people who would have been warned may be cited instead (and officially drawn into the criminal justice system). The same principle becomes controversial with respect to diversion. There the traditional choice has been to prosecute or not to prosecute. When the diversion option becomes available, it is possible that some cases that would not have been prosecuted (and therefore

defendants who would have had minimal contact with the justice system) will be diverted (thereby becoming involved with the criminal justice system over an extended period of time). Contrasted with the situation before its introduction, conditional release can mean that a greater percentage of defendants avoid detention, but it can also mean that a greater percentage of released defendants have restrictions placed on their liberty. This was found to be the case in the District of Columbia, a jurisdiction that pioneered in the use of conditional release, and similar results have been reported elsewhere. For example, early results of the supervised release program in Santa Clara County, California show that up to 75% of supervised release defendants might have been released on bail or OR in the absence of the program. (It is estimated that 20-30% of all supervised defendants would have posted bail.) See Taylor, op. cit., p. 13. Another jurisdiction has reported that 90% of its releases are misdemeanors and all releases have some conditions imposed upon them. (Statistics from the Mecklenburg County, N. C. Pretrial Release Program, 1971-1976). For a national perspective, see Thomas, op. cit.

5/ The option to post a deposit rests with the defendant in Philadelphia and in Illinois where deposit bail plans were first adopted. In Michigan and Ohio, misdemeanors have this option, thus, can avoid the normal price of stationhouse bail. As of 1972 in 12 states and the Federal Courts, the option to permit a deposit rested with the court. In a recent study, bail amounts, particularly for misdemeanors, were found to have increased over a ten year period in three Illinois cities using deposit bail, and felony bail amounts were found to have increased in two Illinois cities. Four cities in a sample of 20 were found to have misdemeanor bail set at greater than \$1000 in a significant number of cases. Of the four cities, three were Illinois deposit bail cities. Custody rates in those cities were not adversely affected however, and it was concluded that deposit bail had "enhanced the ability of defendants to secure pretrial release". Thomas, op. cit. Evidence from specific jurisdictions diverges from the national norm. For example, it was found in another study that bail amounts did not increase with the introduction of a deposit bail provision in two Massachusetts jurisdictions. The study found court processes streamlined through a decrease in requests for bail reductions. John E. Conklin and Dermot Meagher, "The Percentage Deposit Bail System: An Alternative to the Professional Bondsman", 1 Journal of Criminal Justice (1973) p. 310. Deposit bail can also transfer the traditional surety function to attorneys whose fee is paid from the percentage of the deposit returned upon the defendants appearance in court. Since attorneys have a "stake" in seeing defendants returned to court, reported failure to appear rates may be lower for deposit bail releases than for other types. This was reported to be the case in Illinois. Tyce S. Smith and James W. Reilley, "The Illinois Bail System: A Second Look", 6 John Marshall Journal of Practice and Procedure (1972) p. 43.

CHAPTER III

CRIMINAL JUSTICE SYSTEM PUBLIC EXPENDITURES FOR PRETRIAL SERVICES AGENCIES AND PRETRIAL ACTIVITIES

Against the backdrop of the comprehensive pretrial system envisioned in Corrections Standards, costs of the component parts can be better understood. Among the costs of most apparent concern to decision-makers are those associated with pretrial activities (release activities and certain types of diversion), and those associated with pretrial services agencies, which represent a common institutional mechanism for carrying out release policies. Estimated criminal justice system expenditures for both the agencies and the activities are considered in this section. The following topics are covered specifically:

- The basic role and functions of a pretrial services agency -- where such an agency "fits" in the overall scheme of corrections pretrial policy recommendations;
- Estimation of a model budget for a pretrial services agency located in a primarily urban county and serving state and/or local courts.¹
- Average costs for the pretrial agency, including resource input costs (for example, average cost per staff hour) and output costs (for example, average cost per defendant for various functions performed by the agency, and average cost per release);
- Differences in personnel costs and total agency cost produced by the use of full-time or part-time staff resources;
- Estimated cost per defendant for various pretrial activities (citation, own recognizance and conditional release, for example) including the estimated pretrial agency costs as well as costs for police, court, legal, detention and other justice system resources;
- Additional criminal justice system expenditures associated with pretrial release, including estimated average costs per defendant for willful failure to appear in court and conditional release status change or revocation.

All of the cost estimates presented in this section are designed to be used as "benchmarks" by local jurisdictions in comparing the costs of their

¹Data on agencies serving the federal courts are provided in Appendix D.

own ongoing or contemplated activities; the methodology used to derive costs here may be adapted to local needs. It is important to recognize however, that the present estimates are only a first step in answering major cost-benefit or cost-effectiveness questions surrounding pretrial release and diversion. Pretrial release for example, is effective to the extent that it reduces reliance on money bail and eliminates excessive detention. If pretrial release policies can accomplish this goal at a cost equal to or lower than that associated with traditional money bail and detention, then societal investment in release programs may be considered justified from an economic point of view; certain costs associated with the traditional system will have been averted. However, each time release costs are associated with defendants who would not have been detained under the traditional system and for whom the cost of traditional processing (e.g., through dismissal or early plea, etc.) would have been lower than the cost of release, the rate of return on society's investment in release is lowered. This rate will vary even among neighboring jurisdictions; thus to answer some of the most pressing questions, for example, "what, if any, jail costs are saved as a result of pretrial release policies?", each jurisdiction must examine its own practices (and ideally, gather its own data). At the present stage of research, no national data provide conclusive evidence that could be used as a foundation for cost-benefit or cost-effectiveness analysis.¹ This section of the report therefore provides tools, in the way of techniques and estimates, that can be used for more sophisticated analysis, later at the national level or currently at the local level.

BASIC ROLE AND FUNCTIONS OF A PRETRIAL SERVICES AGENCY

Some pretrial policy recommendations of the Corrections Standards could clearly be carried out by traditional agencies of the criminal justice system; speedy trial, for example, by the courts, citation release by law enforcement agencies. Other recommendations, such as those on alternative forms of pretrial release and diversion, in many cases place new demands on the criminal justice system which existing agencies may be ill-equipped to handle. The development of specialized diversion activities to meet one area of new demand has been discussed in another report of the Standards and Goals Project;² the focus here is on pretrial release.

¹For a discussion of research needs and data requirements, see Appendix F.

²Watkins, Cost Analysis: Pretrial Diversion.

In reality, there was a pretrial services agency (The Vera Manhattan Bail Project discussed in Chapter I) before there was an articulated policy on pretrial release. At the outset, there was only an hypothesis that defendants with adequate social ties to a community could be released without bail during the pretrial period, and that (with some follow-up by the agency), they could be expected to return for court proceedings as scheduled.

As release policy evolved, and Corrections Standards reflect the result of this evolution as of the mid-1970's, two demands were clearly placed on the criminal justice system: 1) the demand for reliable background information on which to base judicial decisions about pretrial release and detention¹; and 2) the continuing requirement to assure the appearance of released defendants in court.

The New York model was available as a guide to other jurisdictions and similar specialized agencies were created to make possible effective pretrial release policies elsewhere. Demands upon the criminal justice system were translated into the functional requirements for such agencies:

- They interviewed defendants to gather background information.
- They verified defendant-supplied background information with third parties to assure its reliability.
- They presented the verified information to the courts, most often indicating whether release was or was not recommended based on pre-established criteria.
- They conducted follow-up of some sort, whether simple letter notification or more intensive supervision, to ensure the appearance of released defendants.

¹Standard 4.5 suggests that the following information be considered routinely in such decisions: Current employment status and employment history, present residence and length of stay at current address, extent and nature of family relationships, general reputation and character references, present charges against the accused and penalties possible upon conviction, likelihood of guilt or weight of evidence against the accused, prior criminal record, prior record of compliance with or violation of pretrial release conditions and other facts relevant to the likelihood that the defendants will appear for trial. Corrections, p. 123.

Thus, where traditional agencies such as the courts or probation departments were not equipped to handle the functions identified above, pretrial agencies were the institutional mechanism for making nonfinancial release possible.

Many pretrial services projects, established on a demonstration basis as specialized agencies, have now been absorbed under the auspices of traditional agencies such as those mentioned. In its 1975 survey of 109 pretrial release projects, the National Center for State Courts found that 31 percent were administered by the courts and 34 percent were under the auspices of probation or parole agencies.¹ Through no such classification was used in the National Center's study, other agencies may be found under the auspices of basically independent governing boards, usually with some public and private agency representation.

Interestingly, Corrections Standards advocate the continuation of functions performed by pretrial services agencies, but contain no specific recommendation for the establishment of such agencies. In general, the Corrections Report advocates coordination, but not necessarily integration, among agencies and functions. This has a bearing on administrative auspices for pretrial services. Standard 16.4, entitled Unifying Correctional Programs, proposes establishment of state-wide correctional services agencies that would administer: services for persons awaiting trial, probation supervision, institutional confinement, community-based programs, parole and aftercare programs, and all programs for misdemeanants.² However, within the same Standard that proposes these umbrella agencies, the National Advisory Commission acknowledged and allowed for the relative autonomy of pretrial services. The closing paragraph of the Standard reads:

This Standard should be regarded as a statement of principle applicable to most state jurisdictions. It is recognized that exceptions may exist, because of local conditions or history, where . . . pretrial and postconviction correctional services may operate effectively on a separated basis.³

¹"NCSC Draft Work Product Four," Table 1. Remaining projects were under the control of other public agencies (17%), were privately administered (14%), or were part of a public defender or district attorney's office (4%).

²Corrections, p. 560.

³Ibid.

Valid arguments for and against institutionalization of pretrial services under traditional or newly-formed agencies can be advanced. Perhaps the most persuasive to pretrial service administrators is that long-term funding tends to be assured through institutionalization. To managers generally, there are the prospects of greater efficiency through consolidation of functions among operational units,¹ and more efficient distribution of costly administrative services.² Consolidation can facilitate such efforts as planning, resource mobilization and evaluation, which increase prospects for program effectiveness. On the other hand, integration does not necessarily yield overall cost reductions in the long-run. One reason is that public accountability is reduced. For example, an independent pretrial services agency, forced to defend its annual budget to county commissioners or a similar body, is under regular public scrutiny. The same agency's functions, integrated and eclipsed within a parent organization, may not be so tested. There can, of course, be accountability, but it is indirect -- through the parent organization to the public. Pretrial services agencies,

¹ For example, many recommended pretrial and probation functions overlap, including much of the screening process, and the "service brokerage" required to link defendants or offenders to needed resources. According to Standard 5.14, eleven items of information should be included in long-form presentence investigation reports prepared by probation agencies; at least part of the information for seven of the items is routinely collected by pretrial services agencies. While there is controversy as to how and by whom pretrial information may be used, (and this is discussed in Chapter IV), the point here is that it appears efficiencies could be gained by a consolidation of functions. See also Corrections, pp. 184, 185.

² An obvious example here would be the availability of automated data processing services which are highly inefficient to implement on a small scale (for instance, for a computerized notification system in any but the largest pretrial agencies) and very efficient on a large scale (for instance, for computerized notification as an adjunct to a computerized court docketing system).

while they appear to have contributed greatly to pretrial release, have not existed without controversy.¹ Both these factors must be weighed to determine whether the interests of defendants, the public at large, and the criminal justice system, are best served by consolidation or independence, both of which are acknowledged as possibilities in the Corrections Report.²

A recent report by the Alternatives of Jail Incarceration Project of the American Justice Institute (AJI) examines functions and possible organization and staffing for a consolidated agency handling some of the pre- and post-trial programs discussed in the Corrections report. The AJI study also treats many issues related to pretrial release and detention that can be only briefly highlighted here.³

¹For example, a recent study showed that, among selected jurisdictions as of 1971, some of those housing no pretrial services agency had rates of release equal to or higher than jurisdictions with such agencies. Further, in several jurisdictions with pretrial agencies, the percentage of defendants released as a result of favorable agency recommendations was lower than the percentage released on the court's initiative without such recommendation. Thomas, Bail Reform. On the one hand, these findings may indicate that pre-trial agencies are no longer essential in facilitating non-financial release; on the other, they are taken as a sign that 1) such agencies have been effective in influencing bail practices ("NCSC Draft Work Product Four," p. 13) or 2) (when the FTA rate for "judicial releases" is higher than that for "agency-recommended releases") that the agencies are still required. (A Report on the Operation of the Pretrial Services Agency During the Period Between June, 1974 and November, 1975 [N.Y.C., N.Y.: Vera Institute of Justice, February 1976]).

²It should be emphasized that many factors may govern decisions about the institutionalization of pretrial services. In addition to funding, efficiency and accountability, there are philosophical considerations to be weighed. For example, the approach to offenders that might be taken by a traditional probation agency is different from the defendant advocacy approach often taken by pretrial agencies. Institutionalization, if it jeopardizes the rights and treatment of defendants, imposes "opportunity costs" which are discussed in Chapter IV.

³John J. Galvin, Walter H. Busher, William Greene-Quijano, Gary Kemp, Nora Harlow and Kathleen Hoffman, Instead of Jail: Pre- and Post-Trial Alternatives to Jail Incarceration (Sacramento, California: American Justice Institute, September 1976) pre-publication draft. Standards and Goals Project and AJI staff worked closely together and exchanged much information during the initial phases of this and the cited study by Galvin et al. Due to later changes in the approach to each project however, there are differences in the final documents between the organization structures analyzed and corresponding estimates of their staffing and cost.

Data from the AJI study, which was based on a review of pre-trial practices in approximately 30 jurisdictions, are used as a point of departure for estimates in the following sections.

ESTIMATION OF A MODEL BUDGET FOR A PRETRIAL SERVICES AGENCY

This part of the analysis examines criminal justice system public expenditures that might be associated with a pretrial services agency operating in a hypothetical, primarily urban county of 300,000 population. The annual adult arrest rate for such a county would be approximately 11,400. The analysis treats the pretrial services agency as a separately identifiable organizational entity, but acknowledges its possible position within a larger parent organization. Functions performed by the agency may be defined generally as follows:

- Screening, which may include the component tasks of interviewing, verifying, preparing and presenting recommendations to the court, and some related tasks (such as indigent defense screening and referrals to some emergency services) that must be carried out as soon as possible after arrest to be effective. Two types of screening are considered: the relatively brief initial screening that would normally occur after booking and prior to arraignment, and a more intensive screening normally associated with identifying service needs among defendants who might be released on conditions and/or diverted to special programs.
- Notification and follow-up, which includes routine letter notification of court appearances, phone and personal contact as necessary. "Notification and follow-up" would be used for some, but not all types of release.
- Monitoring, for diverted defendants, includes limited contact with defendants and/or specialized diversion programs to assure that services are being delivered and to check on defendant status (e.g. still enrolled, terminated successfully, returned to official court processing).
- Supervision, includes fairly intensive contact, usually by phone or in person, with defendants released on conditions set by the court, and with third party and specialized human services agencies to which the defendants may have been referred. Both low and high supervision

(equivalent to approximately 4 and 8 hours per case per month, respectively) are considered in the analysis.

Estimates in this section of the study are based on these and more detailed descriptions of the same functions. Functional definitions will undoubtedly vary among local jurisdictions. Since the derivation of cost estimates for each function is shown in detail here, jurisdictions should be able to adapt the estimates to their practices. For example, "monitoring" costs are based roughly on the amount of time involved in this function on a per defendant basis, when it is performed by a certain type of staff. If the time and staff involved in "monitoring" here correspond to something called "minimal supervision" elsewhere, estimated costs for the two functions should not differ significantly. Users are therefore encouraged to review and adapt the estimates accordingly.

The following additional assumptions have been made with respect to release policies and practices in the jurisdiction hypothesized:

- Policy favors the maximum use of alternatives to pretrial detention consistent with an "acceptably" low rate of failure to appear.
- The following pretrial activities exist in the jurisdiction:
 - Field and stationhouse citation
 - Release on recognizance
 - Conditional release
 - Diversion to specialized programs (e.g. for alcoholism, drugs, employment)
 - Percentage bond
 - Detention¹
- No surety bail exists, and all specialized diversion (except immediate referral to detox centers) occurs only after a defendant has first secured release on O.R. or conditions.
- The pretrial services agency is involved in some way with all but citation and detention activities.

The first step in constructing a budget for the pretrial services agency is to estimate the number of staff required to perform its various functions in the jurisdictions described. Staffing depends on the amount of work (workload) to be handled by the agency, which in turn depends on the number of defendants who enter the criminal justice system and will be exposed to the functions performed by the agency. (This may be thought of as "defendant" or "case" flow.) In reverse, the process may be seen as follows: For a given jurisdiction size with given release policies there is the expected flow of defendants who enter and proceed through the pretrial system. This case flow generates work for

¹See Figure 2 for definitions of these activities.

the pretrial services agency in terms of its various functions. Each potential worker with direct service responsibilities (designated here as "line" staff) will be able to handle a proportion of the incoming workload. The total workload determines the number of staff required for each function.

Figure 9 on page 62 shows the method used to derive staffing requirements for the "model" pretrial services agency. Data in the left hand column actually reflect a combination of the "case flow" and "workload" concepts described above, and have been reproduced with only minor adaptations from the AJI study cited earlier. That study concluded that screening and ultimate release rates could vary significantly among jurisdictions and that in fact there was no apparent "typical" case flow. Based on the best available data and the professional judgment of AJI staff, the estimates in the left margin were developed to reflect a case flow that might occur with implementation of Correction Standards. They provide the most suitable data for this analysis because they describe patterns in the jurisdiction size of concern here, and are based on the same assumption about maximum use of alternatives to jail.

Workload capacity per line staff year was estimated for the various functions to be performed by the pretrial agency, and these estimates appear in the middle column of the figure. Resulting line staff requirements are shown at the right.

Four classes of personnel are considered in this analysis: 1) line, 2) supervisory, 3) administrative, and 4) clerical support. Once line staff requirements for the agency were determined, remaining staff needs were estimated based on the ratios shown at the bottom of Figure 9. Line staff requirements are based on the use of full-time permanent positions. For ease of analysis here, it is assumed 1) that line staff devote full time to case-related work, either direct defendant contact or collateral contacts related to specific defendants and 2) that no other staff are engaged in direct service work of this type. Additional explanation and the basis for all estimates are provided in footnotes to the figure.

It is important to recognize that the estimate of 24 staff in Figure 9 accounts for all staff required to handle the relatively high workload that might result from implementation of the Standards. This staff complement may appear higher than that currently reported for jurisdictions of the size considered here, even for agencies with somewhat similar workloads. A review of detailed agency data for this study shows that existing agencies tend to count full-time paid staff and tend not to report the full-time equivalent labor provided by part-time staff, volunteers, and staff paid from budgets other than the agency's own. Yet all such unreported staff may be handling a portion

FIGURE 9

STAFFING REQUIREMENTS FOR A PRETRIAL
 SERVICES AGENCY IN A PRIMARILY URBAN COUNTY
 (Based on Annual Pretrial Case Flow and Staff Workload Capacity) a/

Annual Pretrial Case Flow <u>b/</u>	Workload Capacity per Line Staff Year <u>c/</u>	Line Staff Required <u>e/</u>
11362 Arrests		
1240 Citations		
10122 Bookings		
506 "En Route"		
9616 Post-Arrest Screenings	2212 <u>d/</u>	4.3
2941 Public Inebriates (Referred to Services)		
3868 Immediate Pretrial Release		
(300) Referred to Services		
2807 Temporarily Detained		
(300) Referred to Services		
2394 Pretrial Release Review/Screenings or Related Reviews	1604 <u>e/</u>	1.5
1300 Released as Consequence		
5168 Total Pretrial Releases		
(475) Monitoring (Divertees)	1696 <u>f/</u>	.3
(4293) Notification and Follow-up	1148 <u>g/</u>	3.7
(340) Low Supervision	167 <u>h/</u>	1.8
(100) High Supervision	83 <u>h/</u>	<u>1.2</u>
		<u>12.8</u>
* * *		
Line Staff Required:		12.8
Line/Supervisory Ratio:	4:1 <u>i/</u>	
Supervisory Staff Required:		3.2
Administrative Staff:		
Director		1.0
Deputy Director		<u>1.0</u>
Total Non-Support Staff:		18.0
Non-Support/Support Staff Ratio:	2.8:1 <u>j/</u>	
Support Staff Required:		<u>6.4</u>
TOTAL STAFF REQUIRED:		24.4

a/ Footnotes for this figure appear at the end of this chapter, beginning at p. 102.

of the direct service workload. In its survey of over 100 identifiable pre-trial services agencies, the National Center for State Courts found only 5% that reported having a full-time staff as great or greater than the size estimated here. Part-time staff estimates were also requested in the survey, but no data are available on the number of hours worked by reported part-time staff. Assuming that "part-time" equals half-time, the mean staffing (full-time equivalent) for surveyed agencies of all sizes would be 8 persons (6 working full-time, 4 working half-time). Data from the NCSC survey and derivation of the mean staff size discussed here are shown in Figure 25, Appendix D. At the other end of the continuum, the American Justice Institute's rough estimates of staffing in a consolidated agency would have 30-35 out of 46 full-time staff engaged in pretrial services alone. The AJI study acknowledges that the estimate of total staffing may be high; the pretrial component likewise appears high.¹ Only two basic points need be made here: 1) that staff size does vary greatly among existing agencies and 2) that to the extent that a total staff of 24 persons appears high or low to local planners and administrators, budget figures presented here should appear correspondingly high or low, since staffing is the foundation for budget estimates and personnel costs will represent the bulk of total operating costs for the agency discussed.

An organization structure for the pretrial services agency and the distribution of actual staff positions within it are shown in Figure 10 on page 64. Also shown are functions (or more discrete tasks) that would be carried out by each of the identified organizational units. Several features of this organization and staffing can be highlighted here.

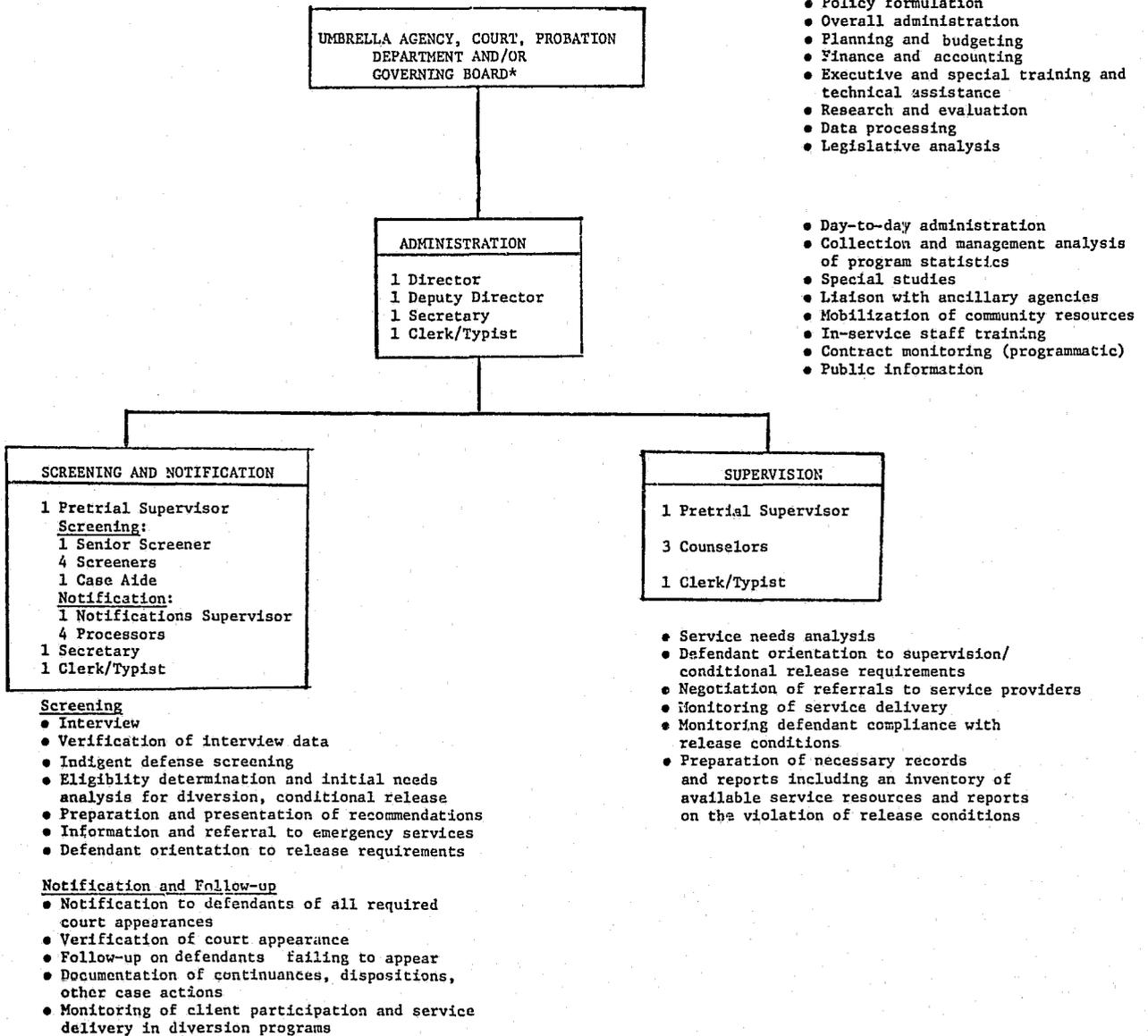
First, there are basically three organizational levels: the level of operating units (designated as "screening and notification" and "supervision"), that of agency administration, and a higher level, which in reality could be one of the public agency types depicted² and could be multi-tiered (for example, the case of regional and state probation offices, both with some authority over the pretrial agency). Administrative/management functions such as accounting, data processing,

¹ Galvin et al, Instead of Jail, Vol. 5, p. 39.

² It could also be a private organization, though this is not the norm. Public agencies are depicted here since the purpose of this section is to give as full as possible an accounting of public expenditures for pretrial agencies.

FIGURE 10

ORGANIZATION STRUCTURE FOR A PRETRIAL SERVICES
AGENCY IN A PRIMARILY URBAN COUNTY



* Note that with only a governing board as the overall administrative structure, the listed functions 1) would have to be undertaken by a government agency such as those listed or by various administrative departments of general purpose government or 2) would have to be supplied by private vendors, for example, accounting or research firms.

and evaluation, have been ascribed to the organizational level higher than agency administration. Thus a parent organization that provides "central services" is identified. This is a foundation for estimating indirect costs associated with agency operations.¹ The case of governing boards is somewhat unique, as pointed out in the footnote to Figure 10. This case will be discussed with respect to indirect costs in a subsequent section. At the operating level, supervision has been separately identified because it constitutes a separate organizational unit within most agencies surveyed for this study.² The organization of operating units and their staffing affects average costs for the agency. Basically, organization and staffing affect the allocation of costs³ 1) to specific organizational subunits (in this case influencing average cost per "screener" hour or average cost per "processor" hour) or 2) to specific functions (thus influencing average cost per defendant for "notification and follow-up" or "monitoring"). This is so because there are staff within the operating units that perform "joint" functions. The organization chart in Figure 10, for example, showed two support staff and one pretrial supervisor who would divide their time between screening and other functions performed by the "screening and notification" unit. Costs associated with the "joint" staff must be distributed among the functions they perform to arrive at an average cost per function. Thus, if the configuration of operating units or their functions were changed, and the change affected the positioning of joint personnel identified in the organization chart, then the average costs would be altered.

In addition to organizational features, several functions identified for the "model" agency should be emphasized. Some are derived from recommendations of the Corrections Standards and all would have an impact on the budget estimated for this analysis, making it higher than might be found currently in a medium-sized county with population and arrest rates such as those used here. Standard 16.4,

¹See Appendix B, Typology of Costs, for a discussion of direct and indirect cost.

²Some agencies in effect differentiate organizational units along programmatic rather than functional lines. Thus all functions associated with own recognizance release may be found within one organizational unit, and all associated with conditional release or "supervision," some similar to O.R. functions, may be found in another unit. In some agencies, organization is based on physical location of the staff, thus there may be "jail units" or "court units" and a function such as screening may be performed in both places.

³Cost allocation is discussed in Appendix B.

which included the recommendation for an umbrella corrections agency, proposes that the agency be authorized to perform the following functions:

- Planning
- Development and implementation of training programs
- Development and implementation of an information-gathering and research system
- Evaluation and assessment of the effectiveness of its functions
- Contract[ing] for the use of nondepartmental and private resources in correctional programming.¹

These and related recommendations of the Standards have been acknowledged in the present analysis. For example, Standard 14.11 suggests that "qualified trainees should develop and direct" a staff development program that includes all members of a given correctional organization. The Standard further advocates 40 training hours per year for top and middle managers. Training program development and executive training, as a specialized function, would be handled by staff of the parent organization depicted in Figure 10. In addition, Standard 14.11 recommends that new staff receive 40 hours of orientation, 60 hours of training during their first year and 40 hours per year thereafter.² The in-service training would be the responsibility of pretrial services agency administration as shown in Figure 10, and average yearly training time of approximately 52 hours has been deducted from total available working hours for all staff as shown in Figure 24, Appendix D.

The need for coordinated research and evaluation of all correctional programs is emphasized in the Corrections Report.³ In the "model" pretrial services agency structure, all levels would be involved in ongoing research and evaluation. Program statistics would be collected at the operating unit level and analyzed at the higher levels. The main responsibility for evaluative research on agency (and pretrial system)

¹ Corrections, p. 560.

² Corrections, p. 494.

³ Corrections, Chapter 15. See also the discussion of public expenditures for research in Chapter I of this report and the discussion of research needs, Appendix F.

effectiveness would be carried by the parent organization. In addition, that level would be responsible for technical assistance to agency administration in the areas of data collection and analysis, evaluation of agency operations, and so forth. Regular workload data needed for staff assignments, and other statistics on program operations needed for internal management purposes would be compiled and analyzed at the agency administrative level. One fourth of the agency's staff are clerical support personnel who would assist in documenting all information required for research purposes. A deputy director for the agency and a clerk for the administrative unit were added to accommodate the workload that ongoing research would imply for an agency of this size.

Also to be noted are functions related to purchase of service contract monitoring, which was discussed in Chapter I. Two types of monitoring would be required for services contracted from other public or private agencies and individuals. The first, fiscal monitoring, involves tracking actual expenditures against those authorized in a written contract. In an agency of the type shown in Figure 10, this would be done by fiscal units (finance/budgeting) of the parent organization. The other type of monitoring, often designated as programmatic monitoring, involves ongoing assessment of actual service delivery and the quality of service provided, to assure that it complies with standards set forth in the contract. This type of monitoring requires direct contact with service recipients and with vendors. Though a system for programmatic (vendor performance) monitoring should be developed by the highest organizational level, implementation should be the responsibility of agency administration, which would be in the best position to regularly assess the quality of service it utilized. Administrative involvement in programmatic monitoring is emphasized therefore in Figure 10.

One final feature should be noted before discussion of a model budget for the pretrial services agency. Corrections Standards call for career ladder opportunities and opportunities for lateral movement within and among criminal justice system agencies.¹ An attempt has been made in this analysis to structure positions and compensation accordingly. The following list shows the hierarchy of positions and the corresponding salary used in the analysis (actual salaries are explained further in the section that follows):

¹ For instance, "[t]he capability of accomplishing promotion from within the system through a carefully designed and properly implemented career development program" is mentioned in Standard 13.1 on Professional Correctional Management. Corrections, p. 455. Standard 14.6 is devoted to Personnel Practices for Retaining Staff, Corrections p. 482.

<u>Position</u>	<u>Salary Range (1974 Dollars)</u>	
Director	\$17,888	\$22,331
Deputy Director	13,243	17,535
Pretrial Supervisor (Supervision)	11,403	14,808
Pretrial Supervisor (Screening and Notification)	10,801	14,669
Notifications Supervisor-Senior Screener-Conselor	9,174	11,887
Screener	7,984	10,804
Case Aide	7,645	10,140
Processor	7,500	9,855
Secretary	6,800	7,900
Clerk-Typist	5,112	6,600

MODEL BUDGET FOR A PRETRIAL SERVICES AGENCY IN A PRIMARILY URBAN COUNTY

There is wide variation in the reported budget size of existing pretrial agencies. According to the recent study by the National Center for State Courts, 19 percent of 104 agencies surveyed reported budgets of under \$21,000; an equal percentage reported budgets of over \$150,000. According to the agency-supplied data, the mean annual budget for all agencies surveyed was \$148,000.¹ Unfortunately, it is difficult to say what specifically produces this variation, since research to date has not controlled for factors that might influence budget size. These would include such things as population size and distribution within a jurisdiction, pattern of arrests (offense distribution), number of pretrial

¹ The actual NCSC survey was conducted in May of 1975, thus most reported data would likely be for fiscal 1975. See "NCSC Draft Work Product Four," Table 4.

activities operated by the jurisdiction, agency involvement in each of the activities,¹ number of functions performed by the agency,² variations in price among geographic regions, and so forth.

The model budget shown in Figure 11 on the following page is based on data in the foregoing section of this chapter, thus, many of the usual "unknowns" have been specified for a given jurisdiction size. The budget is also based on expenditure data from a geographically representative sample of twelve pretrial services agencies that were in various ways prototypical in their implementation of Corrections Standards.³ Like the budgets presented in other Standards and Goals reports, the budget data in Figure 11:

- apply to an operational agency and thus would exclude the normally high start-up costs associated with the first years of agency operations (for example, initial training for all staff, development and implementation of information systems and so forth);
- are presented in terms of "average low" and "average high" figures and thus do not represent the extremes of a budgetary range;
- have been adjusted to 1974 dollars to assure comparability among Standards and Goals data; they will not for this reason reflect post-1974 price increases;⁴
- include only those public expenditures that would be made by the criminal justice system. (The cost of services financed by non-criminal justice agencies at no direct cost to the criminal justice system are treated as "external costs" and are discussed in Chapter IV.)

¹ For example, the District of Columbia Bail Agency screens defendants for citation as well as other forms of release, in other jurisdictions such screening is normally handled by law enforcement agencies.

² For example, some agencies such as those in Philadelphia, Pa. and Charlotte, N.C., have authority to apprehend persons who fail to appear in court. Most other agencies do not perform this function.

³ These are listed in Appendix D.

⁴ The most appropriate index for this purpose is the GNP deflator for state and local government purchases; that index has been used here.

CONTINUED

1 OF 3

FIGURE 11

MODEL BUDGET FOR A PRETRIAL SERVICES AGENCY OPERATING IN CONFORMITY WITH CORRECTIONS STANDARDS a/			
Item	Amount (1974 Dollars)		Percent of Total Budgetary Costs
	Average Low	Average High	
PERSONNEL:			
Salaries and Wages:			
<u>•Administration</u>			
Director	\$ 17,888	\$ 22,331	
Deputy Director	13,243	17,535	
Secretary	6,800	7,900	
Clerk/Typist	5,112	6,600	
<u>•Screening and Notification</u>			
Pretrial Supervisor	10,801	14,669	
Notifications Supervisor	9,174	11,887	
Senior Screener	9,174	11,887	
4 Screeners @ \$7,984-\$10,804	31,936	43,216	
4 Processors @ \$7,500-\$9,855	30,000	39,420	
Case Aide	7,645	10,140	
Secretary	6,800	7,900	
2 Clerk/Typists @ \$5,112-\$6,600	10,224	13,200	
<u>•Supervision</u>			
Pretrial Supervisor	11,403	14,808	
3 Counselors @ \$9,174-\$11,887	27,522	35,661	
Clerk/Typist	5,112	6,600	
Total Salaries and Wages:	202,834	263,754	76%
Fringe Benefits @ 15%	30,425	39,563	11
TOTAL PERSONNEL:	\$ 233,259	\$ 303,317	(87%)
OTHER DIRECT COSTS:			
Travel	3,330	3,834	
Supplies	3,888	5,274	
Communications	4,464	5,418	
Printing and Reproduction	1,800	4,464	
Contract Services	3,384	4,104	
Training	1,872	2,196	
Rent, Utilities and Maintenance	11,352	13,728	
Equipment	3,485	3,485	
Other	1,280	2,820	
TOTAL OTHER DIRECT COSTS	\$ 34,855	\$ 45,323	(13%)
TOTAL DIRECT BUDGETARY COSTS	268,114	348,640	(100%)
INDIRECT AND ADMINISTRATIVE COSTS @ 7%	18,768	24,405	7%
TOTAL ANNUAL CRIMINAL JUSTICE SYSTEM PUBLIC EXPENDITURES	\$ 286,882	\$ 373,045	(107%)

a/ This agency conducts 9,616 post-arrest screenings and 2,394 later review screenings. It monitors services provided to 475 divertees, provides notification and follow-up services to 4,293 defendants, and supervises a total of 400 defendants. Costs are shown for a fully operational agency and thus exclude typically high expenditures associated with the first years of agency operations. See text for further explanation.

In addition, a distinction has been made here between direct "budgetary" costs and total criminal justice system expenditures, which would include the indirect and administrative costs associated with services provided by a parent organization.

SPECIFIC BUDGET ITEMS

Various sources, including data collected through on-site visits for this study and data generated in other Standards and Goals reports, have been used to derive the public expenditures data shown in Figure 11.

Additional information on data and estimation processes for specific budget items is presented below.

Salaries and wages for positions shown in the budget are based 1) on the Corrections recommendation that there be opportunity for career and for salary advancement within justice system agencies, and 2) on patterns that appeared in agency budgets surveyed for this study. For example, the average salary for line staff and supervisory personnel within "Supervision"-type units (where there was fairly intensive defendant contact and where staff performed a service delivery or service brokerage function) tended to be higher than for staff engaged in either screening or notification. All salary ranges shown in the budget represent actual nationwide variations for the same or corresponding positions. The ranges shown for all but three positions are from: U.S. Civil Service Commission, State Salary Survey (Washington, D.C.: Government Printing Office, 1975). The three exceptions include salaries for: "Secretary" (from Watkins, Cost Analysis: Pretrial Diversion, p. 33).; "Case Aide" (interpolated from "screener" and "processor" salaries); "clerk-typist" [average for county, municipal and special districts of 200,000-300,000 population; from Pay Rates in the Public Service (Chicago, Illinois: International Personnel Management Association, 1975) p. 121]. Consistent with the definition used by the U.S. Office of Management and Budget, annual salaries would include pay for vacation, holidays and sick leave.

Fringe benefits include employer contributions to health, accident and life insurance; retirement plans; unemployment benefits and workers' compensation. The average rate for such benefits in the private non-farm economy is 15.9 percent according to data from the U.S. Civil Service Commission and the U.S. Office of Management and Budget. That rate is an average for all levels of seniority and salary. A somewhat lower estimate has been used in this and various other Standards and Goals reports to reflect benefits for a staff of typically younger and more recent entrants to the job market. See "Changes in Compensation

Structure of Federal Government and Private Industry, 1970-72," Summary from Supplementary Compensation in the PATC Industry Survey, Publication #419 (Washington, D.C.: Department of Labor, Bureau of Labor Statistics, 1973).

Total personnel costs amounted to an average of 87 percent of "budgetary" costs among agencies surveyed for this study. That percentage was used to establish the distribution of personnel and other direct costs (ODC's) in the model budget. The allotment for specific ODC items was further based on adjusted data for a nationwide sample of probation departments as documented in a related Standards and Goals report.¹ (Since many pretrial agencies are housed within probation departments or similar organizations, it was assumed that there would be sufficient similarity to make the probation estimates useful here.)

Travel expenditures are based on a cost rate per non-support staff member of from \$185 to \$213 annually. (There are 18 non-support staff members in the "model" pretrial services agency.) For pretrial agencies, the bulk of travel expenditures would cover local staff transportation. The estimate used here is the same as that for probation agencies. However, differences in pretrial and probation practices in certain jurisdictions would require an upward adjustment to the figure shown in the budget. For example, costs will be relatively higher where screening personnel must commute between court and outlying detention facilities (in jurisdictions for example, with no centralized booking facility). Expenditures will be higher where home visits or "street" work generally are relied upon as means of contacting sources for verification or defendants who fail to appear in court. For agencies authorized to apprehend defendants who fail to appear, and for agencies that provide staff with urban parking allowances, travel expenditures may be significantly higher.

Supplies includes consumable office supplies and is based on a rate of \$216-\$293 annually per non-support staff member.

Communications includes telephone and postage at a rate of \$248-\$301 per non-support staff as found for probation departments. The bulk of the expenditures in pretrial agencies would be produced by postage used in notifying defendants of court appearances. It is assumed that this notification in the model pretrial agency would be routine. In agencies with more sporadic notifications procedures, communications expenditures may constitute less than the 12% of Other Direct Costs that they represent here.

¹Thalheimer, Cost Analysis: Halfway Houses.

Printing and Reproduction includes expenditures for office reproduction and printing and is based on the rate per non-support staff member found for ten federal demonstration pretrial agencies as discussed in Appendix E. The per person rate is \$100 - \$248.

Contract Services in the model budget would include expenditures for services generally not available through the parent organization. For example, Standard 9.4, which addresses pretrial screening, recommends that specialized services be purchased on contract and that the following types of specialized personnel be available as staff or by contract: psychiatrists, clinical psychologists, social workers, interviewers (available as staff in the "model" agency), and education specialists.¹

Expenditures for pretrial agencies surveyed in this study also included contracted administrative/management services such as accounting and evaluation. In the model budget however, the cost of such services is indirect since the services are supplied by the parent organization and their cost is assumed to be distributed in some proportion among all agencies within the organization. (In other words the cost of such services to the pretrial agency is reflected as an "allocated indirect cost."²) Other things being equal, there normally would be a trade-off between the size of the indirect cost component of total cost and the size of the contract services component. Thus for pretrial agencies that do not draw upon the administrative resources of higher level government units, the contract services budget component (or its equivalent) is likely to be larger than that shown in the model budget.

There also may be a trade-off between contract service expenditures and what have been designated in this report as external costs (discussed more specifically in Chapter IV). Basically, external costs are incurred when non-criminal justice resources are utilized by the criminal justice system at no direct cost to the justice system. (From the user's perspective, these are a form of "in-kind" resources.) If services were not available on an in-kind basis and instead had to be purchased by criminal justice agencies, the type of expenditures discussed here as external costs would appear as contract service costs within an agency budget. For pretrial agencies making referrals to services, these costs could be substantial (for example, the per-defendant "external cost" of alcoholism treatment services can range from \$53.00 to \$1274.00 per defendant as shown in Chapter IV); purchasing such services would significantly increase the size of the contract services item in a pretrial agency budget.

¹Corrections, p. 296. See also the discussion of purchase of service in Chapter II of this study, pp. 44.

²Cost allocation direct and indirect costs are discussed in Appendix B.

The estimate used in the model budget is the same as that used for probation departments purchasing services similar to those contracted by the "model" pretrial agency. The rate used for the calculation is \$188 - \$228 per non-support staff member. Using the example of specialized personnel services, the total annual expenditure for this budget item would be equivalent to the purchase of from 42 to 51 staff days at an average total cost of \$80 per day.

Training is shown as a separate item to emphasize again its importance in Corrections recommendations. The item includes training fees, convention fees and the cost of any materials associated with training. Training expenditures of this type constitute approximately five percent of Other Direct Costs.

Rent, Utilities and Maintenance represents the largest single Other Direct Cost item in the model budget (approximately 30 percent of total ODC's). Expenditure estimates are based on a space-utilization rate of 110 square feet per staff member (all staff) at a cost of from \$4.73 to \$5.20 per square foot. Agencies surveyed in this analysis fell within that cost range, which was found for probation departments generally.

Equipment expenditures represent only a small portion of total cost for service operations like a pretrial agency.

While they have only a small impact on budget size, equipment costs are nonetheless difficult to estimate from available expenditures data. The reason is that equipment purchases are sporadic and expenditures made over the period of one year or less may not be at all representative of expenditures for prior or succeeding time periods.¹ Such expenditures cannot be used then to depict "typical" annual outlays for an operational agency.

Accurate data on the purchase costs of office furniture were used as an example of equipment costs in the model budget. The data, which show furniture cost allowances by type of pretrial staff, were made available by the Administrative Office of the U.S. Courts, which administer the ten federal demonstration pretrial services agencies discussed in Appendix E. The average 1974 dollar value for new office furniture of

¹Accurate valuation of capital stock, though it has little impact on cost estimates here, is a significant problem in determining costs of institutional-based programs, and is discussed in the Standards and Goals Project report on that subject. See Singer and Wright, Cost Analysis: Institutional-Based Programs and Parole, Chapter II.

"average" quality, by type of staff was: Administrative and supervisory: \$803 per person (there are five such staff in the "model" agency); Line: \$733 per person (13 staff members); clerical: \$429 per person (six staff members) and general office: \$1306. Multiplying the per-person allotments by number of staff in each category and adding the "general office" cost yields the total equipment purchase cost estimated for the "model" pre-trial services agency. However, the estimate in the model budget reflects the annual cost of these purchases, Equipment value was amortized using a 5-year straight line depreciation, which means that the annual cost of the equipment is 20% of the purchase price. This is the Internal Revenue Service allowed depreciation rate for non-debt-financed capital investment.

Other. This is a residual category that would include expenditures for such things as insurance, books and periodicals, organizational memberships, and other miscellaneous expenses. Its value in the model budget is simply the difference between the sum of other ODC items and the 13 percent of total budgetary cost that was found to be the average for ODC's in the pretrial agencies sampled for this study.

Indirect and Administrative Costs. To derive an accurate total cost figure, agencies utilizing the administrative services of a parent organization must add the cost of those services to their own Total Direct Budgetary Costs. Often, the precise value of "indirect and administrative" items is difficult to determine; and some formula for allocating them among agencies will be developed. Pretrial agency estimates for these costs may be based on a percentage of the agency's Total Direct Costs. The standard rate proposed by the U.S. General Services Administration and the Office of Management and Budget is 10 percent. A rate of seven percent has been used in the model budget. This is lower than the standard rate since some "overhead" items such as rent and utilities, which are often subsidized by a parent organization and figured into the standard 10% rate, have been charged directly to the pretrial agency in the model budget. The rate is higher than that found among some pretrial agencies surveyed for this study because it covers a larger "market basket" of administrative and management services than is currently the norm. It is important to note that the classification and possibly the magnitude of total cost will be influenced by the absence of a parent organization and the presence of a governing board that plays a policy formulation role only. In such cases, there are several possibilities for the classification of costs:

- The cost of board-member time may be considered an indirect cost of agency operations, and charged to the agency on that basis.
- Board-member time and related expenses may be subsidized directly as "contract services."

- Board-member time devoted to pretrial services may be subsidized by other public and/or private agencies. The members then represent in-kind resources to the pretrial agency. But in examining the total cost of agency operations, the actual or imputed value of their time should be documented (as a criminal justice system cost if they are part of that system; as an external cost if they are not).
- Administrative/management functions other than policy formulation.
 - could be performed by units of general purpose government (for example, legal services by the Office of the County Corporation Counsel), in which case, they would be classified here as external (non-criminal justice system) costs;
 - could be purchased directly from public or private vendors (such as the court system's data processing unit or a private research firm, respectively); in this case, they would be considered "contract services," a direct cost budget item.¹

Based on all of the foregoing data, Total Annual Criminal Justice System Public Expenditures are estimated to range from an average low of \$286,882 to an average high of \$373,045. This would be the total cost for a pretrial services agency substantially in compliance with Corrections Standards. The magnitude of total cost is influenced primarily by: 1) the functions, including research and training, that are performed by the agency, 2) the estimated workload handled by the agency, 3) the type of staff (paid full-time permanent) used to handle the workload and 4) the assumed location of the agency within a larger organization that provides administrative/management services for which a cost is allocated to the pretrial agency.

¹More detailed examples of these distinctions appear in the discussion of specific budget items estimated for the federal demonstration pretrial agencies in Appendix E. Though the agencies have been only recently established, the estimates presented in Appendix E are for federal agencies at the fully operational stage. The data must be regarded therefore as highly tentative. However, the discussion of the data should provide some useful information on the classification of costs, since five of the demonstration agencies have been established under the Division of Probation of the Administrative Office of the U.S. Courts (thus there is a parent organization) and five have been established under governing boards.

VARIATIONS IN COST PRODUCED BY THE USE OF STUDENT OR OTHER PART-TIME STAFF

Data in the previous sections were based on the use of full-time permanent line staff within the pretrial services agency. The Corrections Standards however, encourage a variety of staffing arrangements in criminal justice agencies, including the use of specialized (contract) resource personnel, discussed previously, as well as participants in work-study programs, other part-time personnel and volunteers. Within current pretrial services agencies, students (primarily law students) are often hired on a part-time basis as an alternative to full-time permanent staffing.¹ Among other things, the use of part-time staff can facilitate workload processing. For example, staff can be scheduled to meet peak periods of demand for screening. (If most arrests in a jurisdiction occur in the evening, and bail decisions can be made prior to a morning court session, then an evening or night "shift" will be critical in promoting speedy release for appropriate cases.) Conversely, staff size can be cut back during slack periods. Such flexibility can promote efficiency in agency operations. (In essence, all budgetary dollars support maximum productivity: there are no staff idle during periods of slack demand, and no staff overextended at periods of peak demand.) Part-time staffing can also increase overall productivity where the benefits accorded part-time staff (such as vacations, holidays, sick leave and so forth) are less than they would be for full-time permanent staff. For example, the estimate of available "case-related" time per full-time line staff in this analysis is 1658 hours per year. (See Appendix D, Figure 24.) This amounts to: 2080 hours (40 hours per week x 52 weeks per year) less non-case-related (or non-productive) time such as vacation days and so forth. Part-time staff however, could be available for the full 2080 hours. (This is considered the "full-time equivalent.") This means that other things being equal, an agency could process its same workload with fewer resource inputs -- specifically, staff time, which generates the greatest portion of agency costs. As long as the cost of required part-time staff years does not exceed that of required full-time staff years, the agency would be operating more efficiently with part-time staff.²

¹Agencies in D.C., Indianapolis and Philadelphia for example are noted for their reliance on student staff; volunteers have been used extensively in Berkeley, California.

²It is assumed throughout this analysis that "other things are equal," for example, that there are no barriers to recruiting and scheduling part-time personnel, that the quality of work is equal among full- and part-time staff, and that the lack of non-monetary benefits such as leave time is not a disincentive to productivity on the part of part-time personnel.

Figures 12 and 13 on pages 79 and 80, respectively, present data that demonstrate this principle.

Figure 12 shows the impact that part-time staffing could have on personnel costs for specific functions performed by a pretrial services agency. Full-time permanent staff costs by function are based on salary and fringe benefits shown in the model budget, Figure 11. Two variables govern part-time staff costs as shown in the figure: 1) the wage rate paid to such staff ("Average low" estimates in the figure are based on a rate of \$3.50 per hour; "average high" estimates are based on \$4.50 per hour), and 2) the availability of any additional benefits (for example, bonuses, training opportunities, insurance benefits, and so forth). An additional 15 percent of wages has been designated in the figure as a "fringe equivalent" so that the data might be applicable to agencies that actually compensate part-time staff at a level higher than the base wage rates cited. Additional explanation of the "fringe equivalent" and "no benefit" categories is provided in footnotes to Figure 12. Back-up data for the estimates are contained in Appendix D.

As indicated in Figure 12, greatest relative savings would be gained from substitution of part-time personnel in the "low supervision" function, lowest relative savings would result from substitution in "notification and follow-up." This result is not unexpected. In the first case, part-time staff (whose wage rate is presumed not to vary with the function performed) would be substituting for the highest paid full-time line personnel in the agency, thus greatest relative savings would be possible.² In the second case, part-time staff would function in place of the lowest paid full-time staff, thus least relative savings would result. The difference in potential savings can be fairly marked. According to the estimates presented here for example, greater savings would result from using part-time staff, with fringe benefits or the equivalent, in "supervision" than would result from using the same staff, without benefits, for "notification" or for some "screening."

In existing pretrial agencies, it appears that part-time personnel are more likely to be used for screening than for other functions, due in part to the unevenness of the demand for screening cited earlier. But the data here would imply that if there were to be a mix of full-

¹Only "low" supervision is used in the example. As will be discussed, it demonstrates the same cost principle as would apply to "high" supervision.

²The same relationship, though not necessarily the same percentages, would hold for "high" supervision as for "low," since identical full-time staff are assumed to perform both functions.

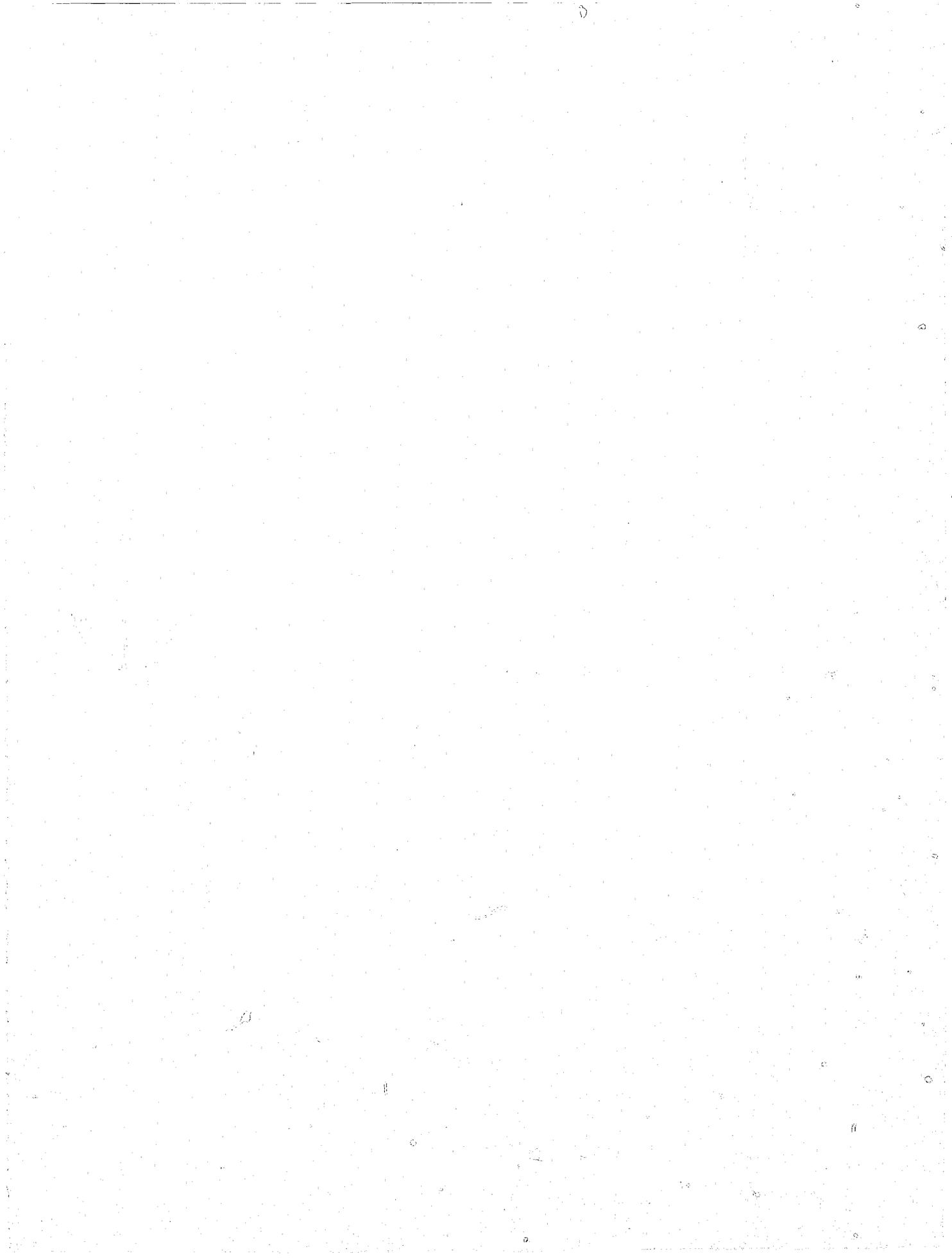


FIGURE 12

ESTIMATED COSTS OF ALTERNATE STAFFING BY TYPE OF PRETRIAL
 AGENCY FUNCTION: PERSONNEL COSTS FOR FULL- AND PART-TIME LINE STAFF

Function	Average Low Estimates					Average High Estimates				
	Full-Time Permanent Line Staff Costs <u>a/</u>	Student or Other Part-Time Line Staff Costs @ \$3.50/Hour				Full-Time Permanent Line Staff Costs <u>a/</u>	Student or Other Part-Time Line Staff Costs @ \$4.50/Hour			
		With 15% Fringe Equivalent <u>b/</u>	(Percent Savings)	No Benefits <u>b/</u>	(Percent Savings)		With 15% Fringe Equivalent <u>b/</u>	(Percent Savings)	No Benefits <u>b/</u>	(Percent Savings)
Post-Arrest Screening	\$ 39,145	\$ 29,302	(25)	\$ 25,480	(35)	\$ 52,768	\$ 37,674	(29)	\$ 32,760	(38)
Review Screening	15,141	10,046	(34)	8,736	(42)	19,862	12,917	(35)	11,232	(44)
Monitoring	2,588	1,674	(35)	1,456	(44)	3,401	2,153	(37)	1,872	(45)
Notification/ Follow-Up	31,913	25,116	(21)	21,840	(32)	41,932	29,328	(30)	28,080	(33)
Low Supervision	18,935	11,721	(38)	10,192	(46)	24,607	15,070	(39)	13,104	(47)
TOTAL	\$107,722	\$ 77,859	(28)	\$ 67,704	(37)	\$142,590	\$ 97,142	(32)	\$ 87,048	(39)

a/ Line staff includes those doing direct service work only; it does not include clerical support, supervisory and administrative personnel. Full-time permanent staff costs include fringe benefits at 15% of salary and are based on actual positions shown in model budget, Figure 11. All full-time permanent line staff are assumed to have 1658 available case-related working hours per year as shown in Appendix D, Figure 24. For estimates showing distribution of staff costs among functions, see Appendix D, Figure 27.

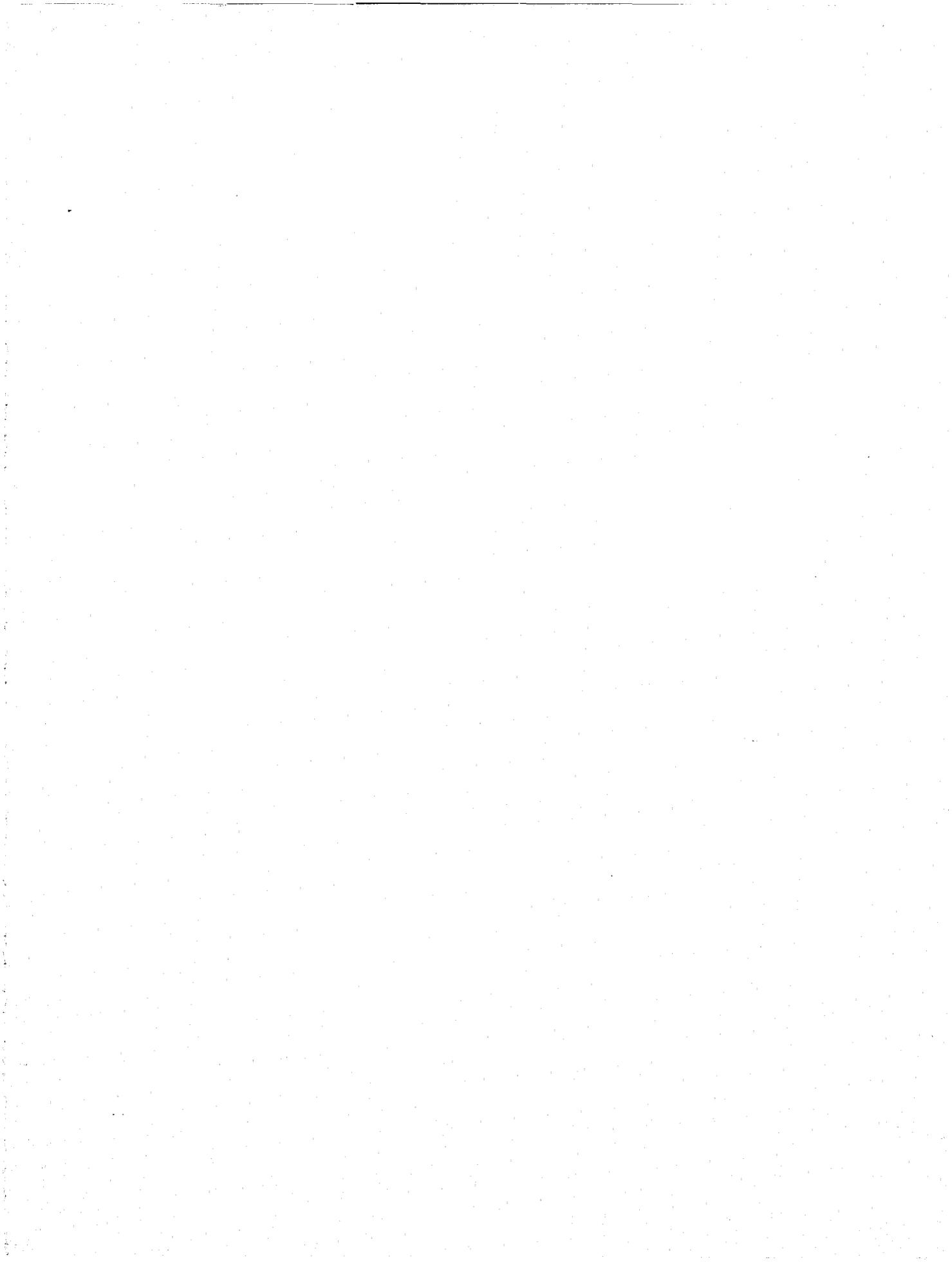
b/ "No Benefits" assumes that: 1) No allowance is made for sick leave, personal leave, vacation, recurrent or special training.
 2) No employee-benefits such as health insurance are paid by the agency for part-time staff.
 3) All time on the job is productive case-related time, and therefore that there are 2,080 available case-related working hours per part-time line staff year (40 hrs/wk. x 52 wks./yr.).

The "Fringe Equivalent" is a proxy for the value of benefits that may be provided to part-time staff in some agencies. For example, the wages paid to part-time staff may be equal to a pro-rated share of annual salary at a higher level of position or annual salary plus fringe at the position level occupied by the part-time staff; however, such staff may not receive specific benefits such as insurance or vacation days. For derivation of part-time staff costs by function, see Appendix D, Figure 27.

Figure 13

Impact of Alternate Staffing on Estimated Criminal Justice System Public Expenditures for the Pretrial Services Agency

Type of Line Staff and Compensation	Average Low Estimates			Average High Estimates		
	Line Staff Cost	Annual Criminal Justice System Public Expenditures Under Alternative Staffing Assumptions	Percent Change in Total Expenditures From Use of Alternate Staff	Line Staff Cost	Annual Criminal Justice System Public Expenditures Under Alternative Staffing Assumptions	Percent Change in Total Expenditures From Use of Alternate Staff
Full-Time Permanent	\$ 107,722	\$ 286,882	00.0% (Base case)	\$ 142,590	\$ 373,045	00.0% (Base case)
Part-Time; with 15% Fringe Equivalent	\$ 77,859	\$ 257,019	-10.4%	\$ 97,142	\$ 327,597	-12.2%
Part-Time; No Benefits	\$ 67,704	\$ 246,864	-13.9%	\$ 87,048	\$ 317,503	-14.8%



and part-time staff for 1) screening during hours other than the normal daytime work hours and 2) for as much of supervision as possible again assuming equal skill among staff types.. Using the model budget as a base, Figure 13 on page 80 shows what the impact on total cost would be if the five functions in the previous figure were performed by part-time rather than full-time staff. All costs, other than those shown in the last figure have been held constant (that is, other personnel, ODC's, and indirect costs, remain as they appeared in the model budget). As shown in the figure, the average low estimate of annual CJS public expenditures (\$286,882) could be reduced by over 10 percent if it were assumed that part-time staff (@ \$3.50 per hour plus a fringe equivalent) replaced full-time staff in five out of six functions performed by the pretrial services agency. Substitution of part-time staff at the same wage rate with no additional benefits would reduce the average low estimate of CJS public expenditures by even more -- approximately 14 percent. Similar impacts are shown for the average high estimates. Assuming full-time permanent staff were performing all functions, total CJS expenditures would be approximately \$373,000. With part-time staff at \$4.50 per hour plus a fringe equivalent, the estimated reduction in total cost would be slightly greater than 12 percent. With part-time staff at the same wage rate and no additional benefits, total cost would be reduced to under \$320,000, a reduction of approximately 15 percent.

The data and estimation techniques presented here are designed to assist local planners in constructing cost estimates on alternative staffing arrangements. For example, wage rates different from those used here may be appropriate in some jurisdictions; part-time staff costs may be applied to a more, or less extensive set of functions than has been discussed here, and so forth.

The estimates presented in Figures 12 and 13 also set some parameters for imputing a value to volunteer labor, or for estimating the reduction in dollar outlay from their use, since volunteers also may be performing the basic functions analyzed here.

Estimates presented in subsequent sections of this chapter are based on the model budget and therefore on full-time permanent staffing. However, data in this section and in Appendix D may be used to construct similar estimates based on alternate staffing.

AVERAGE COSTS FOR THE PRETRIAL SERVICES AGENCY

Figure 14 on page 83 shows average costs derived from model budget, staffing and workload data. Average high, low and mean costs

are shown for agency resource inputs (specifically, costs per line staff hour by organizational unit or subunit) and for agency outputs (costs per defendant by agency function and cost per release under various assumptions).

According to the estimates in Figure 14, initially screening a defendant would cost half as much as notifying him/her of all court appearances. If two screenings were required for a given defendant, however, screening costs would slightly exceed the cost of notification. Notification and supervision are both post-release functions. According to definitions used in this analysis, they are substitutes for each other. (A defendant either receives "notification/follow-up" or he/she receives "supervision;" no form of release requires that both of these specific functions be performed since "supervision" would imply providing notice to the defendant.) The least costly form of supervision analyzed however, exceeds the cost of notification by nearly 700 percent.

The variation in staff input costs is far less marked. As would be expected, the hourly cost for staff engaged in the Supervision Unit is higher than that for staff in either part of the Screening and Notification Unit of the "model" pretrial agency. Staff salaries estimated for the Supervision Unit were higher than the average for other units, and a relatively high paid supervisory position was allocated to the few staff placed within that unit.

Staff costs shown in Figure 14 can be used as tools for a variety of estimates. For example, if an agency were contemplating the use of home visits as a means of notifying certain defendants of their court appearances, and it were estimated that the average home visit, with travel time, would take one half hour, then a rough approximation of cost would be \$8.00 per visit. (One-half the mean hourly cost per notification worker.) A benchmark estimate for the full cost of the operation could then be derived by estimating the annual number of defendants requiring home notification and average number of visits per defendant.

The last grouping of estimates in Figure 14 presents costs per release under several assumptions about the results of agency intervention. Existing pretrial agencies normally maintain statistics on the number of screenings (or interviews) conducted annually and the number of releases that occur. Cost per release figures, where available, are sometimes calculated by dividing total budgetary cost by the total number of releases. However, in light of a finding that in some jurisdictions the majority of releases occurred without agency intervention¹, stricter measures of accountability may be required. For example, agencies may be

¹Thomas, Bail Reform.

FIGURE 14

ESTIMATED AVERAGE COSTS FOR A PRETRIAL SERVICES
 AGENCY OPERATING IN CONFORMITY WITH CORRECTIONS STANDARDS a/

Type of Cost	T O T A L C O S T (1974 Dollars)		
	Average Low	Average High	Mean
Cost per Defendant, by agency function:			
Post-arrest (initial) screening	\$ 8.80	\$ 11.70	\$ 10.25
Review (more intensive) screening	12.50	16.50	14.50
Monitoring (for divertees)	14.60	18.90	16.75
Notification and follow-up	19.90	25.70	22.80
Low supervision (4 hrs./case mo.)	158.00	203.60	180.80
High Supervision (8 hrs./case mo.)	316.00	406.70	361.35
Cost Per Line Staff Hour by organizational unit:			
Screening	11.60	15.30	13.45
Notification	14.00	18.00	16.00
Supervision	15.90	20.50	18.20
Agency as a whole	13.30	17.30	15.30
Cost Per Release, all types b/ (Total defendants screened by agency and released: 5,168)			
Assuming 80% of releases were a result of positive agency recommendations	69.40	90.20	79.80
Assuming 60% of releases were a result of positive agency recommendations	92.50	120.30	106.40
Assuming 40% of releases were a result of positive agency recommendations	138.80	180.50	159.65
TOTAL ANNUAL COST FOR AGENCY:	\$286,882.00	\$373,045.00	

a/ All costs are total costs (also known as "loaded" or "fully burdened" costs). As such, they reflect allocations of all direct and indirect agency costs to the subcategories above. The concept of "loaded" costs is discussed in Appendix B, Typology of Costs. The estimation processes for "per defendant" and "per staff hour" costs are shown in Appendix D, Figures 28 and 29.

b/ Would include agency costs only for the following activities: OR, conditional release (including diversion, third party, supervision, and other conditional) and percentage bond. Includes the costs of any services purchased by the agency to carry out these activities, but excludes the cost of services provided by non-criminal justice agencies at no direct cost to the pretrial agency. (These are considered "external" costs and are treated in Chapter IV.) Excludes the cost of citation releases and excludes bond payments and court processing costs associated with percentage bond releases. Estimation process: Total annual cost for agency + 4,134 (80% of releases); 3,101 (60%); 2,067 (40%).

asked to show routinely what percentage of releases occurred as a result of positive agency recommendations. Figure 14 demonstrates the impact this would have on the reporting of cost data for the "model" pretrial agency. According to this analysis, the pretrial agency would have screened 5,168 defendants who were ultimately released. If the agency "took credit" for all releases, it could claim that the average [agency] cost per release were approximately \$64.¹ However, if only 80 percent of releases were the result of positive agency recommendations, then the average total cost of an agency "success" in this sense would be approximately \$80, as shown. Similarly, if the agency got credit only for agreement between its recommendation and release, and the "success" rate were 60 percent or 40 percent, then average costs per release would be approximately \$106 and \$160, respectively. It should be emphasized that this type of estimate is not only relevant in the case of external pressures for accountability; it also can be a signal to management about the effectiveness of internal agency operations.

The analysis in this chapter has been devoted thus far to the costs (and possible cost variation) associated with a pretrial services agency operating in conformity with Corrections Standards. In the following section, estimates of pretrial agency cost (particularly the costs per defendant for specific agency functions) are combined with costs for other "sectors" of the criminal justice system to derive average costs per defendant for various pretrial release activities.

To simplify the presentation of data in subsequent sections, the "mean" estimates of pretrial agency cost have been used.

CRIMINAL JUSTICE SYSTEM PUBLIC EXPENDITURES FOR SELECTED PRETRIAL RELEASE ACTIVITIES

Figure 15 on page 85 shows the estimated criminal justice system public expenditure per defendant for pretrial activities recommended in Corrections Standards and defined in Chapter I of this report. Three estimates of the total expenditure per defendant have been made; they are based on varying assumptions about 1) the intensity of the screening that precedes release (specifically, whether release occurs after a

¹Note that "cost per release" in this section is an aggregate figure for defendants released under various activities and for whom actual costs may be quite dissimilar. In the following section, distinctions are drawn between per-defendant costs for specific release activities such as O.R. and conditional release.

Figure 15

Estimated Average Cost per Defendant
for Selected Pretrial Activities (Assuming Release
occurs: After an Initial Screening; After two screenings and .5 Days
Interim Detention; After Two screenings and 3 Days Interim Detention) ^{a/}

Source of Cost \ Pretrial Activity	Field Citation	Station-house Citation	Diversion of Public Inebriates	Own Recognizance (O.R.)	Conditional		O.R., and Conditional; Diverted		Percentage Bond
					Low Supervision	High Supervision	Drug	Employment	
POLICE	\$2.60	\$5.20	\$ 6.90	\$13.00	\$13.00	\$13.00	\$13.00	\$13.00	\$13.00
PRETRIAL SERVICES AGENCY									
-Screening	----	----	10.25	10.25	10.25	10.25	10.25	10.25	10.25
-Notification/ Follow-up	----	----	-----	22.80	-----	-----	-----	-----	20.80
-Monitoring	----	----	-----	-----	-----	-----	16.75	16.26	-----
-Supervision	----	----	-----	-----	180.80	361.35	-----	-----	-----
COURT, PROSECUTION, DEFENSE	----	----	-----	-----	-----	-----	17.80	17.80	10.00
DETENTION	----	----	2.60 ^{b/}	-----	-----	-----	741.00 ^{c/}	937.00 ^{c/}	^{d/}
TOTAL A: Release after Initial Screening	2.60 ^{e/}	5.20 ^{e/}	19.75	46.05	204.05	384.60	798.80	994.80	56.05
TOTAL B: Release after Two Screenings and .5 Days Interim Detention	----	----	58.35	84.65	242.65	423.20	837.40	1033.40	94.65
% Increase over Total A	----	----	(195)	(84)	(19)	(10)	(5)	(4)	(6)
TOTAL C: Release After Two Screenings and 3 Days Interim Detention	----	----	-----	133.65	291.65	472.20	886.40	1082.40	143.65
% Increase over Total A	----	----	-----	(190)	(43)	(23)	(11)	(9)	(156)

a/ See text for explanation of all estimates not covered in footnotes to this figure.

b/ Public inebriates are referred to detox post-booking according to the case flow shown in Figure 9. A transportation cost has been included here at a rate that would be applicable for 15 minutes of police transportation. Police cost rates are discussed in the text and shown in Appendix D.

c/ Figures reflect the mean of "average low" and "average high" criminal justice public expenditure estimates for drug and employment diversion activities operating at the workload capacity for which they were designed. The estimates are from: Ann M. Watkins, Cost Analysis of Correctional Standards: Pretrial Diversion (Washington, D.C.: American Bar Association Correctional Economics Center, October 1975) pp. 16, 33. For consistency with other estimates in the table above, mean estimates were used. Actual ranges for the two types of diversion, as reported in the Watkins study, were: \$665 - \$817 and \$795 - \$1,079 per client for drug and employment diversion, respectively.

d/ "Negative" costs or savings can accrue under this activity to the extent that a percentage of the bail deposited by the defendant is retained by the criminal justice system. Percentage bond costs of approximately \$53 could be reduced to \$48 or \$43 (that is by \$5-\$10 per defendant) if bail settings ranged from \$500 - \$1500 and 1% of this amount were retained by the court. Note that the above data do not cover the case of failure to appear. In such cases, percentage bond plans call for court retention of the full deposit, normally 10% of the bail set, or in the example here, \$50-\$150.

e/ In practice, citation release prior to arraignment often constitutes sufficient justification for O.R. release at arraignment and no further screening is required. In addition, many of those released on citations would have their cases dismissed or otherwise disposed of at arraignment. The full release cost for a case of the former type would likely include only two components: 1) cost of the citation alone (\$2.60 or \$5.20) and 2) cost of notification and follow-up (\$22.80). The full cost per defendant would then be either \$25.20 (if a field citation had been issued) or \$26.80 (if a stationhouse citation had been used).

relatively brief initial screening or whether it occurs after a brief and a more intensive screening), and 2) the speed with which release occurs. The first set of estimates for activity costs per defendant (on the line marked "Total-Case A" in Figure 15) shows the situation in which release occurs after an initial screening and involves virtually no detention time (for example, where pretrial release and detention decisions can be made by law enforcement or pretrial services personnel, bail commissioners or readily accessible judicial officers immediately upon completion of the required screening). While "Case A" applies to release after initial screening, "Case B" shows estimated public expenditures for release that occurs after two screenings and one half day of interim detention. "Case C" shows costs for the same pretrial activities when release occurs after two screenings and three days of interim detention. To demonstrate the estimation process for the various totals, component costs for "Case A" are shown as an example in the figure. Sources of cost for each of the activities are identified and include the following criminal justice resources: police, pretrial services, court and legal, detention, and other sources applicable to specific activities (for example, specialized diversion programs).

The following paragraphs provide information on the estimates in Figure 15; estimates at the top of the figure are discussed first by source of cost.

Police costs vary according to the number of police functions or procedures required for each type of activity. Procedures include groupings of the following: identification of an apprehended person (the law enforcement equivalent of an interview), record or warrant check (the equivalent of a verification procedure), issuance of a citation, transportation to a stationhouse or central booking facility, booking, justification for non-release (for non-citation activities only),¹ and other functions (for example partial booking or alcohol testing). The police costs shown for activities other than citation and detox diversion represent estimates of traditional arrest costs per accused. All data are based on the amount of patrol resource time devoted to the required procedures, and on an

¹Standard 4.3 recommends that jurisdictions identify a set of offenses for which a "police officer should be required to issue a citation in lieu of making an arrest or detaining the accused..." The Standard further advocates a "requirement that a police officer making an arrest rather than issuing a citation specify the reason for so doing in writing." Corrections, p. 116. This means that a "justification for non-release" on citation might be required for many accused persons who are later released through other activities. Therefore, the cost of such a procedure has been taken into account in the analysis.

average total patrol cost per hour of \$10.40. Depending on the number of procedures performed per activity per defendant, resource time is estimated to vary from 15 to 75 minutes. Cost estimates for the groupings of procedures are shown in Appendix D.

The estimates for both forms of citation exclude booking costs. (It is assumed that the corresponding form of post-booking release is release on recognizance.) However, using the hourly patrol cost from this analysis and the estimated booking time documented in another Standards and Goals report, booking would add \$6.30 to the estimated citation cost per defendant.¹ Police costs by type of activity are held constant in "Case B and C" estimates.

Pretrial Services Agency Costs are the mean costs per defendant, by agency function, that were shown in Figure 14 on page 83. However, the number and type of functions performed by the agency is assumed to vary by type of release. Agency screening is conducted for all but citation release. As noted in the text and figures of preceding sections, the agency conducts "notification and follow-up" for those released on own recognizance and percentage bond, thus notification costs are presented for these activities; the agency monitors the status of and services provided to those released and then diverted, thus there is a monitoring cost shown for certain diverted defendants. "Supervision" is provided to those who are released on conditions.

A portion of the variation in activity costs between "Case A" and "Cases B and C" is produced by a variation in estimated pretrial services costs. This is discussed in a subsequent paragraph.

Court/Legal Costs are shown for some diverted defendants and for those released on percentage bond. For the other activities, there were two related indications that such costs would be negligible on a per defendant basis. First, speedy release decisions would have been made in the case of defendants released after an initial screening. Second, it is assumed that any court time involved would equal only that normally accorded arraignment decisions, which can be as little as several seconds. It should also be noted that the costs of gathering and presenting information on specific defendants has been included in pretrial screening costs, thus the involvement of lawyers would be minimal at this stage. Costs

¹ Resource time for this procedure was estimated to be 37 minutes in Weisberg, Cost Analysis: Alternatives to Arrest, p. 33. The actual booking estimate would be: \$10.40 per hour ÷ 60 minutes = \$0.17 per minute × 37 minutes = \$6.29.

specifically attributable to diversion and percentage bond are not estimated to be negligible on a per defendant basis and thus are included in Figure 15. Except for immediate diversion to alcoholism treatment facilities, it is assumed in this analysis that diversion decisions are not made until a defendant's pretrial liberty has been assured through release on recognizance or conditional release.¹ The cost estimates for diversion in Figure 15 therefore, are based on the facts that a diversion decision would be considered after arraignment, and, for efficiency, at a regularly scheduled court proceeding. Due to the regular scheduling, the decision itself would require no more than the normal expenditure of court resources, but would entail an expenditure of prosecutorial and defense (assumed to be public defender) resources in preparation for the decision. The data therefore exclude specific court costs, but include one half hour of prosecutor time at a total cost of \$8.16 and one half hour of public defender time at a total cost of \$9.66.² The court/legal cost per defendant for percentage bond would cover any court cost associated with processing bond payments.³

There are variations in estimated court/legal costs for "Cases B and C." These are discussed in a subsequent paragraph.

Detention costs are assumed to be nonexistent or negligible when release can occur almost immediately after an initial screening, thus no detention costs are included in the "Case A" activity costs per defendant. Such costs are included in "Case B" and "C" activity cost estimates.

¹The reasoning behind this position is discussed in the section of Chapter IV on Opportunity Costs.

²Total costs for these resources were estimated for the criminal justice system computer. See Simulation Model, JUSSIM, developed by Alfred Blumstein of the Urban Systems Institute, School of Urban and Public Affairs, Carnegie-Mellon University, Pittsburgh, Pa. The same data have been used in a national application of the model by the National Planning Association, Washington, D.C.

³Such costs have been found to be no greater than the court costs of processing surety bonds, thus for a cost comparison between traditional and recommended pretrial activities this item would not have to be considered. The purpose of the section however, is to document public expenditures that would be associated with the recommended activities. Thus, court processing costs for percentage bond are included.

Other costs shown for diversion and percentage bond are discussed in the footnotes to Figure 15.

Case A shows the estimated cost per defendant by type of pre-trial activity, when release occurs immediately (or almost immediately) after a single screening. Total-Case A estimates represent the sum of component costs displayed at the top of Figure 15. Estimates of cost per defendant for Cases B and C reflect variations in these component costs.

Starting with "Release after Initial Screening" estimates for all but citation activities, three adjustments were made to derive totals shown for Case B, "Release after Two Screenings and .5 Days Interim Detention:"

- The cost of a more intensive screening (@ \$14.50 per defendant¹) was added, bringing total pretrial screening costs per defendant to \$ 24.75;
- Court/legal costs of \$14.10 per defendant were added. It was reasoned that a second presentation on a single defendant (for example, one denied O.R. but being reconsidered for conditional release) would involve slightly more court and legal resource time than would be the case for release after initial screening. The Case B estimates therefore include the total cost of .25 hours' time for each of the following: court (@ \$21.58 per hour), prosecutor (@ \$16.38 per hour), and public defender (@ \$19.32 per hour).²
- Detention costs of \$10.00 per defendant were added. This would include the relatively high fixed costs associated with processing a defendant into and out of a jail or lock-up within a single day, and would include some allotment for [variable] maintenance costs (for example, meals) during the detention period. Estimates of jail costs per inmate year, including capital costs, were made for a related Standards and Goals Project report;³ pro rated daily costs based on these estimates would amount to \$19.29 per defendant. The daily figure however, would tend to undercount processing costs relative to maintenance costs. To counteract this effect, one half day's detention is valued here at slightly more than half the daily cost cited.

¹From Figure 14 on page 83.

²See footnote 2 on page 88 and accompanying text.

³Singer and Wright, Cost Analysis: Institutional-Based Programs and Parole.

Based on the adjustments above, for all pretrial activities except citation¹, the difference between Case A and Case B total cost estimates for each activity is \$38.60 per defendant. While this amount was added uniformly for all relevant activities, its impact on the total cost of the activities differs, as will be discussed.

Only detention costs have been varied in the Case C estimates of activity costs per defendant for those "released after two screenings and 3 days detention." All other component costs are equal to those estimated for "Release after Two Screenings and .5 Days Interim Detention" (Case B). The three days of detention in Case C estimates are valued at slightly more than three times the prorated daily rate discussed above, for the reason cited.²

The Case A totals in Figure 15 demonstrate that considering only criminal justice system public expenditures, cost per release under the various pretrial activities can vary dramatically -- from less than \$3.00 for a field citation³ to nearly \$1000.00 for employment diversion. The variation is produced in part by the extensiveness of justice system involvement in the specific activities, measured by the number of CJS cost sources involved. (In the case of diversion estimates for example, four sources generate cost: police, pretrial services, legal and specialized justice system programs for drug and employment diversion; in the citation estimates, police resources are the only source of cost.) However, cost

¹According to the definitions used in this report, citation releases occur after police screening and without detention, or they do not occur at all. The costs of such release are not affected, therefore, by the adjustments discussed above. The post-booking counterpart of citation release is own recognizance, which may occur after more than one screening and may be preceded by some detention. Thus, the adjustments discussed above are applicable to O.R. and are shown for that activity in Figure 15. See also, footnote e/ of the figure.

²Note also that since referrals to emergency alcoholism treatment might be unlikely after three days of detention, no Case C total cost for public inebriate diversion was included in Figure 15.

³This estimate does not include the cost of booking nor does it cover the full cost of a defendant released on citation and, in effect, re-released through O.R. (or another activity) at arraignment. For discussion of such costs, see pp. 86 and 87 and footnote e/ to Figure 15 on page 85.

can also vary depending on the intensity of involvement for each source of cost. This can be measured by the frequency, duration and average cost of the resources used. (For example, police and pretrial services are the only sources of CJS cost shown for both O.R. and for conditional release,¹ yet the "low supervision" and "high supervision" estimates for conditional release are nearly four and over eight time greater, respectively, than the estimated O.R. cost per defendant. This is due to the intensity of post-release pretrial services. [The supervision provided conditional releasees would occur more frequently than would notification to O.R.'d defendants, and it utilizes more costly staff resources,²]).

In terms of intensity, however, specialized diversion programs provide the most striking example. According to the estimates in Figure 15, the average criminal justice system cost per defendant for a drug diversion program (the less costly of the two specialized diversion types shown) is twice as high as that for the "high supervision" function performed by a pretrial agency. An employment diversion program would be over two and a half times as costly as "high supervision" on a per-person basis.³ The difference in cost is produced mainly by the duration of justice system involvement in these functions (an estimated average of 2.5 months per defendant for conditional release but longer for diversion).⁴

Cases B and C introduce 1) more intensity in terms of the level of effort expended by the pretrial services agency and 2) an additional source of criminal justice system cost: detention. The difference between B and C simply reflects one cost of delay in bringing about pretrial release.

Percentages in the figure show that an absolute dollar increase in cost has a differential impact on average total cost per defendant for

¹Conditional release can involve other sources of criminal justice system cost. (For example, it can include referrals to third party custodial agencies that are funded by the justice system.)

²See the discussion of average costs, pp. 81 - 84.

³Neither the estimated supervision costs nor the estimated diversion costs include the value of services provided from outside the criminal justice system. These are treated as "external costs" and are discussed in Chapter IV.

⁴Typical client tenure for drug diversion would be six months; for employment diversion, three months. See Watkins, Cost Analysis: Pre-trial Diversion, pp. 16, 34.

the various activities. (The lower the activity cost in Case A, Release After Initial Screening, the higher the relative cost impact of greater intensity and delay in the pre-release period.) Thus, the Case B estimates for total employment diversion cost per defendant represent only a 4 percent increase over the cost shown for the same activity in Case A. On the other hand, the Case B estimate for total detox diversion cost per defendant is a 195 percent increase over the corresponding Case A cost.

The case examples in Figure 15 were selected for several reasons, among them the following:

- Case A: Release After Initial Screening. This case provides additional data that can be associated with the case flow shown in Figure 9 on page 62. The case flow showed an estimated number of defendants who secured "immediate pretrial release," but did not distinguish among types of release. The data in this section do make such distinctions and demonstrate their cost implications. The immediacy of pretrial release (or conversely, the delay) has been recognized as an issue in program effectiveness,¹ and many jurisdictions have moved or are moving to provide means of assuring the quickest release possible, at least for some pretrial activities such as own recognizance.
- Case B: Release After Two Screenings and One Half Day Interim Detention. The intensity of a pretrial screening process can vary. In part, the variation may be a function of the type of release to be recommended. For example, where conditional release or percentage bond are to be proposed, information on defendant service needs and financial status may represent data requirements beyond those geared to a speedy O.R. release. Verification of the information and any additional screening tasks (including contacts with potential referral sources) may, in essence, constitute a second screening effort or at least an intensification of the first. It is not atypical for

¹"One of the most consistent findings of previous studies of pre-trial release programs is that the program's release rate (relative to the total arrest population) is greatly affected by its speed of operations; in general, the sooner the program intervenes after arrest, the greater the percentage of arrestees that will be released through its effort." "NCSC Draft Work Product Four," p. 12A.

pretrial agencies to conduct screening both pre- and post-arraignment and at stages beyond. In some cases, this may reflect an attempt to handle workloads that cannot be routinely processed prior to arraignment (thus some defendants may wait).¹ In other cases, this practice may reflect multiple attempts to secure release for given defendants.²

Case B estimates are also based on one half day of detention prior to release. This would cover the case of jurisdictions in which the bulk of arrests occur during evening hours, but in which no mechanisms for immediate release exists (such mechanisms include: judicially-delegated authority for other parties, such as the pretrial agency to make release decisions; availability of night court, or 24-hour magistrates).

- Case C: Release After Two Screenings and Three Days Interim Detention. The upper bound on delay considered in the analysis was basically set by the Corrections Standards. (This is not to say that longer delay does not exist, nor in the example above, that delay less than one half day does not occur.) The three day limit simply establishes a cut-off point for the analysis. The relevant standard is 9.4, which includes the admonition that pretrial screening should take no longer than three days to complete.³

As implied above, actual release practices (in terms of intensity and delay) may vary by pretrial activity and will not be uniform across jurisdictions. For this reason, specific jurisdictions may find it most useful to apply the cost data in Figure 15 as though they were "modules" to be mixed and matched. For example, if in a given jurisdiction, immediate release can be secured for O.R., but not for other activities, the Case A O.R. cost per defendant may be appropriate to that jurisdiction while Case B or C estimates may reflect applicable costs per defendant for other

¹This practice was noted in the 1975 survey by the National Center for State Courts. Sixty-one percent of programs contacted in that study reported more than one point of intervention. "NCSC Draft Work Product Four," p. 13A.

²Of over 100 projects surveyed by the National Center for State Courts, 86 percent reported that "release efforts in some cases continued subsequent to the primary point of intervention." Ibid.

³Corrections, p. 296.

activities. New "modules" could also be created from the existing data to better reflect the jurisdiction's typical criminal justice system public expenditure for the various pretrial activities. (For example, there could be a "Case D" for release after one screening and one-half day interim detention.)

It is important to state again that the estimates in this section cover only criminal justice system expenditures. They do not include the cost of external resources that 1) are typically used for the diversion types shown, 2) may be used for conditional release, and 3) are to be available on a voluntary basis for defendants released under all other activities.¹ Examples of external costs are discussed in Chapter IV.

The estimated cost per defendant for each activity also presumes a "normal" release in which the defendant appears in court as scheduled (or with some prompting in the case of inadvertent failure to appear), and in which any conditions of release are met. The next section treats the exception to this norm: the estimated criminal justice system public expenditure per defendant for a willful failure to appear or for conditional release violation.

CRIMINAL JUSTICE SYSTEM PUBLIC EXPENDITURES ASSOCIATED WITH WILLFUL FAILURE TO APPEAR AND CONDITIONAL RELEASE VIOLATION

Standard 4.3 of the Corrections Report, which addresses alternatives to arrest, advocates "[c]riminal penalties for willful failure to respond to a citation;" Standard 4.4, which treats additional pretrial release activities, states that "[w]illful failure to appear before any court or judicial officer as required should be made a criminal offense."² Estimates presented in the preceding section included the cost of normal efforts to locate persons who inadvertently fail to appear. This would include attempts to contact defendants by phone, through third parties, or by personal visit if necessary. Since most failure to appear is inadvertent (defendants may have simply forgotten the court date or time, may be caught in traffic, may in fact be in the courthouse and looking for the courtroom, and so forth), most attempts to locate defendants prove fruitful and require no action such as that proposed in the Standards.

¹The right to services has been affirmed in Corrections Standard 4.9 and is reflected in one of the pretrial system goals shown in Figure 7, p. 43. See Corrections, especially Chapter 2.

²Corrections, pp. 116, 120.

The Standards address the more severe case of "willful" failure to appear, though the definition of "willful" is by no means uniform among jurisdictions.¹

In practice, defendants placed in "fugitive" status (those who have willfully failed to appear in court, whatever the definition of willful), may not be sought out by law enforcement authorities on the single charge of failure to appear. In fact, there may be no official action, short of a bench warrant, unless and/or until the defendant is apprehended on another charge. Under the standards, there would be three criminal charges (or sets of charges) in such a case: 1) a charge for the original offense, 2) a charge for the second offense and 3) a separate criminal charge for failure to appear (FTA). Under current practice, disposition of the FTA charge may vary. While prosecution on that charge may not ensue, pretrial policies may also preclude the release of an otherwise eligible defendant who willfully failed to appear in the past. The cost of detention in such cases would be attributable to the defendant's failure to appear.²

Figure 16 on page 96 shows estimated costs per defendant for willful failure to appear in two sample situations: 1) a case like the one above, in which prosecution does not result from the charge of failure to appear, but detention does result after re-arrest for a new offense, and 2) a case like that implied in the Standards, in which a willful FTA results in re-arrest and prosecution for that specific charge. The total criminal justice public expenditure attributable to the failure to appear in each sample situation is shown in the figure. These costs would represent an increment in the average activity costs per defendant that were shown in Figure 15. Yet when a willful FTA occurs and a defendant

¹See Dewaine Gedney, Samuel Harahan and Richard Scherman, National Standards: FTA Statistics for Pre-Trial Release Programs, (Denver, Colo: Institute for Court Management Executive Development Program, 1975). Gedney, et al discuss various definitions of failure to appear and propose a reporting system for FTA statistics that would allow comparison of data among jurisdictions. Interestingly, the authors contend that willful failure to appear imposes less disruption on the judicial process than does inadvertent failure to appear. This is discussed further in Chapter IV of the present report.

²The case described above could apply equally to surety bail releases under the traditional pretrial system. After failure to appear on surety bail, a re-arrested defendant would be subject to financial liability as well as possible pretrial detention.

Figure 16

Estimated Change in Activity (Cost Per-Defendant Attributable to Willful Failure to Appear (FTA) (1974 Dollars)

<u>Component Costs</u>	<u>Change in Activity Cost/Defendant</u>
Rearrest on charge of failure to appear ^a	+ \$ 13.00
Prosecution for charge of failure to appear ^b	+ \$ 28.11
Detention cost per day ^c	+ \$ 19.29

Example 1

● FTA on original charge	-----
● Rearrest on a second charge	-----
● No prosecution for FTA charge, but because of it, defendant returned to jail until disposition of 1st charge	
-- 30 days of detention	+ \$578.70
-- 45 days of detention	+ \$868.10
LESS averted cost of notification or supervision	d

Example 2

● FTA on first charge	-----
● Rearrest on charge of FTA	+ \$ 13.00
● Prosecution for FTA	+ \$ 28.11
● Detention until disposition of both charges	
30 days; 45 days	+ 478.70; 868.10
TOTAL change in activity cost/defendant	+\$647.92 to \$909.21
LESS averted cost of notification or supervision	d

a/ See Appendix D, Figure 30. Estimate assumes that arrests are made in the course of normal duties, and not necessarily by a warrant unit specifically assigned to track defendants who fail to appear.

b/ From Susan Weisberg, Cost Analysis of Correctional Standards: Alternatives to Arrest (Washington, D.C.: American Bar Association Correctional Economics Center October 1975) p. 49.

c/ Estimate made for: Neil M. Singer and Virginia B. Wright, Cost Analysis of Correctional Standards: Institutional-Based Programs and Parole (Washington, D.C.: American Bar Association Correctional Economics Center, October 1975).

d/ Refers to cost of normal pretrial agency functions that may be halted when a defendant fails to appear. See text for example.

is classified as "fugitive," costs that would have been associated with the normal release situation may be averted. These would include the costs of notification or supervision until case disposition. Examples in Figure 16 show that incremental costs associated with failure to appear may be very high: from approximately \$600 to \$900 in both examples (since pretrial detention is a result in both.) The cost variation is produced by the length of time for which a defendant would be detained pending disposition of the charges against him/her. Averted costs might include: notification expenditures of approximately \$9 per case month; "low" supervision costs of approximately \$72 per case month; or "high" supervision costs of approximately \$145 per case month.¹ Thus the net change in cost per defendant attributable to willful FTA could be lower than the costs shown in Figure 16.

As shown at the top of Figure 16, the estimated cost per defendant for rearrest itself is \$13.00, and for prosecution, approximately \$28.00. The preponderance of the cost in the example, therefore, results from detention that occurs because of the failure to appear. The examples show that the total cost attributable to failure to appear can easily exceed the total cost of release for a given defendant. However, only a small percentage of all released defendants are likely to generate such costs. Still, prosecution for willful failure to appear could add substantially to normal release costs, as the following example shows:²

Cost of R.O.R. for 3000 defendants		\$138,150.00 ³
Cost of Willful FTA for 2% of all R.O.R.'d Defendants	\$38,875.20 ⁴	
LESS: Averted costs (1 month of notification per FTA)	(547.20 ⁵)	
Net Cost of willful FTA		<u>38,328.00</u>
TOTAL Cost of R.O.R. and Failure to Appear on R.O.R.		\$176,478.00
Cost of Failure to Appear as Percent of Total		22%

¹Average costs for these functions were estimated on the basis of 2.5 months from release to disposition and were shown in Figure 15. Each of the costs in that figure was divided by 2.5 to derive the costs per case month discussed above.

²The example assumes that apprehension for FTA occurs one month prior to disposition on an original charge.

³3000 x \$46.05 (from Figure 15 on page 85).

⁴.02 x 3000 x \$647.92 (from Figure 16 on page 96).

⁵(.02 x 3000)(\$22.80 [notification cost for 2.5 months from Figure 15] + 2.5) This simply indicates that if a defendant is apprehended (and detained) one month prior to case disposition, normal costs of notification during that period would not be incurred. The same would be true of supervision costs for defendants released on conditions and apprehended for failure to appear.

Thus even for a small percentage of defendants, the Standards would imply a fairly hefty expenditure for processing defendants failing to appear -- in this example greater than 20 percent of all costs associated with R.O.R. However, if current practice in a jurisdiction dictates detention for persons with a past record of willful failure to appear, regardless of the defendant's eligibility for release by other criteria, then FTA costs per defendant will approach those possible under the Standards, and the incremental cost (or change in cost) from implementing the Standards may be minimal.

In addition to recommending action for willful failure to appear in court, the Corrections Standards include recommendations for handling the alleged willful violation of pretrial release conditions. While the Standards allow the possibility of release revocation for proven violations, they recommend alternatives to detention and emphasize defendant rights to due process in any decision that might affect release status. Standard 4.5 outlines the following safeguards:¹

- Whenever a defendant is released pending trial subject to conditions, his release should not be revoked unless:
 - A judicial officer finds after a hearing that there is substantial evidence of a willful violation of one of the conditions of his release or a court or grand jury has found probable cause to believe the defendant has committed a serious crime while on release.
 - The violation of conditions is of a nature that involves a risk of nonappearance or of criminal activity.
 - The defendant is granted notice of the alleged violation, access to official records regarding his case, the right to be represented by counsel (appointed counsel if he is indigent), to subpoena witnesses in his own behalf, and to confront and cross-examine witnesses against him.
 - The judicial officer provides the defendant a written statement of the findings of fact, the reasons for the revocation, and the evidence relied upon.
- The defendant should be authorized to obtain judicial review of a decision revoking his release while awaiting trial.
- The judicial officer or the reviewing court should be authorized to impose different or additional conditions in lieu of revoking the release and detaining the defendant.

¹Corrections, p. 124.

The same provisions apply to Standards related to probation and parole revocation decisions,¹ and have been discussed in the Standards and Goals Project reports on those subjects.² Two adaptations have been made here: 1) previous estimates of preliminary hearing and hearing costs have been adjusted to 1974 dollars for comparability with estimates presented earlier in this chapter,³ and 2) this analysis includes the cost of possible outcomes that result from the hearings process. The Standards emphasize that outcomes less restrictive than detention receive priority, that a purpose of the hearings process is to examine alternatives. If implementation of the Standards had the desired effect, which is to produce better outcomes for defendants in terms of reducing unnecessary restrictions on liberty, then reductions in criminal justice system public expenditures would result. These outcomes are not certain to occur, however, and must be weighed against the cost of the hearing process as well as the cost to the defendant of having no procedural safeguards.

Figure 17 on page 100 presents component costs used to estimate public expenditures associated with decisions on conditional release violation. In addition, sample cases are shown. Total cost per defendant for each sample case would represent a net increase in the cost shown for release itself in Figure 15 on page 85. (Averted costs such as those discussed for failure to appear have already been deducted from the estimates in Figure 17.)

In the examples the incremental cost of violations proceedings can vary from a low of approximately \$184 per defendant (when proceedings are halted after a preliminary hearing and there is no change in defendant status) to a high of approximately \$1450 (when full hearings procedures are completed and release is revoked for a defendant originally under "low" supervision.)

In general, the data show variations in cost that are produced by three factors: 1) the number of hearings required; 2) a change in defendant status as a result of the hearings; and 3) the length of time for which any change is in effect.

¹Standards 5.4 and 12.4, respectively. Corrections, pp. 158, 425, 426.

²Singer and Wright did the first analysis (of parole revocation hearings) in Cost Analysis: Institutional-Based Programs and Parole, Chapter X. Their estimates were then applied to probation revocation hearings in Thalheimer, Cost Analysis: Probation, Restitution and Community Service, Chapter III.

³The GNP implicit price deflator for state and local government purchases was the index used.

Figure 17

Estimated Change in Activity Cost Per-Defendant Costs Associated
With Conditional Release Violation (1974 Dollars)

<u>Component Costs</u>	<u>Net Change in Activity Cost/Defendant</u>
Preliminary hearing	+ \$ 183.90
Hearing	+ \$ 504.40
Outcomes:	
No change in status	0.00
Change from low supervision to high supervision until case disposition (30-45 days)	+\$72.30 to +\$108.45
High supervision release revocation and detention until case disposition(30-45days)	+\$443.20 to +\$651.35
Low supervision release revocation and detention until case disposition (30-45days)	+\$515.40 to +\$759.65

Examples

● Preliminary hearing + No Change in status	+ \$ 183.90
● Preliminary hearing + Hearing + No change in status	+ \$ 688.30
● Preliminary hearing + Hearing + Change from low to high supervision:	
30 days	+ \$ 760.60
45 days	+ \$ 796.75
● Preliminary hearing + Hearing + High supervision revocation and detention until disposition	
30 days	+ \$1131.50
45 days	+ \$1319.65
● Preliminary hearing + Hearing + Low Supervision revocation and detention until disposition	
30 days	+ \$1203.70
45 days	+ \$1447.95

The data indicate that implementation of Corrections Standards would produce substantial public expenditures on a per defendant basis. Yet there are mitigating considerations, among them the following:

- While the cost per violator is high, if only a small percentage of releasees violate conditions, then the total cost of all violations is relatively low when compared to the total cost for conditional release.
- The Standards imply that pretrial status can be relatively fluid. Thus procedural safeguards, though costly to implement, allow defendants to appeal the imposition of restrictive conditions, with the potential reduction in public expenditures that this would imply.

Most important is that costs other than criminal justice system public expenditures be considered in the case of Standards on conditional release violation:

The decision to revoke release during the pendency of pretrial procedures has a serious effect on the defendant. The added burdens pretrial detention holds for one accused of crime are well documented. These are no less detrimental to his ties with the community and his preparation for trial if an initial release is revoked. A revocation decision may have a direct influence on the sentencing decision if he is convicted. Thus procedural safeguards are essential.¹

This commentary on Standard 4.5 speaks to the issue of "opportunity costs" to the defendant. These are treated in the following chapter.

¹Corrections, p. 124.

Footnotes for Figure 9
(continued from p. 62)

b/ This is a model case flow that would apply to a county of 300,000 population with an urban population of 200,000. It represents possible defendant flow in a jurisdiction whose pretrial release activities conform to recommendations of the Corrections Standards. The arrest rate shown in the figure is based on FBI statistics for annual adult arrests per 100,000 population in jurisdictions of the size mentioned adjusted slightly to account for serious traffic offenses that tend to be undercounted in the FBI data. The remaining case flow figures are estimates from a related study by the American Justice Institute and are based on observations in approximately thirty selected jurisdictions. Federal Bureau of Investigation, Uniform Crime Reports: 1974 (Washington, D. C.: U. S. Government Printing Office) Tables 29 and 34. Pretrial Release and Diversion (Sacramento, Calif.: Alternatives to Jail Incarceration Project of the American Justice Institute), unpublished draft report, 1976.

c/ Assumes that 1,658 case-related working hours are available per line staff per year as shown in Figure 25 of Appendix D. Line staff requirements are for full-time or full-time equivalent personnel at that rate of annual availability.

"Screenings", the workload unit used here, is somewhat different from the statistical measure "interviews" most commonly cited in reports on pretrial agencies. Screenings represents a distribution of tasks that would include:

- Screening out some defendants (for example, public inebriates who would not be interviewed, but who would be referred to detox centers, hospitals, or to family or friends)
- Interviews
- Verification of interview information
- Preparation and presentation of recommendations to the court
- Screening for indigent defense eligibility
- Providing information to defendants about available services and negotiating some referrals.

Data from ongoing projects indicate that these tasks, on the average per defendant, could be completed quite speedily. For example, published data and those gathered during on-site visits for this study reveal that actual interview time may range from approximately 7 to 15 minutes, depending primarily on the experience of the person conducting the interview. Productive time spent on verification can amount to even less depending for example on 1) whether one source can verify all information and 2) the speed with which accurate police and court information on the defendant can be compiled. Under ideal conditions, total time

Footnotes to Figure 9 (continued)

for the average interview and verification should amount to 20 minutes distributed equally among the two tasks. 'Screening' as defined here, would involve these tasks as well as others. To allow for this additional workload and for some less than ideal conditions during the interview/verification process, average screening time per defendant has been estimated at 45 minutes. According to additional information presented in Appendix D, each line staff person in the pretrial services agency would have 1658 annual hours available for defendant-related work. (See Figure 24.) Thus, the annual screening capacity per line staff member would be $(1658 \div .75 \text{ hours})$ and required staff would be 4.3 $(9616 \div 2212)$. The corresponding average rate for staff members in six jurisdictions surveyed is 2287 screenings per line staff year, which produces a nearly identical staffing requirement: $9616 \div 2287 = 4.2$. The six jurisdictions: Washington, D. C.; Hennepin County, Minnesota; Santa Clara County, California; and three New York City Boroughs.

d/ Based on adjusted workload capacity estimates for the Vera Institute of Justice Pretrial Services Agency. Annual estimates were derived from 9-month data for three boroughs (Brooklyn, Bronx and Staten Island). In the aggregate, these data should not be dissimilar to what might be found for an urban county. All staffing and payroll reductions proposed by Vera in corresponding budget submissions were taken into account in computing the estimate shown in the figure. The proposed reductions were the result of a cost-benefit analysis indicating that greater efficiency in agency operations could be achieved. Release review-screenings and related reviews as shown in the figure, could include: 1) reevaluation of the detained population including documentation of time in detention (for speedy trial purposes), verification of information not verified prior to arraignment, preparation and presentation of verified information to the courts, assessment of service needs for defendants who request services or who could be recommended only for supervision, 2) post-release assessment of service needs for releasees who request services and/or might be diverted and 3) referrals to service where appropriate. Like the "screening" workload unit, this unit reflects tasks that would not be required for every defendant. The overall capacity estimate indicates that on the average, this type of review would take approximately twice as long as initial "screening", which included interviews; verification and other brief tasks. See A Report on the Operation of Pretrial Services Agency During the Period Between June, 1974 and November, 1975 (New York City, N.Y.: Vera Institute of Justice, February 1976).

e/ Based on the following:

Diverted defendants:	475
Average stay in diversion program:	$\times \quad 4 \text{ months}$
Total diversion case months:	<u>1,900</u>
Monitoring time/case month:	$\times \quad .25 \text{ hours}$
Total monitoring time for diversion cases:	<u>475 hours</u>
Staff requirement:	$475 \text{ hrs. required} \div 1658 \text{ hrs. available} = .28 \text{ staff}$
Staff workload capacity:	$475 \text{ cases} \div .28 = 1696$

Footnotes to Figure 9 (continued)

Average length of stay in the diversion program would account for both timely and early termination of defendant participation, and is the same rate used in the American Justice Institute study cited in footnote (b) above. Monitoring time was raised slightly from their rough estimates of 10 minutes per case month. This reflects 1) the pretrial agency's role as "system monitor" over services that it may not provide directly, a role that is advocated in the Corrections Standards and 2) the need to track the dispositions of all released defendants.

f/ Notification and follow-up would include letter notification of all court appearances to defendants released on OR, conditions not involving agency supervision and percentage bond -- whether or not such releases were the result of favorable agency recommendations. In addition, this function would include agency tasks associated with 1) tracking and documenting continuances and dispositions, and 2) defendant acknowledgment that notification was received. For defendants not acknowledging receipt, notification would include phone or personal contact as required. This function would also include attempts to locate defendants who fail to appear in court. Capacity estimate is based on adjusted Vera rates as discussed in Footnote d/ above, and assumes that letter notifications can be computer processed.

g/ These figures would amount to the following caseload sizes per staff member:

	<u>Average Defendant Time on Release</u>	
	<u>2.5 Months</u>	<u>3.0 Months</u>
Low Supervision	35	42
High Supervision	18	21

They would also reflect similar variations of the following workloads if average defendant time on release is 2.5 months:

Low Supervision: 4 hours per case month (e.g., 4 one-hr. contacts)
 High Supervision: 8 hours per case month (e.g., 8 one-hr. contacts, 16 half-hr. contacts, etc.)

Both direct contacts with defendants and defendant-related contacts with service providers and other third parties would be included. This is consistent with the pretrial agency's role as a service broker for defendants and as a "system" monitor of service delivery. Actual staffing estimates based on the workloads above would be:

	<u>Low Supervision</u>	<u>High Supervision</u>
Defendants	300	100
Avg. Time on Release	x 2.5 mos.	x 2.5 mos.
Supervision Case Months	750	250
Supervision Hours/Case Month	x 4	x 8
Total Supervision Hours Required	3,000	2,000
Available Hours/Line Staff	+ 1,658	+ 1,658
Staff Requirement	1.8	1.2

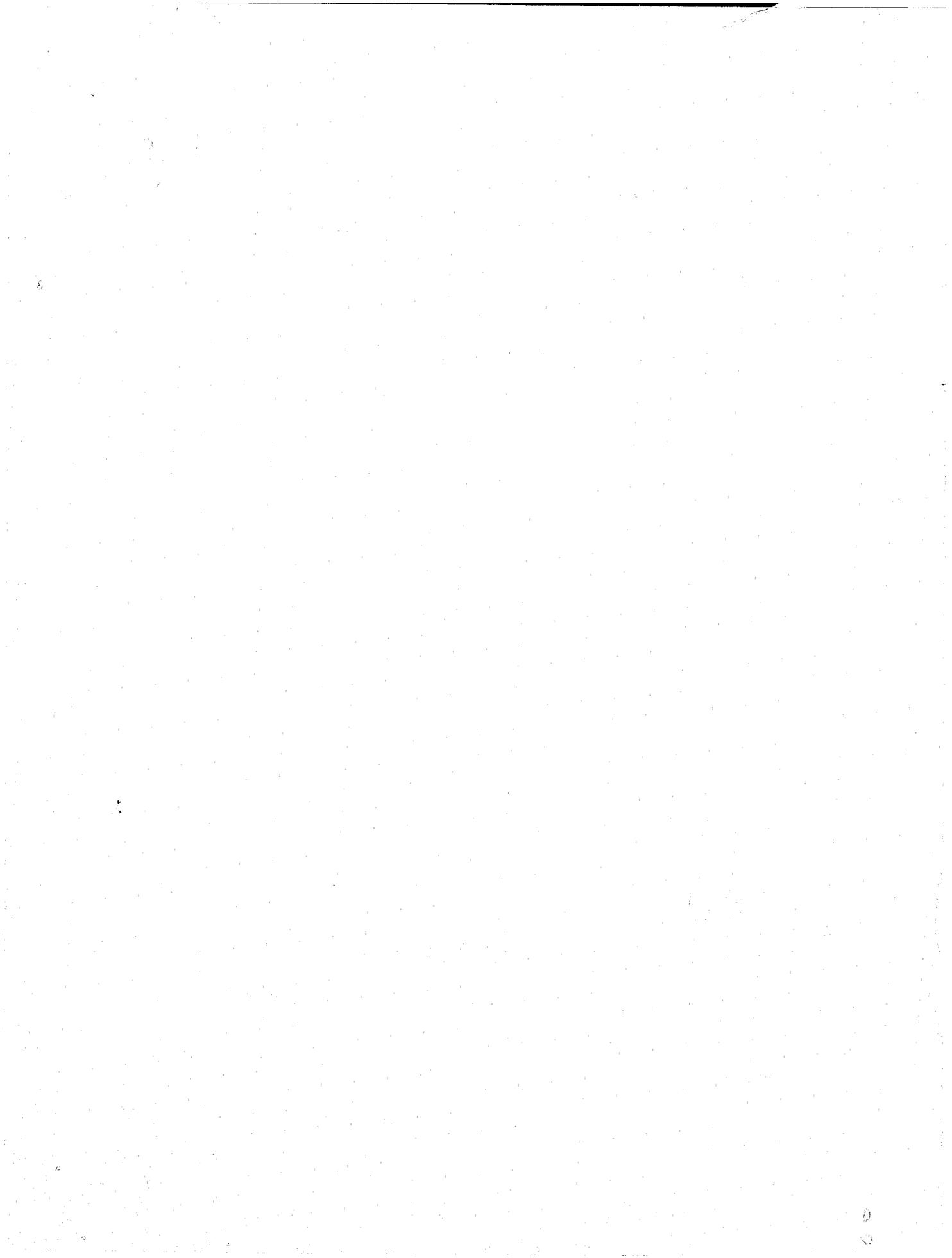
The Supervision function would also include some follow-up efforts with respect to defendants' failing to appear in court.

Footnotes to Figure 9 (continued)

Statistics from pretrial agencies do not normally identify levels of supervision and the statistics are almost uniformly presented in terms of caseloads, making it difficult to determine what type of supervision was provided. The caseload figures used here are higher than those for most projects surveyed. Actual caseloads in the sample agencies varied from approximately 12.5:1 to 20:1, and most agencies appeared highly selective in accepting cases for supervision. These rates may be compared with the minimum caseload of 50:1 used as a benchmark in estimating staffing for Federal pretrial services agencies in Appendix E, and to the average caseload of 71:1 found for a sample of probation departments in a related study of the Standards and Goals Project. Interview with Guy Willetts, Chief, Pretrial Services Branch, Division of Probation, Administrative Office of the U. S. Courts, June 20, 1976. Donald J. Thalheimer, Cost Analysis of Correctional Standards Relating to Community-Based Supervision: Probation, Restitution and Community Service (Washington, D. C.: American Bar Association Correctional Economics Center) (prepublication draft report.)

h/ Based on the actual ratio for projects sampled in this study. Compares with ratio of 6-11:1 used in establishing staffing for Federal pretrial services agencies, for which data are presented in Appendix E.

i/ Adjusted rate based on initial experience in Federal demonstration projects; 2.5:1 was found adequate to support the heavy reporting requirements associated with the demonstration effort; skepticism was voiced about the ratio of 3:1 used in some projects (some had added support staff even in the initial months to cope with the workload). The ratio used here represents a middle ground reflecting ongoing needs for research and management data from operating units, but in lesser quantity than required for a demonstration effort. Interview with Guy Willetts, supra. N.g/.



CHAPTER IV*

OTHER COSTS ASSOCIATED WITH PRETRIAL RELEASE ACTIVITIES

Criminal justice system expenditures for pretrial release, represent an important portion of pretrial costs and therefore have been analyzed in the preceding two chapters. But analysis of such expenditures alone leaves several questions unanswered, such as:

- What is given up by individuals and society in implementing pretrial release activities?
- What costs other than public expenditures do individuals and society bear in the absence of pretrial release?
- What cost implications does pretrial release have for non-criminal justice system agencies?

The first question concerns opportunity costs, the costs to society and the individual resulting from the existence of pretrial release. The second question concerns the benefits of pretrial release measured in terms of the opportunity costs of the alternative: detention. The last question concerns external costs, the costs incurred by public and private organizations and individuals outside the criminal justice system as a result of pretrial release.¹

OPPORTUNITY COSTS TO THE INDIVIDUAL

Two types of opportunity costs are treated in this report: those incurred by the individual and those incurred by society. Among opportunity costs to defendants is the price paid in rights foregone as a result of participation in pretrial release activities. Such opportunity costs are frequently cited in literature on bail release, and some were alluded to in the earlier discussion of interactions in Chapter II. For example, a defendant posting stationhouse bail to gain quick release might pay more than a similar defendant released ~~soon~~ thereafter on deposit bail, assuming both options were available in the same jurisdiction.² Traditionally, defendants who posted bail were often required to forego the right to court-appointed counsel. That is, an eligibility criterion for indigent defense was the inability to post bail. (This was known as the "bail test.")

* Chapter co-authored by Ann M. Watkins.

¹See Chapter I and Appendix B of this report for detailed descriptions of these terms.

²See Figure 8 on page 50.

Thus, defendants with limited resources faced a choice of remaining in jail and being represented by counsel or securing release and remaining "defenseless".

Opportunity costs to defendants may be associated with recommended forms of release as well, for example:

- Delayed Release -- The elimination of stationhouse bail would mean that defendants with the resources to gain quick release under the traditional system might no longer be able to do so. Costs would be imposed in terms of the time required to await and complete the pretrial interview and decision-making process. (This would be particularly true in jurisdictions with any of the following characteristics:
 - no citation activity
 - no centralized booking facilities
 - no arrangements for speedy decision-making [e.g., night courts or 24-hour magistrates, release authority delegated to jail or pretrial agency staff, etc.]
- Disclosure of Confidential Information -- During the course of an interview, a defendant may disclose information about personal problems (such as drug or alcohol abuse) that may or may not be related to the offense charged. One of the selling points of pretrial services agencies is that they can connect such defendants with needed services, and are informed of problems because of the rapport that defendants and pretrial staff have been able to establish. However, if adequate safeguards are not placed on information so gathered, there is a danger that it can be used against the defendant in court proceedings.¹
- Excessive Supervision -- A defendant's supervision by the criminal justice system through pretrial release activities may exceed the supervision provided through the traditional criminal justice process (for example probation), in terms of the period of time involved or the intensity of supervision. This may be particularly true for conditional releasees who are supervised by pretrial agencies. Staff caseloads for such supervision are approximately three-tenths the size of the

¹The National Association of Pretrial Service Agencies has developed guidelines for protection of confidential information. The tentative guidelines were presented at the Association's annual conference in April, 1976.

average probation caseload.¹

- Presumption of Guilt versus Presumption of Innocence -- Attitudes toward defendants may be colored by the criminal justice system's traditional preoccupation with persons convicted of crime. Defendants, in effect, may be treated as though they were probationers whose guilt has been established. This is an apprehension voiced by those who oppose institutionalization of [advocacy-oriented] pretrial services agencies under departments of probation and other established justice system agencies. In fact, the Standards support this apprehension by proposing: 1) that where probation departments initiate pretrial release activities, they do so with other than regular probation staff,² 2) that pretrial services be housed in a newly formed umbrella corrections agency, or that they remain independent.³ Further, the Standards advocate the use of non-criminal justice community agencies for both pre- and post-trial groups. If traditional attitudes prevail in those agencies, the distinction between defendant and offender may be blurred, with resulting opportunity costs for defendants. (On the other hand, if community agencies are advocacy-oriented, benefits may accrue to both defendants and offenders.)
- Prejudice in Judicial Proceedings -- A defendant may be treated with prejudice by prosecutor and court on an original charge if conditions of pretrial release imposed upon the defendant have been violated and the violations are brought to the court's attention. This may be expected in the case of such violations as rearrest while on release, but is possible as a result of other violations. For example, failure to report to a pretrial agency may constitute a violation of release conditions. Normally, agencies are reluctant to report any but the most severe violations of this type, and they take steps to assure compliance before taking more serious action. However, when they do report to the court that a serious risk of failure to appear exists, the most common result appears to be release revocation.⁴ The greater the number of conditions imposed upon a releasee, the greater the potential for violation, and therefore the greater the risk to the defendant of being treated with prejudice in future proceedings.

¹The average probation caseload is 71; caseloads for pretrial supervision are generally smaller than 20. Based on the sample of pretrial agencies consulted in this study, and Thalheimer, Cost Analysis: Probation, Restitution and Community Service.

²Standard 10.5, Corrections, p. 339.

³Standard 16.4, Corrections, p. 560.

⁴Several agencies surveyed in this study reported that approximately 90% or more of the violations reports heard by the court resulted in revocation. See also the discussion of conditional release violation in the previous chapter.

- Loss of the Right to Service -- A defendant who receives services, such as employment training or specialized treatment, during the pretrial period cannot be assured 1) that such services will be available in the event of conviction and incarceration or 2) that he/she will be eligible for the same services in the event of acquittal or case dismissal.
- Increased Pool of Defendants Officially Processed into the Criminal Justice System -- This cost was mentioned with respect to public expenditures in Chapter II (see Figure 8). It also has opportunity cost implications. The existence of a comprehensive program may escalate the degree to which accused persons -- especially those accused of minor offenses -- are processed into the criminal justice system. For example, this will be true to the extent that: citations substitute for warnings to alleged law violators; diversion substitutes for no prosecution; and conditional release substitutes for own recognizance.

Among pretrial release activities, the opportunity costs borne by an individual participating in diversion are the most controversial. For example, a defendant often waives the right to a speedy trial in order to obtain a continuance for the three to six months required by the diversion activity. Some diversion activities have required a guilty plea from defendants. The plea is sealed, but may be opened in the event that the defendant does not successfully complete the requirements of the diversion activity and so is returned to the criminal justice system. Individual opportunity costs of diversion are increasingly the focus of those concerned with the rights of the accused.¹ In response to this concern, some of the newer diversion activities have attempted to build in safeguards for defendants' legal rights.

Presumably, a defendant is willing to bear the opportunity costs of release, outlined above, because these costs are lower than the opportunity costs of the alternative, which for many would be detention.

¹H. S. Perlman, Legal Issues in Addict Diversion: A Layman's Guide, (Washington, D. C.: Drug Abuse Council, Inc. and American Bar Association Commission on Correctional Facilities and Services, September 1974); H. S. Perlman and P. A. Jaszi, Legal Issues in Addict Diversion: A Technical Analysis, (Washington, D. C.: Drug Abuse Council, Inc. and American Bar Association Commission on Correctional Facilities and Services, 1974 and 1975, respectively); M. R. Biel, Legal Issues and Characteristics of Pretrial Intervention Programs, (Washington, D. C.: American Bar Association, National Pretrial Intervention Service Center 1974); Nancy E. Goldberg, "Pretrial Diversion: Bilk or Bargain?", National Legal Aid and Defender Association Briefcase, 31, p. 490; Daniel L. Skoler, "Protection of the Rights of Defendants in Pretrial Intervention Programs", American Bar Association, Resource Center on Correctional Law and Legal Services, Washington, D. C. 1973; and National Pretrial Intervention Service Center, Legal Opinions on Pretrial Diversion Alternatives, Kramer v. Municipal Court, 49 CA 3rd. 418, Information Bulletin No. 1, August 1975.

The benefits of pretrial release to the individual then, include avoiding the opportunity costs of pretrial detention such as:

- Foregone earnings for employed detainees;
- Possible job loss and costs associated with finding new jobs for employed detainees;
- Family disruptions due to arrest and detention of a family member, made worse if loss of income is involved;
- Stigma or "labeling" of detainees affecting self-image and the image that others have of the accused;
- Increased probability of post-trial incarceration due to inability to contact witnesses or secure adequate legal help while detained, as well as a possible difference in the court's perception of an accused who walks into court from the street and one who is brought in from a cellblock;
- Threats to defendants' physical safety;
- Conditions, services and facilities in detention institutions that are often worse than those in institutions used primarily for post-trial incarceration.

Of the benefits of pretrial release, some of the least documented apply to employment and employment prospects. Some information from specific projects is available, however. For example, 36 percent of the defendants participating in the Santa Clara County (California) Supervised Release Program indicated they would have lost their jobs or dropped out of school without pretrial release. A comparison of the actual percentage of defendants working or in job training before and after their participation in the Santa Clara Release program showed a 15 percent increase.²

Pretrial release gives an individual the chance to continue a normal life, giving a reality to the rhetoric that one is innocent until proven guilty. Release may also benefit the individual who subsequently pleads or is found guilty. During the pretrial period, a releasee can

¹For a discussion of issues and estimates of the cost of detention, see Weisberg, Cost Analysis: Alternatives to Arrest, pp. 56-60; Singer and Wright, Cost Analysis: Institutional-Based Programs and Parole, pp. 49-59.

²Gary G. Taylor, An Evaluation of the Supervised Pretrial Release Program, (Sacramento, California: American Justice Institute, June 1975) p. 1.

participate in community-based training or treatment and can otherwise abide by court imposed conditions, thus demonstrating his or her potential for successful community-based living post-trial. Indeed, some supervised release programs are designed to demonstrate a defendant's potential for probation.¹

OPPORTUNITY COSTS TO SOCIETY

Society's major concern about pretrial release is the opportunity cost of crimes committed by defendants while they are released. Had the defendant been detained, the argument goes, additional crime might not have been committed. The problem of supporting this argument and hence the problem of measuring this opportunity cost is entwined with the issue of recidivism. If the defendant is rearrested while on pretrial release, society cannot automatically assume that an alleged crime would not have been committed; the second crime for which the defendant is accused may have occurred prior to the original arrest; the arrest may have been facilitated because, due to the prior arrest, police considered the defendant a suspect; the defendant in fact may be innocent.² Data collected to date in an attempt to answer questions on the amount of crime committed by releasees varies widely. For example, estimates on the percentage of defendants in the District of Columbia who committed crimes while on release have ranged between 6 and 70 percent, depending on the sampling procedures used.³

¹For example, Supervised Pre-Trial Release in Des Moines, Iowa. A Handbook on Community Corrections in Des Moines, (Washington, D. C.: U. S. Department of Justice, Law Enforcement Assistance Administration, National Institute of Law Enforcement and Criminal Justice, 1973) p. 17.

²An appropriate research question here is: To what extent, if any, does each contact with law enforcement agencies increase the probability of subsequent contact? At least one observation is relevant here: computerization of defendant identifying characteristics along with offense-related data greatly enhances the ability of law enforcement agencies to identify a pool of suspects. While this is a boon to legitimate law enforcement, it also tends to decrease the chances that innocent people will be bypassed.

³Thomas, Bail Reform; citing 1970 Senate Judiciary Committee Hearings on Preventive Detention, p. 722.

As a result, it is impossible to measure this opportunity cost based on existing recidivism rate data.¹

Furthermore, according to the Standards, detention is only for purposes of assuring the accused's presence at trial. To detain an accused merely because society wants to be protected from dangerous people is to assume the accused is guilty and to suggest one can foretell dangerousness. Neither is the case. The Standards suggest that the crimes potentially committed by an accused subsequent to the original arrest are an opportunity cost society should be willing to pay in the interest of civil liberty and democratic principles.

The Commission, however, states that while it:

"...did not take a position on the issue of whether detention on the basis of 'dangerousness' ought to be authorized in the first instance, it [the Commission] does recognize that offenders who continue to commit serious offenses while on pretrial release represent an unacceptable risk to the public safety.... The Standard would thus allow, but not require, detention after there is a showing of probable cause that the offender has committed an offense while on pretrial release".²

The detention of a releasee who is rearrested is based in part upon the condition implicit in every pretrial release that the person will not commit a criminal offense while on release. Release can be revoked if a court or grand jury has found probable cause that this implicit condition was violated.³

There are other minor opportunity costs of pretrial release potentially borne by society. For example, a defendant released pretrial and placed in a job training program may participate in that training only until his or her case has been favorably decided. Then the defendant, no longer needing to demonstrate initiative and good intentions to the court, may drop out. In the meantime, that slot in the training or treatment program might have been used more productively by someone with different motivations (and who therefore might have assured a greater return on societal investments).

¹See National Center for State Courts, An Evaluation of Policy Related Research on the Effectiveness of Pretrial Release Programs, (Denver, Colo.: National Center for State Courts, October 1975) pp. 74-78. (For a discussion of the problem of recidivism rates and for additional references on the subject.)

²Corrections, p. 125. The tenor of this statement (particularly the words "offender" and "continue to commit") would seem to make it most applicable to defendants with several prior convictions for serious offenses.

³Ibid, p. 124.

As in the case of individual opportunity costs, society's opportunity costs for pretrial release must be weighed against the opportunity costs of the alternative: primarily, pretrial detention.¹

The opportunity costs of detention become then the benefits of pretrial release. They include:

- Tax revenues that might be lost if the defendant lost income or a job as a result of detention;
- Burdens society would bear including welfare payments to the defendant's family if detention resulted in income loss and family disruption;²
- An increase in crime that could occur if a defendant were detained. The detention facility may be a place for learning criminal techniques and making criminal contacts. Further, a detainee, once released, without a job and stigmatized, may see no choice but crime.

EXTERNAL COSTS

A major source of the external costs for pretrial release activities is the cost of services provided by agencies (outside the criminal justice system) to which defendants are referred. Though these services typically are available for the general public, defendants' knowledge and utilization of the services occur most frequently through their contact with the criminal justice system. For the defendant released on conditions requiring testing, training or treatment and for participants in diversion activities, a "successful" pretrial status, as determined by the criminal justice system, depends upon accepting the service offered, cooperating and completing it.

¹As discussed in Chapter I, the other major alternative to recommended release activities is surety bail. While most defendants under the traditional system remained in jail, others were freed because they had money or property to exchange for their liberty. As many experiences of the 1960's show, society also pays a price for such inequalities.

²However, one study of Monroe County, New York defendants who were not receiving income maintenance when arrested, were not single, and had dependents, found the net welfare costs to be negligible. Final Report: An Evaluation of Monroe County Pretrial Release, Inc., (Rochester, New York: Stochastic Systems Research Corporation, November 1972). Also see Singer and Wright, Cost Analysis: Institutional Based Programs and Parole, pp. 49-59.

Other defendants, informed of the referrals made by the pretrial services agency, may seek treatment and training services on a voluntary basis. Because services are an integral part of the pretrial release activity, the costs of these services when provided by the agency outside the criminal justice system, must be included as external costs in estimating the total costs of pretrial release.¹

Estimates of some of the external costs of pretrial release are presented in Figures 18 through 21 on pages 117 through 123. Each figure contains estimates of external costs for a particular type of service to which a pretrial releasee may be referred:

- Figure 18, Employment training;
- Figure 19, Alcohol treatment;
- Figure 20, Treatment of mental health;
- Figure 21, Drug treatment.

As indicated in these figures, external costs of pretrial release depend upon the needs of defendants and the types of services provided. Typically, the non-criminal justice costs of providing services to defendants do not differ from the costs of providing such services to the general public. Often, however, the external costs exceed the costs incurred by the criminal justice system. For example, the criminal justice costs of pretrial release, discussed in Chapter III, are much lower than the cost of vocational training programs to which defendants may be referred. Such programs cost between \$2,000 to \$2,400 per participant. The exact magnitude of the external costs associated with providing vocational training (or other services to which defendants are referred) in a particular locale, will depend on the availability of training activities, the number of defendants needing training, and the ability of existing training activities to meet the demands of the defendants. Many defendants are from minority groups, are poor, uninformed about services available and suspicious of services offered by "the system". As a result, they may not be the typical recipients of the services to which the pretrial release activity refers them. Thus, they often exert a new demand for the service. That service (for example, vocational training) may have to be expanded to accommodate pretrial releases; it may also have to be adapted to their special needs. To

¹For some pretrial activities, services may be provided directly by a pretrial services agency or other criminal justice agency with auspices for the activity; these costs would clearly be considered criminal justice system expenditures. Similarly, the cost of services purchased from outside agencies with criminal justice monies would be criminal justice system costs and not "external" costs. See for example, the discussion of the model budget in Chapter III.

the extent that accommodation and adaptation occur, the marginal cost of vocational training for defendants may exceed its average cost.¹

Another type of external cost is borne by the volunteers who work in pretrial release activities. The level of volunteer effort and the type of services provided by volunteers can vary widely. Some pretrial release activities may have no volunteers.² In others, volunteers may provide support for defendants involved in drug or alcohol treatment. More often they perform specific functions that depend upon the skills they have to offer and that range from clerical duties to legal advice.

Methods for estimating the cost of such volunteer contributions vary. Costs may be estimated as the value of volunteers' leisure time foregone plus their expenses (such as transportation and food) which are not reimbursed, or as the imputed value of the volunteers' services were they to be paid a salary.³ In addition, the costs of volunteers provided by an agency such as the YMCA or the U. S. Action Agency must include indirect costs of that sponsoring agency. Because of the wide diversity possible in the use of volunteers, it is difficult to estimate an external cost of volunteers that would have any validity beyond the specific pretrial release activity for which it was calculated. It can be emphasized, however, that volunteer labor may greatly expand the capacity of pretrial activities, or may support them in such a way that the absence of volunteers would significantly alter the nature of the activity. For example, without private voluntarism, third party release to other than custodial agencies might not exist. Examples may also be found among diversion activities. For instance, the estimated dollar value of volunteer labor in the Jackson County, Michigan program nearly doubled the total cost of the diversion activity.⁴ Chapter I of this report emphasized the importance of full valuation of pretrial program costs, both the costs of resource inputs and those of final outputs. The approach most consistent with the bulk of this report would be to assign a market value to volunteer labor wherever possible and to consider this an external cost.

¹See Chapter II, pp. 46 through 48 for examples of the relationship between marginal and average costs.

²For example, only 8% of pretrial release agencies surveyed in 1975 were found to make extensive use of volunteers. "NCSC Draft Work Product Four", p. 7A.

³For more information on how to calculate the dollar value of volunteer services for a particular activity for which the extent and type of volunteer use is known, see Ivan H. Scheier, et. al., Guidelines and Standards for the Use of Correctional Programs, U.S. Department of Justice, Law Enforcement Assistance Administration, August 1972, pp. 135-150. See also the discussion of alternative staffing Chapter III, pp. 77-81 for possible values of volunteer services.

⁴Data from Jackson County Citizen's Probation Authority Grant Application, 1976.

FIGURE 18

ESTIMATES OF EXTERNAL COSTS OF
EMPLOYMENT REFERRALS

<u>Service</u>	<u>Cost Per Client</u> <u>(1974 Dollars)</u>
Psychological Testing	\$75
Psychological Counseling 5 hours @ \$40/hour	\$200
Legal Assistance 1 hour @ \$25/hour	\$25
Educational Training	\$350
Vocational Training	\$2,000-\$2,400

Source: Atlanta Pretrial Intervention Project, "Proposal for Action", Atlanta, 1975 (mimeographed), and J. Blackburn, U. S. Department of Labor, interview with A. Watkins, May 14, 1975.

FIGURE 19

ESTIMATES OF EXTERNAL COSTS OF
REFERRALS TO ALCOHOL TREATMENT PROJECTS,
BY TREATMENT MODALITY (1974 Dollars)

TREATMENT SITE		Cost Per Client Day	Average Length of Stay	Cost Per Client Stay
TREATMENT MODALITY Inpatient Emergency Care	General Hospital	\$171.55	.4 days	\$589.14
	Specialized Alcoholism Hospital	57.70	4 days	230.84
	Other Specialized Hospital	97.39	4.9 days	471.56
	Hospital Affiliated Medical Emergency Care Center	78.55	3.8 days	149.15
	Hospital Affiliated Non-Medical Emergency Care Center	16.39	3.1 days	53.01
TREATMENT MODALITY Inpatient Care	General Hospital	87.38	10.4 days	766.24
	Specialized Alcoholism Hospital	33.78	8.0 days	270.21
	Other Specialized Hospital	93.66	9.4 days	923.98
	Hospital Affiliated Inpatient Care Under Medical Supervision	117.00	6.2 days	1,173.71
TREATMENT MODALITY Intermediate Care	Partial Hospitalization	74.15	16.8 days	1,274.21
	Recovery Home	12.66	56 days	687.02
	Other 24-hr. Non-Medical Residential Center	21.08	29.8 days	735.17
	Specialized Alcoholism Hospital	26.74	30.3 days	792.99
TREATMENT MODALITY Outpatient Care	Hospital-Based Outpatient Clinic	20.07	13 visits	60.23
	Family or Neighborhood Alcoholism Center	15.84	11.7 visits	219.97
	Community Mental Health Center	32.22	8.3 visits	300.87

Source: Booz Allen and Hamilton, "Cost Study of Model Benefit Package for Alcoholism Treatment Services," prepared for the National Institute on Alcohol Abuse and Alcoholism and the National Council on Alcoholism, 1974.

FIGURE 20

ESTIMATES OF EXTERNAL COSTS OF
REFERRALS TO MENTAL ILLNESS TREATMENT PROJECTS,
BY TREATMENT MODALITY

<u>Modality</u>	<u>Cost Per Client Day (1974 Dollars)</u>	<u>Cost Per Client Stay (1974 Dollars)</u>
Free Standing Outpatient Psychiatric Clinics ^a	\$36.60	\$529
Inpatient Services At Public Hospitals ^b	\$30.80 ^f	not available
Inpatient Services at Private Hospitals ^c		
Non-Profit	\$72.80 ^f	not available
For Profit	\$63.00 ^f	not available
Foster Care Houses ^d	\$5.00 - \$5.59	not available
Residential Treatment Centers	\$37.82	\$23,978

Sources: U.S. Department of Health, Education and Welfare, National Institute of Mental Health Statistics A-10, A-13 and Statistics Note 106 and preliminary unpublished data from the National Institute of Mental Health; and Jeff Gillenkirk, "There's No Place Like Home," Washingtonian, (September 1974), pp. 162-164. All costs have been converted to 1974 dollars using the GNP implicit price deflator for purchases of all goods and services by state and local governments.

^a Estimate is for all ages for all diagnostic conditions. 74 percent of the cost is for salaries; 21 percent for other operating expenditures; 5 percent for capital expenditures.

^b Estimate is U.S. average. 79 percent of cost is for salaries.

^c Estimate is U.S. average. 63 percent of cost in non-profit hospitals is for salaries; 54 percent in profit hospitals is for salaries.

^d Estimate is for Washington, D.C.

^e Estimate is U.S. average, all facilities, all patients under 18.

^f The average costs of hospitalization for mental illness are lower than hospitalization for alcoholism, drug addiction or for other physical ailments because mental hospitals are often only custodial, are understaffed with low-paid personnel and because the treatment of mental illness, unlike physical illness, does not require costly equipment. Interview with M.J. Witkin, Division of Biometry, National Institute of Mental Health, 9 October 1975.

FIGURE 21

ESTIMATES OF EXTERNAL COSTS OF
REFERRALS TO DRUG TREATMENT PROJECTS, BY
TREATMENT MODALITY

<u>Modality</u>	<u>Cost Per Client Year^a</u> <u>(1974 Dollars)</u>	<u>Cost Per Client^a</u> <u>(1974 Dollars)</u>
Drug-Free Residential Community	\$6,254 ^b	\$1,813 ^g
Outpatient Abstinence Clinic	\$1,278 ^c	\$ 592 ^h
Day-Care, Drug- Free Project	\$2,750 ^d	not available
Outpatient Methadone Treatment Center	\$1,300-\$2,100 ^e	\$ 515 ⁱ
Residential Methadone Maintenance Project	\$5,135 ^f	\$1,000 ^f

^aCosts per client year and costs per client not necessarily comparable because they come from two sources, the first from SAODAP, the second from Booz Allen. In the second source, 1973 dollars are inflated to 1974 dollars using the GNP implicit deflators for purchase of all goods and services by state and local governments.

^bDrug-Free Residential Communities are modeled after Synanon, Daytop, and Phoenix House, therapeutic communities (TC) which are communal, residential, and drug-free. They attempt behavior modification in a strict and highly structured atmosphere. The typical activity has a capacity of 30 clients. Staff includes an administrator, secretary, one in-house resident counselor and eight other counselors; personnel accounts for 63 percent of the total budget. Other budget items include psychiatric consultants (3 hours/week @ \$40/hour), 3 percent; travel for staff and clients, 2 percent; equipment, 4 percent; medical intake exams @ \$75/exam, 2 percent; utilities and communications, 3 percent; rent and renovation, 7 percent; food (\$2.20/client/day), 13 percent; training and lab testing services, 3 percent.

^cThe typical outpatient abstinence clinic is designed to treat 200 patients and is open seven days a week, eight hours a day, with an average of three visits per week per client. No medication will be dispensed in this unit. Because polydrug abusers attend the clinic, professional counseling is especially necessary. Staff includes an administrator, secretary, clerk typist, half-time psychiatrist, a clinical psychologist, psychiatric social worker, vocational rehabilitation specialist and six counselors. Personnel costs account for 64 percent of the total budget. Other budget items include medical consultants, 2 percent; staff and client travel, 2 percent; equipment, 2 percent; intake medical exams @\$75/exam, 10 percent; utilities and communications, 1 percent; rent, 4 percent; supplies, 3 percent; training, 1 percent; and lab services (\$2.50 per urine), 13 percent.

^dThe typical day-care drug-free projects treat 40 clients and operate six days a week for 10 hours per day. It is a structured but non-residential setting geared to redirecting life, emphasizing employment or education for employment. Activities include individual counseling and encounter group therapy three times a week, daily vocational readiness seminars with family therapy and individual vocational counseling as needed. Each client has a job assignment, for example, food preparation. Enrollment in educational or job training programs or employment begins typically within 90 days. At that time, the client participates in weekly groups and individual counseling as needed until satisfactory adjustment to the community has been made. The costs of clients lunches, therapy, family counseling, and educational and vocational services are included; the costs of services provided by community health and legal aid programs to which the clients may be referred are not. Staff includes an administrator, secretary, three counselors and one vocational rehabilitation specialist. Personnel costs account for 67 percent of the total budget. Other costs are medical consultants (4 hours per month), 1 percent; local travel for clients, 1 percent; equipment, 4 percent; intake medical exams which are contracted at \$75 per exam, 5 percent; utilities and communications, 3 percent; rent, 6 percent; food, 8 percent; lab services, 6 percent.

^eRange in cost is due to economies of scale. The most costly services 100 clients; the other 300. Both centers are open seven days a week. Staffing patterns satisfy FDA regulations and shares of budget items are as follows:

300 Clients		100 Clients	
<u>Item</u>	<u>Share of Budget</u>	<u>Item</u>	<u>Share of Budget</u>
Personnel			
2 administrators		2 administrators	
secretary		secretary	
clerk typist		clerk typist	
1/2 time doctor		doctor	
4 nurses	71%	6 nurses	65%
1/2 time vocational specialist		vocational specialist	
4 counselors		10 counselors	
psychiatric consultants	2%	psychiatric consultants	3%
travel	1%	travel	1%
equipment	1%	equipment	2%
medical exams	6%	medical exams	10%
communications and utilities	1%	communications and utilities	1%
rent	4%	rent	3%
supplies	3%	supplies	3%
training and lab services	11%	training and lab services	11%

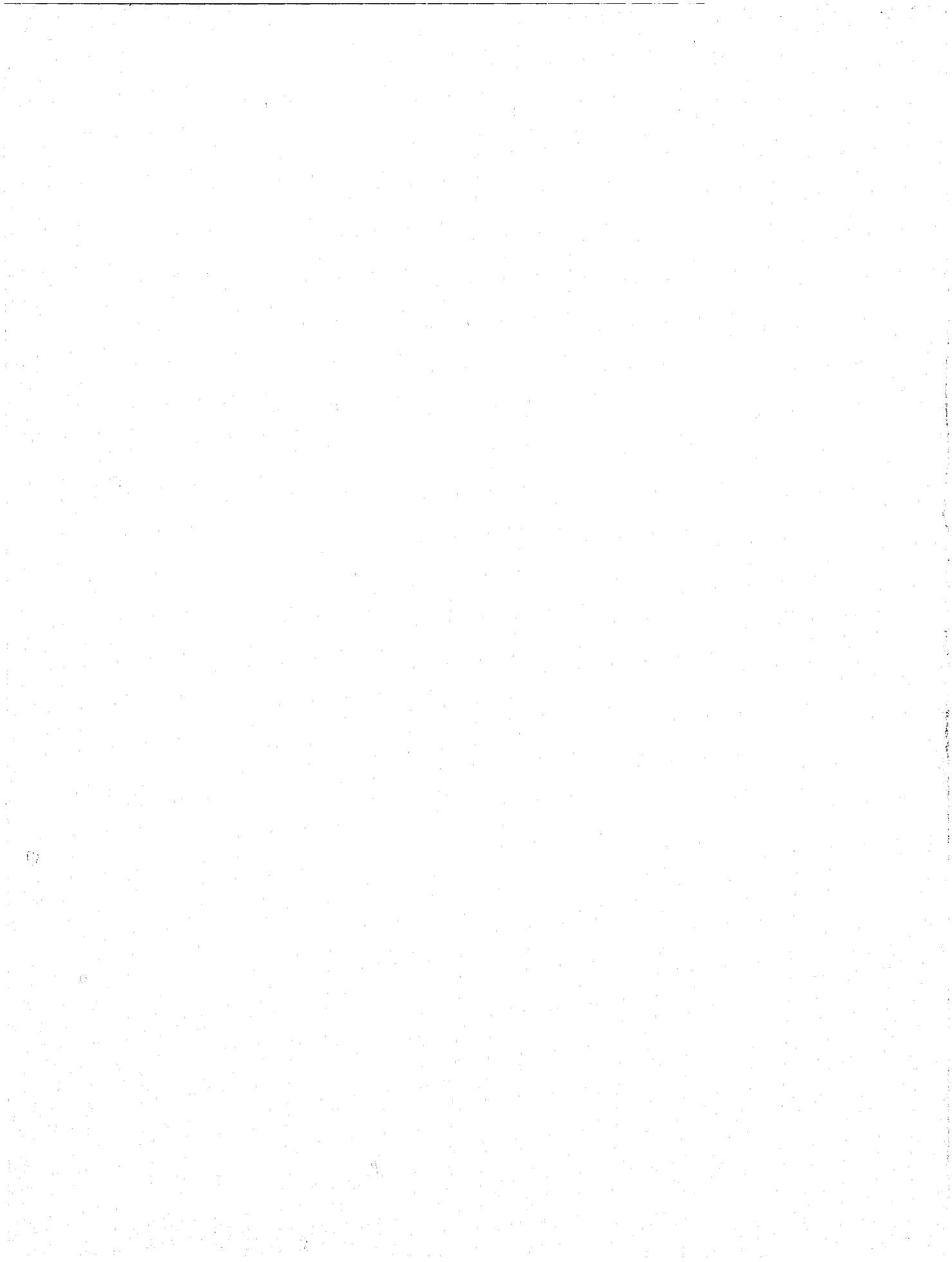
^f Residential methadone maintenance, unlike the drug-free community is geared for fairly rapid turnover; after an average of five weeks the client is back in the community while continuing in an outpatient methadone clinic.

The typical residential program is designed for 48 clients. It operates seven days a week, 24 hours a day and provides detoxification, maintenance, individual and group therapy, family counseling and vocational services on site. Each client has a job assignment, for example, housekeeping. Emergency medical services are available, but the initial physical exam will be contracted out at \$75 per exam. Needed legal services are referred to a community legal aid agency and are not covered in this budget. Within a month to six weeks of employment, each maintenance client returns to the community to live and receives methadone from the clinic as an outpatient. The staff includes an administrator, secretary, two nurses, one full-time the other one day a week, three counselors, and one vocational specialist. Personnel costs account for 59 percent of the budget. Additional items are as follows: 4 hours per week for medical consultants, 2 percent; travel and training, 1 percent; equipment, 5 percent; medical exams @ \$75 each, 2 percent; utilities and communications, 3 percent; rent and renovation, 9 percent; lab services 3 percent; food @ \$2.20/client/day, 16 percent.

^gAs defined in footnote^b above and similar to it in the structure of the budget. Based upon survey of drug-free residential communities in Baltimore, Charleston, Chicago, Gary, Watts (Los Angeles), Miami, New Orleans, San Francisco, and South Alameda County, California.

^hAs defined in footnote^c above and similar to it in budget structure. Based on survey of outpatient abstinence clinics in cities listed in footnote^g above.

ⁱAs defined in footnote^e above and most similar to budget structure of center for 300 clients. Based upon survey of outpatient methadone centers listed in footnote^g above.



APPENDIX A *

SIGNIFICANT EVENTS IN THE HISTORY OF BAIL REFORM

- 1275 Statute of Westminster (England) specifies which offenses are bailable and provides penalties for corrupt bail administration.
- 1689 English Bill of Rights forbids excessive bail.
- 1789 Judiciary Act of 1789 provides for absolute right to bail except in capital cases. Similar provisions in the constitutions of most states.
- 1791 Eighth Amendment to the U. S. Constitution forbids excessive bail.
- 1912 Leary v. U. S., 244 US 567 (1912) approves commercial bail practices in federal court proceedings.
- 1927 Arthur Lawton Beeley's Chicago Bail Study shows 20% of defendants unable to post bond.¹
- 1939 Grand Jury Investigation of New York City Bondsmen is the first of four such full scale grand jury investigations, 1939-1960.
- 1951 Stack v. Boyle, 342 US 1 (1951) affirms that sole purpose of bail is to assure appearance in court.
- 1954 Caleb Foote's Study of Bail in Philadelphia shows those detained pretrial are more often convicted and if convicted, more often given sentences of 2 1/2 years or more.²
- 1957 Caleb Foote's Study of Bail in New York City documents problems similar to those found in Philadelphia.³
- California Statute authorizes, but does not require, use of police citations for release of misdemeanor arrestees.⁴
- 1960 Bandy v. U. S., 81 S. Ct. 197-8 (1960) Justice Douglas discusses "excessive bail" finding that defendants too poor to post bail are denied equal protection under law.

* Appendix A was prepared by Ann M. Watkins.

¹The Bail System in Chicago, Chicago: University of Chicago Press, 1927, reprinted in 1966.

²"Compelling Appearance in Court: Administration of Bail in Philadelphia", University of Pennsylvania Law Review, 102 (1954), 1031-79.

³"A Study of the Administration of Bail in New York City", University of Pennsylvania Law Review, 106 (1958), 685-730.

⁴Act of July 8, 1957, Ch. 2147, 36 (1957) Cal. Stats. 3808, (repealed, 1969),

- 1961 Vera Foundation¹ Begins Manhattan Bail Project to assist defendants too poor to post bail. Later Project promotes general use of own recognizance (OR) release.
- 1963 Pannell v. U. S., 320 F 2d. 698, 701 (D. C. Cir. 1963) finds bondsmen, not court, are setting bail collateral requirement.
- Allen Committee's Report affirms Beeley and Foote studies. Finds and documents uneven use of OR among federal court systems.²
- Illinois Initiates 10% Bail Deposit Plan in response to faults of Chicago's commercial bail system.
- Manhattan Bail Project Becomes Model for similar projects in St. Louis, Chicago, Tulsa and Nassau County. Replication of Vera model has been repeated in other cities.
- 1964 National Conference on Bail and Criminal Justice, Freed and Wald's Bail in the United States is conference's working paper.³
- Manhattan Bail Project Institutionalized in the New York City Office of Probation.
- Second National Bail Conference.
- 1966 Federal Bail Reform Act passage follows hearings in 1964 - 65 of Senate Judiciary Committee, Subcommittee on Constitutional Rights. Act establishes OR as presumptive form of release in the Federal system, calls for conditional release where necessary, allows use of money bail only when non-monetary forms of pretrial release are inadequate to assure appearance in court. Several states have revised bail laws along similar lines.
- 1967 President's Committee on Law Enforcement and Administration of Justice finds too many detained pretrial because of poverty, not facts pertinent to risk of flight.⁴
- 1968 American Bar Association Issues Standard Relating to Pretrial Release principles of the Federal Bail Reform Act.

¹Now Vera Institute of Justice.

²Attorney General's Committee on Poverty and the Administration of Federal Criminal Justice, Washington, D. C.: Government Printing Office 1963.

³Daniel J. Freed and Patricia M. Wald, Bail in the United States: 1964, Washington, D. C.: U. S. Department of Justice and Vera Foundation 1964.

⁴The Challenge of Crime in a Free Society, Washington, D. C.: Government Printing Office, 1967.

⁵New York; Institute of Judicial Administration, 1968.

- 1969 U. S. v. Leathers, 412 F. 2d. 169-172 Court affirms Bail Reform Act in giving priority to non-financial forms of release.
- 1970 LEAA's Grants initiate or bolster existing pretrial release projects.
- California Penal Code §853.6 (West 1970) Requires police agencies to investigate the possible use of field or stationhouse citations for each misdemeanor arrestee. California model, with variations, since implemented in other jurisdictions.
- D. C. Bail Agency Reorganization provides for conditional release supervision.
- 1971 Preventive Detention becomes law in the District of Columbia.
- 1972 National Association of Pretrial Service Agencies is established.
- National Advisory Commission on Criminal Justice Standards and Goals advocates implementation of principles of Federal Bail Reform Act in each criminal justice jurisdiction.¹
- Office of Economic Opportunity Report on Bail Projects is critical of practices and progress.²
- 1974 Title II of the Speedy Trial Act of 1974 authorizes establishment of ten demonstration pretrial services agencies to serve defendants under jurisdiction of Federal courts.
- Kentucky Statute declares that "[i]t shall be unlawful for any person to engage in the business of bail bondsmen" or otherwise furnish bail or act as surety for compensation.³

¹Corrections, Washington, D. C.: Government Printing Office 1973, pp. 98-140.

²Hank Goldman, Devra Bloom and Carolyn Worrell, The Pretrial Release Program, Washington, D. C.: Office of Planning, Research and Evaluation, Office of Economic Opportunity, 1973.

³Commonwealth of Kentucky, General Assembly, House Bill No. 254, February 4, 1976:

APPENDIX B *

TYOLOGY OF COSTS

Administrators and planners, in satisfying the demands of an annual budgetary process, are frequently forced to consider and to justify their programs in terms of their budgetary costs alone. Therefore the following types of costs are often neglected in budgetary debate and in program analysis:

- The costs of goods and services from actors outside the agency whose budget is being considered. (Example: Such actors may include individuals as well as private or governmental agencies. Specific examples of measures of the value of their goods and services are: the cost of donated facilities and equipment for a halfway house, the value [imputed cost] of volunteer labor in a probation department, or the value to a bail agency of diagnostic consultation.)
- Costs incurred by society as a result of a given action or inaction. (Example: Incarcerating people convicted of a crime has been assumed to reduce the risk of danger to society. If society chooses to release some individuals rather than placing them in institutions, it presumably agrees to assume a greater risk of crime. The expected value associated with this risk represents a cost to society.)
- Full costs of support or administrative activities that do not benefit a "clientele" directly, but are necessary to the provision of direct services. (Example: The accounting department for a corrections agency has no direct relation to a person in pretrial release status, yet it may manage the accounts for pretrial release activities. Likewise, the manager of the accounting department may never prepare data on pretrial activities, yet is accountable for the work of those who do.)
- Costs incurred by individuals as a result of their participation (whether voluntary or involuntary) in a given activity. (Example: If one participates in a diversion activity, he or she may be losing the right to a speedy trial. It is assumed that this loss will have a value to the individual, and will in this sense represent a "cost" of the diversion activity.)

*This Appendix was written as a guide for all Standards and Goals Project reports by Susan Weisberg and Virginia B. Wright (section on Opportunity Costs).

In the budgetary process of criminal justice agencies, it may not be possible to consider all these costs routinely, but they are within the proper purview of economic analysis. Ideally, familiarity with them could open budgetary debate to consideration of the full range of program costs.

For the Standards and Goals Project reports, the kinds of costs described above have been incorporated into a cost typology which can be used for analyzing the resource implications of all criminal justice activities. Types of costs within this typology are described and compared in the paragraphs that follow.

CRIMINAL JUSTICE SYSTEM COSTS

Criminal justice system costs include direct outlays for, or the imputed value of, goods and services provided by:

- Law enforcement agencies;
- Courts;
- Legal service agencies, bureaus or firms;
- Other agencies, organizations or individuals whose stated mission could not be carried out if there were no crime;
- Activities of organizational units or individuals financed by any of the above.

The criminal justice system thus is defined to comprise the activities and agencies listed above.

Criminal justice system costs may be further subdivided in the following way:

- Public Expenditures -- direct outlays for, or the imputed value of, goods and services provided or financed by governmental agencies or units.¹
- Private Expenditures -- direct outlays for, or the imputed value of, goods and services provided or financed by non-governmental agencies or units.²

¹There will be cases in which goods or services are financed through governmental as well as private sources. The ratio of such financing would determine whether they were classified as "private" or "public" expenditures.

²Ibid.

EXTERNAL COSTS

External costs include direct outlays for, or the imputed value of, goods and services provided by all agencies, organizations or individuals external to the criminal justice system defined above. External costs, also, may be further subdivided into:

- Public Expenditures -- direct outlays for, or the imputed value of, goods and services provided or financed by governmental agencies or units.¹ (Examples would include: welfare, health and mental health departments or facilities; employment and training programs; public schools and departments of education.)
- Private Expenditures -- direct outlays for, or the imputed value of, goods and services provided for or financed by non-governmental agencies or units.¹ (Examples might include private mental health practitioners [not paid under government contract].)

The concept of external costs is a valuable one in terms of several program areas assessed by the Standards and Goals Project. Pretrial services and diversion programs, for example, may draw heavily upon the resources of agencies outside the criminal justice system in serving defendants and the courts. On the other hand, assessing the cost of arrest relative to the cost of citation activities requires little reliance on the concept of external cost. Such assessment focuses on the span of activities that mark a person's entry to the criminal justice system and precede a first court appearance. If a person were incarcerated prior to a first court appearance, and were provided services from a non-criminal justice source, external costs would arise. However, the overwhelming norm is that resources involved at that stage are solely criminal justice system resources.

DIRECT AND INDIRECT COSTS

The following types of costs apply to both criminal justice and external costs when a specific "cost objective" is sought, in this case, the cost of an activity such as citation, own recognizance release, diversion and so forth.

¹See footnote 1 on previous page.

A fairly simple way to view direct costs is to consider them as including personnel expenditures and others directly associated with the provision of a specific service to a specific client. For example, the salary of a patrol officer issuing citations to specific individuals would be considered a direct cost of the citation activity. Likewise, transportation costs incurred in the provision of that service would be considered direct costs.

A government memorandum widely used by states and localities in claiming federal reimbursement for direct costs defines them as "those [costs] that can be identified specifically with a particular cost objective". The memorandum goes on to identify typical direct costs, which include:

- Compensation of employees for the time and effort devoted specifically to the execution of [the cost objective];
- Cost of materials acquired, consumed or expended specifically for the purpose of the [cost objective];
- Equipment and other approved capital expenditures;
- Other items of expense incurred specifically to carry-out the [cost objective].¹

Indirect costs, according to the standard federal government definition, include those "(a) incurred for a common or joint purpose benefiting more than one cost objective, and (b) not readily assignable to the cost objectives specifically benefited, without effort disproportionate to the results achieved".²

In terms of this analysis, point (a) above includes expenditures for items associated with more than one activity, where the specific proportion devoted to each is not readily identifiable. These may include administrative costs (sometimes known as central service costs). For example, salaries of the executive officer and planning staff of, or data processing costs of, a probation department sponsoring diversion and other activities, or the same types of expenditures for an umbrella agency housing corrections as well as other state and local agencies.

¹General Services Administration, Office of Federal Management Policy, "Federal Management Circular 74-4, Attachment A", (Washington, D. C.: Government Printing Office, July 18, 1974), p. 4.

²Ibid.

Point (b) above refers to expenditures that under the normal definition would be direct costs but that are more practically treated as indirect costs. To understand this, one must recognize that the goal of a cost allocation process is to arrive at an accurate reflection of the total cost of an activity. Whether a particular cost should be considered direct or indirect can be evaluated in terms of this goal. An example can be used to illustrate the point: A police captain devoting full time to a citation activity is one out of a total of 100 captains in the department. Each of the remaining 99 is responsible for a diverse set of activities (including citation). While the salary of the "citation" captain could be considered a direct cost of that activity, the cost computations involved in such a procedure make it more practical to consider this salary along with those of the remaining 99 captains, and to treat the sum as a pool of indirect costs. Total cost of the citation activity would be affected only minimally, and the cost allocation process would be simplified.

For relatively self-contained activities analyzed by the Standards and Goals Project, such as correctional institutions, most halfway houses, and diversion projects, indirect costs do not play a large role. Most expenditures for these activities are readily assignable to the "cost objective", or activity, in question. However, other activities such as traditional arrest and the recommended citation alternative normally occur under the same budgetary auspices -- a police department -- and may even be carried out by the same individual -- a patrol officer. Thus, the assignment of both direct and indirect cost is more complex for these activities than for others treated in Standards and Goals Project analyses.

It is important to emphasize that identifying direct costs of a particular activity and indirect costs allocable to that activity are simply means of arriving at an accurate picture of the activity's total costs.

Ideally, to find the total cost of an activity, one would:

- Find all direct costs (actually, the proportion of all direct costs) assignable to the activity;
- Assign allocable indirect costs to the activity, usually on a basis that bears some relation to the proportion of direct costs assigned.

An alternate approach identifies the major line staff resource involved in an activity then further identifies all departmental or other costs associated with using that resource. (Example of such resources might include: "pretrial services officer" for OR or conditional release, a patrol officer for citation.) The resource itself then becomes a proxy for total cost. In its most basic form, this approach involves dividing full departmental and other applicable costs by the number of "major line staff resources" available. The result is a "loaded" or "fully burdened" cost for the resources.

OPPORTUNITY COSTS

In addition to criminal justice system and external costs described above, another type of cost is considered in this report.

Opportunity cost is a measure of the cost that results from the fact that when one activity is undertaken another activity must be foregone.

Opportunity cost can be viewed from many different levels of resource aggregation. That is, there is an opportunity cost associated with:

- A single resource which could be used in different ways (such as a person who can hold different jobs);
- A set of resources which could be used in alternative pre-trial activities (such as \$10,000 for pre-trial detention or release activities);
- A set of resources which could be used in alternative criminal justice program areas (such as educational programs for pre-trial and post-adjudication inmates);
- A set of resources which could be used in alternative public activities (such as government doctors for criminal justice or mental health programs);
- A set of resources which could be used in public or private activities (such as \$10 million in loans to build a correctional institution or private homes).

From the perspective of a single resource which could be used in different ways, one measure of the opportunity cost of an inmate in pre-trial detention is the productivity of his labor that is foregone; or, the opportunity cost of using a person to teach inmates is the teaching (or other tasks) he or she might have performed elsewhere. At the level of alternative pre-trial activities, the opportunity cost of using a set of resources to perform one particular activity (for example, detaining accused persons) can be considered the result or product that could be obtained from using those same (or smaller) resources in other types of pre-trial activities (such as diversion or release on recognizance). At other levels of resource use suggested in the list above, individual pre-trial activities, or pre-trial activities as a group, can be compared to other criminal justice activities, other non-criminal justice governmental activities, or non-governmental activities.¹

¹As a concept which is derived from production theory and efficiency considerations, opportunity cost analysis focuses on the "alternative uses" or products from a given resource or set of resources. The related, but analytically distinct, concept of cost aversion, on the other hand, focuses on the "least cost alternative" for achieving a given product or set of products.

In all of these comparisons, if the opportunity cost (that is the product of the activity foregone) is greater than the product of the activity undertaken, there is a loss or "cost" to society above and beyond the types of costs described earlier. This loss to society is a social cost attributable to undertaking the activity whose productivity is lower. The question of how to define and measure productivity (or more important, relative productivity) becomes a major problem when the analysis moves from the level of individual resources to criminal justice activities whose "products" are differentially defined as deterrence, rehabilitation and so forth, by policy-makers and analysts.

For the cost analysis of comprehensive pretrial programs, the first two types of opportunity cost are explored in detail. Opportunity costs associated with the other levels of comparison identified above are treated in the summary report of the Standards and Goals Project.

ANALYSIS OF COSTS OF CRIMINAL JUSTICE ACTIVITIES

The typology of costs presented above is a foundation for the analysis presented in this report and in other program reports of the Standards and Goals Project. It is presented as a guide for analysts and planners considering the full costs of existing and contemplated criminal justice activities in their own jurisdictions.

It is beyond the scope of the Project's reports to treat all costs of all activities with the same amount of analytical and numerical precision. Both this report and the others therefore focus on:

- Analyzing costs of most immediate concern to criminal justice decision-makers (primarily public expenditures of the criminal justice system);
- Signaling (and analyzing to the extent possible) other types of costs that are likely to be most significant in calculating the full costs of particular criminal justice activities;
- Analyzing differences in the costs of current activities and the types of activities recommended in the Corrections report.

Factors affecting the cost of pretrial programs specifically are discussed in the body of this report.

APPENDIX C *

METHODOLOGICAL NOTE ON THE DERIVATION
OF SAMPLE AND MODEL BUDGETS USED IN
STANDARDS AND GOALS PROJECT REPORTS

For several different types of activities envisioned in the Standards of the Corrections Report (for example, drug and "DOL Model" diversion and halfway houses), sample budgets have been derived by the Standards and Goals Project staff. A sample budget is a set of estimated criminal justice system expenditures, by line item (staff salaries by position, fringe benefits facilities and so forth), for a type of activity suggested in the Corrections Report.

Included as criminal justice system expenditures are direct outlays for, or the imputed value of, goods and services provided by:

- Law enforcement agencies
- Courts
- Legal services agencies, bureaus or firms
- Other agencies, organizations or individuals whose stated mission could not be carried out if there were no crime
- Activities of organizational units or individuals financed by any of the above.

Estimates shown in a sample budget are derived from, but not necessarily identical with, budget or expenditure statistics from two or more existing activities which have characteristics similar to those advocated by the Corrections Report. Two estimates are provided for each line item --a "high average" and a "low average"--to reflect variation in the cost of approximately the same item (a staff person at a particular level [for example, a police patrolman] or 1,000 square feet of office space) for different parts of the country.

Procedures and assumptions used to derive the particular values shown in the several sample budgets presented in different Standards and Goals Project reports vary, depending on the types of statistical data which were available and the number of places for which such data could be obtained with the Project's time and resource constraints. Therefore more specific procedures and assumptions used in constructing each sample budget are discussed in the text accompanying it.

*This Appendix was written by Dr. Virginia B. Wright, former Research Director for the Standards and Goals Project.

For other activities envisioned in the Corrections Report, (such as a probation system which has separate procedures and personnel for providing services to the courts and probationers), there are no existing activities which approximate the recommended activity, or budget and expenditure data are so limited that it is not possible to derive a sample budget (as described above). In such cases, model budgets have been derived by the Standards and Goals Project staff. A model budget is also a set of estimated criminal justice expenditures, by line item, but it is not based on expenditure or budget estimates from existing activities. Instead, it is derived from more indirect sources, such as workload estimates for probation officer performing different kinds of services for different types of probationers, ratios of direct to indirect costs for governmental agencies, and so forth. As for the sample budgets, more specific procedures for deriving a particular model budget are discussed in the text which accompanies it.

APPENDIX D

SELECTED DATA

FIGURE 22

REPORTED INCOME OF JAIL INMATES AWAITING
TRIAL IN YEAR PRIOR TO INCARCERATION, 1972

<u>Income Range</u>	<u>Percent in Range</u>	<u>Midpoint in Range</u>	<u>Weighted Average Component</u>
\$0 - \$999	30.9	\$ 500	\$ 154.50
\$ 1,000 - \$1,999	15.7	\$ 1,500	\$ 235.50
\$ 2,000 - \$2,999	12.6	\$ 2,500	\$ 315.00
\$ 3,000 - \$3,999	10.0	\$ 3,500	\$ 350.00
\$ 4,000 - \$4,999	9.3	\$ 4,500	\$ 418.50
\$ 5,000 - \$5,999	6.7	\$ 5,500	\$ 368.50
\$ 6,000 - \$7,499	6.2	\$ 6,750	\$ 418.50
\$ 7,500 - \$9,999	4.4	\$ 8,750	\$ 385.00
\$10,000 - \$14,999	3.0	\$12,500	\$ 375.00
\$15,000 - Over	1.2	\$15,000 <u>b/</u>	\$ 180.00 <u>b/</u>
	<u>100.0</u>		\$ 3,200.50 (1971 dollars) <u>a/</u>
			\$ 3,851.38 (1974 dollars) <u>a/</u>

a/ The first weighted income estimate of \$3,200.50 (1971 dollars) is based on previous income reports of inmates in jail in mid-1972. Therefore the median point in time during which such income was received was probably in the last half of 1971. Other Standards and Goals Project cost estimates have been calculated for correctional activities taking place in calendar 1974. Associated with inmates in jail in mid-1974 would be previous income received mostly in 1973. However, an accurate foregone income estimate should measure not what a person received before he was incarcerated, but what he would have received had he not been incarcerated. Therefore, the GNP deflator used to bring the estimate of income received in 1971 up to income which would have been received in 1974 is 83.1 (the index for 1971 if 1974 = 100). This index is for all components of GNP, since inmates could have received income from public or private activities before incarceration.

b/ Because \$15,000 is counted as the bottom and top of its income range, this weighted average is slightly underestimated.

SOURCE: U. S. Department of Justice, Law Enforcement Assistance Administration, National Criminal Justice Information and Statistics Service, pre-publication statistics from the 1972 Survey of Inmates of Local Jails.

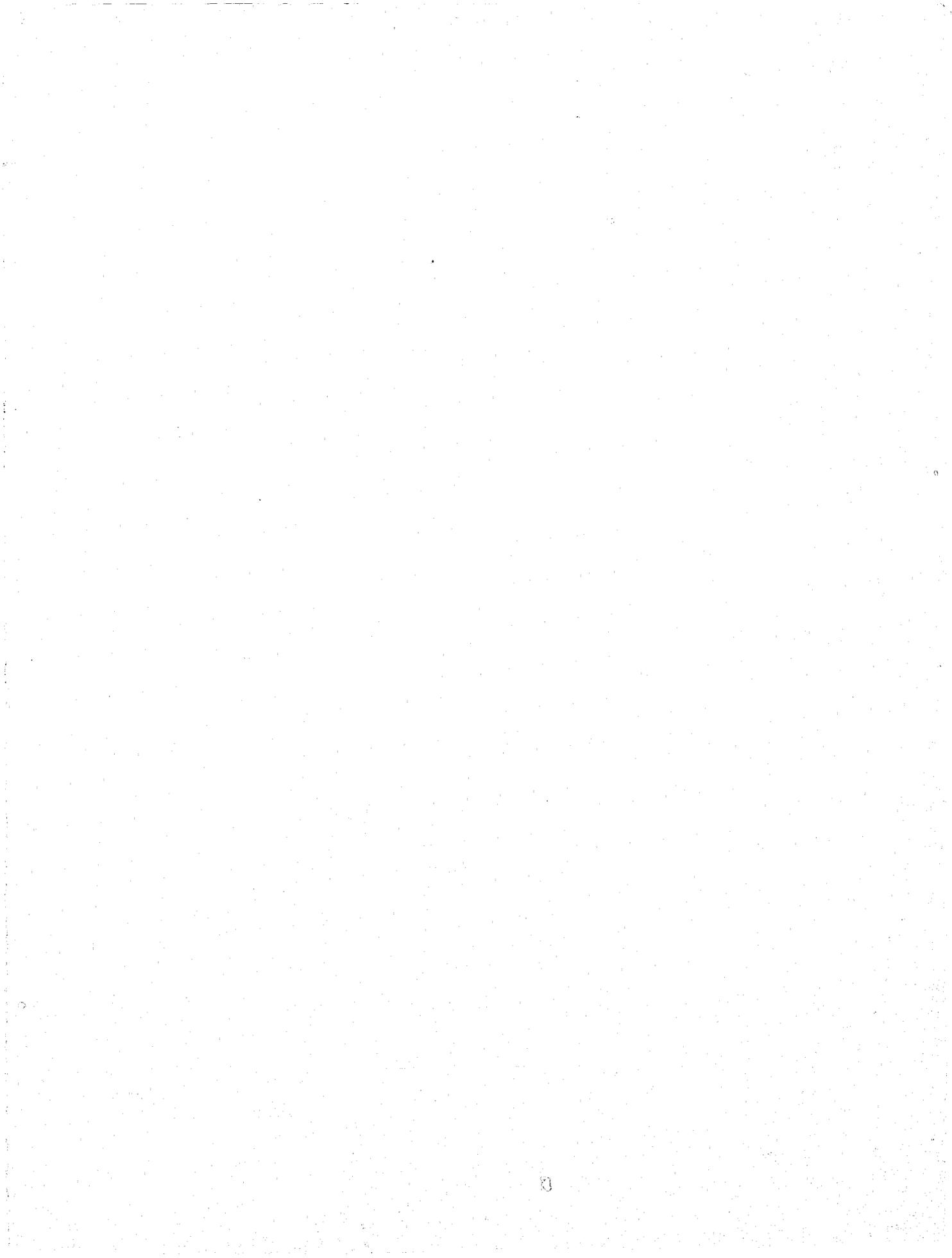


FIGURE 23

DISTRIBUTION OF LEAA BLOCK GRANTS FOR PRETRIAL
PROGRAMS FOR THE PERIOD 5/19/72 - 12/31/76

<u>Type of Programs Funded</u>	<u>Total Value of all Grants</u>	<u>No. of Grants</u>	<u>Avg. Value Per Grant</u>	<u>Number of Jurisdictions</u>	<u>Avg. Value of Grants Per City</u>	<u>Smallest Single Grant (City)</u>	<u>Largest Single Grant (City)</u>
A							
Single Pretrial Activity without PSI	\$ 6,539,404	83	\$ 78,788				
Single Pretrial Activity with PSI	<u>107,026</u>	<u>4</u>	<u>26,757</u>				
Total: Type A	<u>6,646,430</u>	<u>87</u>	<u>76,396</u>	71	\$ 93,612	\$ 3,330 (New Orleans)	\$ 663,429 (Phila., Pa.)
B							
Combination of Pretrial Activities without PSI, No. of Activities: 2	785,148	17	46,185				
3	3,606,708	10	360,671				
4	2,201,057	2	1,100,529				
Combination of Pretrial Activities with PSI, No. of Activities: 2	594,441	4	148,610				
3	32,484	1	32,484				
4	<u>0</u>	<u>0</u>	<u>0</u>				
Total: Type B	<u>7,219,838</u>	<u>34</u>	<u>212,348</u>	29	248,960	13,360 (Huntington, W Va)	2,996,694 (N.Y.C., N.Y.)
B'							
Pretrial Program, Unspecified Number of Activities	497,174	14	35,512	13	38,244	5,760 (Moultrie, Ga.)	115,000 (Dayton, O.)
C							
Combination Pre- and Post-Trial Activities without PSI, No. of Activities: 1	480,753	10	48,075				
2	2,842,249	7	406,036				
3	243,723	2	121,862				
4	91,020	2	45,510				
Combination Pre- and Post Trial Activities with PSI, No. of Activities: 1	82,704	4	20,676				
2	1,413,766	10	141,377				
3	<u>153,442</u>	<u>2</u>	<u>76,721</u>				
Total: Type C	<u>5,307,657</u>	<u>37</u>	<u>143,450</u>	28	189,559	7,500 (St. Chas., Mo.)	1,975,890 (N.Y.C., N. Y.)
N. A.	<u>162,647</u>	<u>5</u>	32,529		32,529	4,500 (Akron, O.)	64,292 (Wilmington, Del)
ALL PROGRAMS (Unduplicated)	19,833,746	177	112,055	125	158,670	3,330 (New Orleans)	2,996,694 (N.Y.C., N.Y.)

SOURCE: Department of Justice, Law Enforcement Assistance Administration, Grants Management Information System, printouts dated 2/27/76 showing block awards relating to Nominal Bond, Trial Avoidance & Pretrial Release; printout dated 3/2/76 showing Block Awards Related to Release on Recognizance. Data above represent an unduplicated count of block grants known to LEAA, but because the data are state-reported, they may not reflect all monies subgranted. Projects relating to juveniles only have been excluded from data.

FIGURE 24

ESTIMATION OF PRETRIAL AGENCY LINE STAFF
WORKING HOURS PER YEAR

TOTAL ANNUAL HOURS AVAILABLE:	52 weeks/year x 40 hours/week <u>2,080</u>
NON-CASE RELATED HOURS:	
Vacation:	12.5 days/year x 8 hours/day <u>100.0</u>
Personal and Sick Leave:	5 days/year x 8 hours/day <u>40</u>
Recurrent Training:	52 weeks/year x 1 hour/week <u>52</u>
Special Training (seminars, conventions, training programs):	2.5 days/year x 8 hours/day <u>20.0</u>
Personal and Administrative Time:	
Available hours per year	2,080
Subtotal of non-case related hours	<u>- 212</u>
Remaining available time	1,868 hours/year
Remaining available time in days	233.5 days/year (1,868 ÷ 8)
Personal and administrative	x .9 hours/day <u>210.2</u>
TOTAL NON-CASE RELATED HOURS:	422.2
TOTAL ANNUAL HOURS AVAILABLE:	2,080.0
NON-CASE RELATED HOURS:	<u>-422.2</u>
ANNUAL CASE-RELATED WORKING HOURS AVAILABLE:	1,657.8

FIGURE 25

DATA ON PRETRIAL SERVICES AGENCIES SERVING
STATE AND/OR LOCAL COURTS

STAFFING (108 Agencies Reporting)					
Number of Staff (Midpoint of Reported Range)	Full Time Staff		Part Time Staff		
	x Frequency (% of Agencies)	= Index (Weighted Value)	x Frequency (% of Agencies)	= Index (Weighted Value)	
0	5%	.00	46%	.00	
1.5	22	.33	18	.27	
3.5	13	.77	6	.21	
5.5	8	.72	11	.61	
7.5	6	.60	4	.30	
9.5	6	.57	3	.29	
13	6	.78	3	.39	
18	6	1.08	4	.72	
21 a/	5	1.05	6	1.26	
Weighted Average: a/		5.90		4.05	

"TYPICAL" STAFFING

Full time:		6
Part time:	4 (Estimated full time Equivalent)	2
Estimated Total:		8

"TYPICAL" ANNUAL BUDGET AND RESOURCE COSTS

Median (FY 1975) Budget:	\$72,000
Average (FY 1975) Budget:	\$148,000
Estimated Median Cost per Line Staff Year: b/	\$14,400
Estimated Average Cost per Line Staff Year: b/	\$29,600

a/ Weighted average contains a downward bias due to use of '21' as the upper bound on staffing. Agencies with greater than 21 staff would have included those in New York, Philadelphia, Washington, D. C. and Des Moines among others. New York, for example, had over 100 staff at the time of the survey, D. C. had over 50. Thus inclusion of more accurate figures for the few agencies at the high end of the range could have produced a significantly higher average figure.

b/ Very rough approximation of a loaded resource cost. "Line staff" refers to those providing direct service to defendants and excludes administrative, supervisory and clerical staff. It is assumed here that a total staff of 8 would be comprised of one administrator, one supervisor, one secretary or clerk-typist and 5 line staff. Thus total budget figures were divided by five to arrive at costs above. See also Appendix B for explanation of loaded resource costs.

SOURCE: "Assessment of the Present State of Knowledge Concerning Pretrial Release Programs", (Denver, Colo.: Work Product Four of the Phase I Evaluation of Pretrial Release Programs, National Center for State Courts, February 1976) draft report.

FIGURE 26

PRETRIAL AGENCIES ANALYZED FOR THIS STUDY
(* = Site Visits)

The agencies below were selected for this study because they were prototypical in their implementation of Corrections Standards in one or more ways, such as: comprehensiveness of the program (i.e., being involved in two or more pretrial activities), use of alternate staffing (e.g. students and regular full-time staff), integration of functions (such as common screening for release and diversion), and so forth. In addition, most of the projects serve primarily urban counties, and were selected because a jurisdiction of that type was to be used in estimating the model budget for a pretrial services agency in this study. Fully operational, rather than newly-established, agencies were chosen for the same reason. The availability of expenditures and budget data as well as statistics on program operations was an important consideration in selecting the agencies, and given the other criteria an attempt was also made to achieve geographic representativeness.

- * District of Columbia Bail Agency
Washington, D. c.
- * Fifth Judicial District Department of Court Services
Des Moines, Iowa
- * Hennepin County Pre-Trial Services
Minneapolis, Minnesota
- Marion County Pre-Trial Services
Indianapolis, Indiana
- * Mecklenburg County Pre-Trial Release
Charlotte, North Carolina
- Monroe County Pre-Trial Release Program, Inc.
Rochester, New York
- * Project Remand
St. Paul, Minnesota
- * San Francisco Bail Project
San Francisco, California
- * Santa Clara County Pretrial Release Program
Santa Clara County, California
- San Mateo County R.O.R. Project
Redwood City, California
- * Washtenaw County Pre-Trial Release Program
Ann Arbor, Michigan
- * Vera Institute of Justice Pretrial Service Agency
Brooklyn, New York
Staten Island, New York
Bronx, New York

Figure 27

Derivation of Estimates for Line Staff Cost by Function
(Full-Time Permanent and Student or Other Part-Time Staff)

	Estimates by Function					
	Post-Arrest Screening	Review- Screening	Monitoring (Divertees)	Notification/ Follow-Up	Low Supervision	All Functions
ANNUAL WORKLOAD <u>a/</u>	9616	2394	475	4293	300	-----
FULL-TIME PERMANENT LINE STAFF:						
Workload Capacity per Line Staff						
Year @1658 Annual Hours <u>a/</u>	2212	1604	1696	1148	157	-----
Number of Line Staff Required <u>a/</u>	4.3	1.5	.3	3.7	1.8	11.6
Cost <u>b/</u> :						
Average Low	\$ 39,145 ^{d/}	\$ 15,141 ^{e/}	\$ 2,588 ^{f/}	\$ 31,913 ^{f/}	\$ 18,935 ^{g/}	\$ 107,722
Average High	\$ 52,768 ^{d/}	\$ 19,882 ^{e/}	\$ 3,401 ^{f/}	\$ 41,932 ^{f/}	\$ 24,607 ^{g/}	\$ 142,590
STUDENT OR OTHER PART-TIME LINE STAFF:						
Workload Capacity per Line Staff						
Year @2080 Annual Hours <u>c/</u>	2765	2005	2120	1435	209	-----
Number of Line Staff Required	3.5	1.2	.2	3.0	1.4	9.3
Number of Line Staff Hours Required (#staff x 2080)	7280	2496	416	6240	2912	19,344
Cost:						
Low (\$3.50 per hour)						
With 15% Fringe Equivalent <u>h/</u>	\$ 29,302	\$ 10,046	\$ 1,674	\$ 25,116	\$ 11,721	\$ 77,859
No Benefits <u>h/</u>	\$ 25,480	\$ 8,736	\$ 1,456	\$ 21,840	\$ 10,192	\$ 67,704
High (\$4.50 per hour)						
With 15% Fringe Equivalent <u>h/</u>	\$ 37,674	\$ 12,917	\$ 2,153	\$ 29,328	\$ 15,070	\$ 97,142
No Benefits <u>h/</u>	\$ 32,760	\$ 11,232	\$ 1,872	\$ 28,080	\$ 13,104	\$ 87,048

a/ From Figure 9, Chapter III. Annual Hours per Full-time line staff year are shown in Figure 24 of this Appendix.

b/ Includes salaries and fringe benefits @ 15% of salary. All costs correspond to those in the model budget, Figure 11, Chapter III.

c/ Assumes: 1) that no allowance is made for the following: sick leave, personal leave, vacation, recurrent or special training;
2) that all time on the job is productive case-related time. To make adjustments by subtracting these items from available annual hours, See Figure 24 in this Appendix. Capacity figures for part-time staff were derived by multiplying full-time capacity figures by 1.25, which is the ratio of available part-time hours per staff year (2080) to available full-time hours per staff year (1658).

d/ Reflects a weighted average from the model budget, derived as follows:

- Screener salaries (4 @ \$7,984-\$10,804)	\$31,936 - \$93,216
- Case Aide Salary	+ 7,645 - 10,140
- Total	39,581 - 53,356
- Number of Staff	+ 5
- Weighted average/staff	\$ 7,916 - \$10,671

e/ Senior Screener	\$ 9,174 - \$11,887
Screener (.5 @ \$7,984 - \$10,804)	+ 3,992 - 5,402
Total	\$13,166 - \$17,289 + Fringe

f/ Based on Processors @ \$7,500 - \$9,255 + Fringe.

g/ Based on Counselors @ \$9,174 - \$11,887 + Fringe.

h/ "No Benefits" assumes that: 1) No allowance is made for sick leave, personal leave, vacation, recurrent or special training.
2) No employee-benefits such as health insurance are paid by the agency for part-time staff.
3) All time on the job is productive case-related time and therefore, that there are 2,080 available case-related working hours per part-time line staff year (40 hrs./wk. x 52 wks/yr.)

The "Fringe Equivalent" is a proxy for the value of benefits that may be provided to part-time staff in some agencies. For example, the wages paid to part-time staff may be equal to a pro-rated share of annual salary at a higher-level position or annual salary plus fringe at the position level occupied by the part-time staff; however, such staff may not receive specific benefits such as insurance or vacation days.

Figure 28

Cost Allocation Process Used to Estimate Average Cost Per Defendant
by Agency Function in Figure 14 ("Average High" Estimates Used to Demonstrate Methodology) a/

Cost Category	TOTAL	Distribution of "Average High" Costs by Agency Function					
		Post-Arrest Screening (1)	Review Screening (2)	Monitoring (3)	Notification (4)	Supervision	
						Low (5)	High (6)
Line Staff Salaries	\$140,324.00	\$ 48,279.82 ^b	\$ 16,963.18 ^b	\$ 2,956.50 ^c	\$ 36,463.50 ^c	\$ 21,396.60 ^d	\$ 14,264.40 ^d
Relevant Percentage Distributions	-----	[74.0]	[26.0]	[7.5]	[92.5]	[60.0]	[40.0]
Supervisory Salaries: Supervision Unit; Notification Subunit ^e	26,695.00	-----	-----	891.52	10,995.48	8,884.80	5,923.20
SUBTOTAL	\$167,019.00	\$ 48,279.82	\$ 16,963.18	\$ 3,848.02	\$ 47,458.98	\$ 30,281.40	\$ 20,187.60
Relevant Percentage Distribution	-----	[41.4]	[14.6]	[3.3]	[40.7]	-----	-----
Supervisory Salary: Screening & Notification Unit ^f	14,669.00	6,072.97	2,141.67	484.08	5,970.28	-----	-----
Support Salary: Supervision Unit	6,600.00	-----	-----	-----	-----	3,960.00	2,640.00
Support Salaries: Screening & Notification Unit	21,100.00	8,735.40	3,080.60	696.30	8,587.70	-----	-----
SUBTOTAL	\$209,388.00	\$ 63,088.19	\$ 22,185.45	\$ 5,028.40	\$ 62,016.96	\$ 34,241.40	\$ 22,827.60
Relevant Percentage Distribution	[100.0]	[30.1]	[10.6]	[2.4]	[29.6]	[16.4]	[10.9]
All Other Costs: Administration Unit Salaries, All Fringe, Other Direct Costs, Indirect & Administrative Costs	163,675.00	49,260.76	17,347.64	3,927.77	48,442.47	26,839.75	17,838.61
TOTAL COST ("Average High")	\$373,045.00	\$112,348.95	\$ 39,533.09	\$ 8,956.17	\$110,459.43	\$ 61,081.15	\$ 40,666.21
WORKLOAD (# of Defendants) by Function ^g	-----	9,616	2,394	475	4,293	300	100
"AVERAGE HIGH" Cost/Defendant By Function	-----	\$11.68	\$16.51	\$18.86	\$25.73	\$203.60	\$406.66
"AVERAGE LOW" Cost/Defendant By Function ^h	-----	\$ 8.76	\$12.49	\$14.60	\$19.89	\$157.97	\$315.95

a/ All costs are criminal justice system public expenditures and are from the model budget, Figure 11, on page 70.

b/ Total Screening subunit line salaries distributed according to ratio of actual staffing requirements for these two functions as shown in Figure 9, page 62.

c/ Total Notification subunit line salaries distribute among these functions on same basis as in b/ above.

d/ Total Supervision Unit line staff salaries distributed according to ratio of workloads for "low supervision" (3000 case hours) and "high supervision" (2000 case hours) as discussed in footnotes to Figure 9, page 62.

e/ Includes salary of Notification Supervisor distributed between column (3) and (4), and salary of Pretrial Supervisor for Supervision Unit distributed between columns (5) and (6).

f/ Includes salary of Pretrial Supervisor for Screening and Notification Unit distributed among columns (1) through (4).

g/ From Figure 9, page 62.

h/ Derived by same process as for "Average High" cost/defendant.

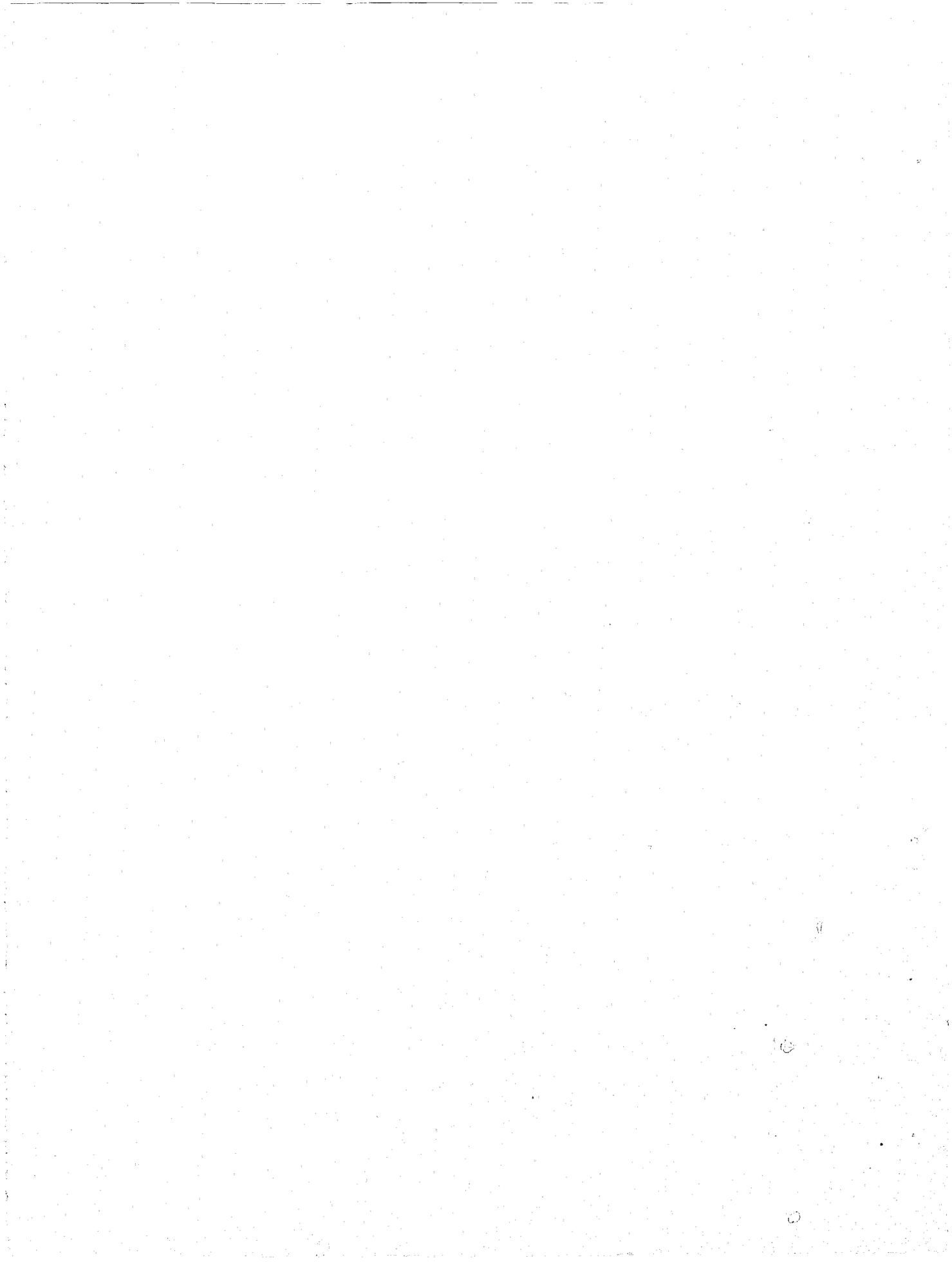


FIGURE 29

ESTIMATION OF COST PER LINE STAFF HOUR
FOR MODEL PRETRIAL SERVICES AGENCY SERVING
STATE/LOCAL COURTS (1974 Dollars)

Items	A G E N C Y O R G A N I Z A T I O N A L U N I T			Agency as a Whole
	Screening	Notifications	Supervision	
Annual Unit/Subunit Total Cost (Average Low) <u>a/</u>	\$115,133.54	\$ 92,761.43	\$ 78,987.03	\$ 286,882.00
Number of Line Staff	6	4	3	13
Total Annual Cost per Line Staff Worker (Average Low)	\$19,188.92	\$23,190.36	\$26,329.01	\$22,067.85
Annual [Case-related] Working <u>b/</u> Hours Available/Line Staff Worker	1,658	1,658	1,658	1,658
Total Cost per Line Staff Hour (Average Low)	\$11.57	\$13.97	\$15.88	\$ 13.13
Annual Unit/Subunit Total Cost (Average High) <u>c/</u>	\$151,882.04	\$119,415.60	\$101,747.36	\$373,045.00
Number of Line Staff	6	4	3	13
Total Annual Cost per Line Staff Worker (Average High)	\$25,313.67	\$29,853.90	\$33,915.79	\$28,695.77
Annual [Case-related] Working <u>b/</u> Hours Available/Line Staff Worker	1,658	1,658	1,658	1,658
Total Cost per Line Staff Hour (Average High)	\$15.27	\$18.01	\$20.46	\$17.31

a/ Represents sum of allocated costs for "Initial Screening" and "Review Screening" functions. Notifications subunit cost reflects sum of allocated costs for "monitoring" and "notification/follow-up" functions. Supervision unit cost reflects sum of allocated costs "low and high" Supervision functions.

b/ From Figure 24 in this Appendix.

c/ See a/ above.

Figure 30

Police Procedures, Estimated Time, and Cost, by Activity

Activity	Procedures	Estimated Resource Time per Defendant <u>b/</u>	Estimated Cost per Defendant <u>c/</u> (1974 Dollars)
Field Citation <u>a/</u>	Identification (interview) Record Check Issue Citation	15 minutes	\$2.60
Stationhouse Citation <u>a/</u>	Identification Record Check Transportation to Stationhouse Issue Citation	30 minutes	\$5.20
Diversion of Public Inebriates	Identification Record Check Transportation Other (Partial Booking, Alcohol Testing)	40 minutes	\$6.90
All Others <u>a/</u> (Traditional Arrest)	Identification Record Check Transportation Booking Justification for non-release	75 minutes	\$13.00

a/ Cost differences among these activities have been analyzed in another Standards and Goals Report, using estimates and a methodology similar to that shown above. Note, however, that booking, while included as a stationhouse citation procedure in the cited report, is not included here, since this report assumes post-booking release would be handled by the pretrial agency and the courts. See: Susan Weisberg: Cost Analysis of Correctional Standards: Alternatives to Arrest (Washington, D.C.: American Bar Association Correctional Economics Center, October 1975).

b/ Estimated amount of patrol resource time devoted to procedures identified. For example, if two patrol officers devote 10 minutes each to a particular procedure, total resource time is 20 minutes.

c/ Based on an estimated mean cost per patrol hour of \$10.40 in all cities of 10,000 population or over. See Weisberg, Cost Analysis: Alternatives to Arrest, p. A-11. Mean minimum cost as estimated and used in that report was \$9.44; mean maximum was \$11.35 per patrol hour for jurisdictions of the size cited.

APPENDIX E

FEDERAL PRETRIAL SERVICES AGENCIES INFORMATION

Materials in this section of the Appendix apply to the demonstration pretrial services agencies established under Title II of the Speedy Trial Act of 1974, P.L. 93-619. The text of Title II, which authorizes establishment of ten demonstration agencies, is shown as Figure 31 following this page. Based on sample data from the agencies, an attempt has been made to estimate annual justice system public expenditures for two types of fully operational (as opposed to demonstration) federal agencies. The two types include the Division of Probation and the Board of Trustees models authorized in the legislation. Costs are presented in 1974 dollars for comparability with estimates in Chapter III and with other Standards and Goals project reports. As indicated by the start dates of the ten federal projects (Figure 32), all are still in the early implementation stage. Estimates that project costs to a fully operational stage therefore, must be regarded as tentative.

In addition to sample budgets¹ and corresponding explanation of specific budget items, some data on demonstration project expenditures to date are provided. Congress authorized \$10 million for this effort in fiscal 1975.

Additional information on the federal demonstration effort, including the research design for its evaluation,² can be obtained from the Administrative Office of the United States Courts, Probation Division, Supreme Court Building, Washington, D.C. 20544.

¹For an explanation of the difference between sample and model budgets, consult Appendix C.

²Roger R. LeBouef, "Evaluation Strategy: Title II -- Speedy Trial Act" (Washington, D.C.: Division of Probation, Administrative Office of the United States Courts, November 17, 1975) mimeographed.

Figure 31

Title II

of

Speedy Trial Act of 1974

TITLE II—PRETRIAL SERVICES AGENCIES

Sec. 201. Chapter 207 of title 18, United States Code,² is amended by striking out section 3152 and inserting in lieu thereof the following new sections:

“§ 3152. Establishment of pretrial services agencies.

“The Director of the Administrative Office of the United States Courts shall establish, on a demonstration basis, in each of ten representative judicial districts (other than the District of Columbia), a pretrial services agency authorized to maintain effective supervision and control over, and to provide supportive services to, defendants released under this chapter. The districts in which such agencies are to be established shall be designated by the Chief Justice of the United States after consultation with the Attorney General, on the basis of such considerations as the number of criminal cases prosecuted annually in the district, the percentage of defendants in the district presently detained prior to trial, the incidence of crime charged against persons released pending trial under this chapter, and the availability of community resources to implement the conditions of release which may be imposed under this chapter.

“§ 3153. Organization of pretrial services agencies.

“(a) The powers of five pretrial services agencies shall be vested in the Division of Probation of the Administrative Office of the United States Courts. Such Division shall establish general policy for such agencies.

“(b)(1) The powers of each of the remaining five pretrial services agencies shall be vested in a Board of Trustees which shall consist of seven members. The Board of Trustees shall establish general policy for the agency.

“(2) Members of the Board of Trustees shall be appointed by the chief judge of the United States district court for the district in which such agency is established as follows:

“(A) one member, who shall be a United States district court judge;

“(B) one member, who shall be the United States attorney;

“(C) two members, who shall be members of the local bar active in the defense of criminal cases, and one of whom shall be a Federal public defender, if any;

“(D) one member, who shall be the chief probation officer; and

“(E) two members who shall be representatives of community organizations.

“(c) The term of office of a member of the Board of Trustees appointed pursuant to clauses (C) (other than a public defender) and (E) of subsection (b)(2) shall be three years. A vacancy in the Board shall be filled in the same manner as the original appointment. Any member appointed pursuant to clause (C) (other than a public defender) or (E) of subsection (b)(2) to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term.

2. 18 U.S.C.A. § 3141 et seq.
2 U.S. Cong. & Adm. News 74—26

"(d)(1) In each of the five demonstration districts in which pretrial service agencies are established pursuant to subsection (a) of this section, the pretrial service officer shall be a Federal probation officer of the district designated for this purpose by the Chief of the Division of Probation and shall be compensated at a rate not in excess of the rate prescribed for GS-16 by section 5332 of title 5, United States Code.

"(2) In each of the five remaining demonstration districts in which pretrial service agencies are established pursuant to subsection (b)(1) of this section, after reviewing the recommendations of the judges of the district court to be served by the agency, each such Board of Trustees shall appoint a chief pretrial service officer, who shall be compensated at a rate to be established by the chief judge of the court, but not in excess of the rate prescribed for GS-15 by section 5332 of title 5, United States Code.

"(3) The designated probation officer or the chief pretrial service officer, subject to the general policy established by the Division of Probation or the Board of Trustees, respectively, shall be responsible for the direction and supervision of the agency and may appoint and fix the compensation of such other personnel as may be necessary to staff such agency, and may appoint such experts and consultants as may be necessary, pursuant to section 3109 of title 5, United States Code. The compensation of such personnel so appointed shall be comparable to levels of compensation established under chapter 53 of title 5, United States Code.

§ 3154. Functions and powers of pretrial services agencies.

"Each pretrial services agency shall perform such of the following functions as the district court to be served may specify:

"(1) Collect, verify, and report promptly to the judicial officer information pertaining to the pretrial release of each person charged with an offense, and recommend appropriate release conditions for each such person, but such information as may be contained in the agency's files or presented in its report or which shall be divulged during the course of any hearing shall be used only for the purpose of a bail determination and shall otherwise be confidential. In their respective districts, the Division of Probation or the Board of Trustees shall issue regulations establishing policy on the release of agency files. Such regulations shall create an exception to the confidentiality requirement so that such information shall be available to members of the agency's staff and to qualified persons for purposes of research related to the administration of criminal justice. Such regulations may create an exception to the confidentiality requirement so that access to agency files will be permitted by agencies under contract pursuant to paragraph (4) of this section; to probation officers for the purpose of compiling a presentence report and in certain limited cases to law enforcement agencies for law enforcement purposes. In no case shall such information be admissible on the issue of guilt in any judicial proceeding, and in their respective districts, the Division of Probation or the Board of Trustees may permit such information to be used on the issue of guilt for a crime committed in the course of obtaining pretrial release.

"(2) Review and modify the reports and recommendations specified in paragraph (1) for persons seeking release pursuant to section 3146(e) or section 3147.

"(3) Supervise persons released into its custody under this chapter.

"(4) With the cooperation of the Administrative Office of the United States Courts, and with the approval of the Attorney General, operate or contract for the operation of appropriate facilities for the custody or care of persons released under this chapter including, but not limited to, residential halfway houses, addict and alcoholic treatment centers, and counseling services.

"(5) Inform the court of all apparent violations of pretrial release conditions or arrests of persons released to its custody or under its supervision and recommend appropriate modifications of release conditions.

"(6) Serve as coordinator for other local agencies which serve or are eligible to serve as custodians under this chapter and advise the court as to the eligibility, availability, and capacity of such agencies.

"(7) Assist persons released under this chapter in securing any necessary employment, medical, legal, or social services.

"(8) Prepare, in cooperation with the United States marshal and the United States attorney such pretrial detention reports as are required by the provisions of the Federal Rules of Criminal Procedure relating to the supervision of detention pending trial.

"(9) Perform such other functions as the court may, from time to time, assign.

"§ 3155. Report to Congress.

"(a) The Director of the Administrative Office of the United States Courts shall annually report to Congress on the accomplishments of the pretrial services agencies, with particular attention to (1) their effectiveness in reducing crime committed by persons released under this chapter; (2) their effectiveness in reducing the volume and cost of unnecessary pretrial detention; and (3) their effectiveness in improving the operation of this chapter. The Director shall include in his fourth annual report recommendations for any necessary modification of this chapter or expansion to other districts. Such report shall also compare the accomplishments of the pretrial services agencies operated by the Division of Probation with those operated by Boards of Trustees and with monetary bail or any other program generally used in State and Federal courts to guarantee presence at trial.

"(b) On or before the expiration of the forty-eighth-month period following July 1, 1975, the Director of the Administrative Office of the United States Courts shall file a comprehensive report with the Congress concerning the administration and operation of the amendments made by the Speedy Trial Act of 1974, including his views and recommendations with respect thereto.

"§ 3156. Definitions.

"(a) As used in sections 3146-3150 of this chapter—

"(1) The term 'judicial officer' means, unless otherwise indicated, any person or court authorized pursuant to section 3041 of this title, or the Federal Rules of Criminal Procedure, to bail or otherwise release a person before trial or sentencing or pending appeal in a court of the United States, and any judge of the Superior Court of the District of Columbia; and

"(2) The term 'offense' means any criminal offense, other than an offense triable by court-martial, military commission, provost court, or other military tribunal, which is in violation of an Act of Congress and is triable in any court established by Act of Congress.

"(b) As used in sections 3152-3155 of this chapter—

"(1) the term 'judicial officer' means, unless otherwise indicated, any person or court authorized pursuant to section 3041 of this title, or the Federal Rules of Criminal Procedure, to bail or otherwise release a person before trial or sentencing or pending appeal in a court of the United States, and

"(2) the term 'offense' means any Federal criminal offense which is in violation of any Act of Congress and is triable by any court established by Act of Congress (other than a petty offense as defined in section 1(3) of this title, or an offense triable by court-martial, military commission, provost court, or other military tribunal)."

Sec. 202. The analysis of chapter 207 of title 18, United States Code, is amended by striking out the last item and inserting in lieu thereof the following:

"3152. Establishment of Pretrial Services Agencies.

"3153. Organization of Pretrial Services Agencies.

"3154. Functions and Powers of Pretrial Services Agencies.

"3155. Report to Congress.

"3156. Definitions."

Sec. 203. For the purpose of carrying out the provisions of this title and the amendments made by this title there is hereby authorized to be appropriated for the fiscal year ending June 30, 1975, to remain available until expended, the sum of \$10,000,000.

Sec. 204. Section 604 of title 28, United States Code,³ is amended by striking out paragraphs (9) through (12) of subsection (a) and inserting in lieu thereof:

"(9) Establish pretrial services agencies pursuant to section 3152 of title 18, United States Code;

"(10) Purchase, exchange, transfer, distribute, and assign the custody of lawbooks, equipment, and supplies needed for the maintenance and operation of the courts, the Federal Judicial Center, the offices of the United States magistrates and commissioners, and the offices of pretrial services agencies;

"(11) Audit vouchers and accounts of the courts, the Federal Judicial Center, the pretrial service agencies, and their clerical and administrative personnel;

"(12) Provide accommodations for the courts, the Federal Judicial Center, the pretrial services agencies and their clerical and administrative personnel;

"(13) Perform such other duties as may be assigned to him by the Supreme Court or the Judicial Conference of the United States."

Approved Jan. 3, 1975.

3. 28 U.S.C.A. § 604.

FIGURE 32

FEDERAL PRETRIAL SERVICES AGENCIES

<u>DISTRICTS</u>	<u>OPERATION DATES</u>
District of Maryland (Baltimore)	January 19, 1976
Eastern District of Michigan (Detroit)	February 9, 1976
Western District of Missouri (Kansas City)	February 9, 1976
Eastern District of New York (Brooklyn)	February 9, 1976
Eastern District of Pennsylvania (Philadelphia)	February 9, 1976
Central District of California (Los Angeles)	February 23, 1976
Northern District of Georgia (Atlanta)	December 15, 1976
Northern District of Illinois (Chicago)	October 6, 1975
Southern District of New York (New York City)	February 10, 1976
Northern District of Texas (Dallas)	October 20, 1975

FIGURE 33

INITIAL OPERATING COSTS FOR FEDERAL PRETRIAL SERVICES AGENCIES:
 PERCENTAGE DIFFERENTIAL BETWEEN ALLOCATED BUDGET AMOUNT
 FOR FIRST YEAR OPERATIONS AND ANNUAL EXPENDITURES
 FOR FIRST 8 MONTHS a/
 (10 Demonstration Agencies)

	<u>Budget Allocation for First Year Operations (% of Total Budget)</u>	<u>Total Expenditures, All Projects, First 8 Months (% of Total Budget)</u>
Personnel Compensation	37.3	65.0
Personnel Benefits <u>b/</u>	<u>3.3</u>	<u>6.6</u>
Total Personnel:	40.6	71.6
Travel	2.5	4.5
Rent, Communications and Utilities <u>c/</u>	6.0	2.9
Printing and Reproduction	.2	.5
Other Services <u>d/</u>	48.3	14.3
Supplies and Materials <u>e/</u>	.3	1.0
Aquisition of Capital Assets <u>f/</u>	<u>2.1</u>	<u>5.2</u>
Total Other Direct Costs	<u>59.4</u>	<u>28.4</u>
TOTAL COSTS.....	100.0	100.0
TOTAL IN CURRENT DOLLARS.....(\$9,906,400).....(\$1,019,057)		

- a/ The data reflect an 8-month period during which successive projects were implemented. Thus, the oldest project among the ten had existed for eight months, but the newest had existed for only three. Average age for all projects was 4.7 months. Neither allocations nor expenditures for pre-implementation planning are reflected above. Basically, variation between the two columns of data is explained by the following: 1) personnel and equipment are in place, whereas 2) the purchase of service program, which will make available to defendants a range of human services, is not yet in full gear. Thus, personnel and equipment expenditures take up more than their "share" of the budget and "other services" takes up far less than its share.
- b/ Includes retirement, health and life insurance.
- c/ Includes telephone, postage, rental of copy equipment and rental of equipment not otherwise classified.
- d/ Includes the following items for which expenditures were incurred: Pre-employment investigation (99% of the expenditures); interpreters and contractual services not otherwise classified. Category also includes the following items for which no expenditures were incurred: research and development contracts, repair and maintenance of equipment, contractual stenographic and typing services.
- e/ Includes office supplies, data processing supplies and subscriptions.
- f/ Includes general office equipment, books and accessions.

FIGURE 34

NON-PERSONNEL DIRECT EXPENDITURES OF FEDERAL PRETRIAL
 SERVICES AGENCIES (Average Low and High Annual
 Rates Based on Actual Expenditures for All Projects as of May 31, 1976) a/

<u>Direct Cost Item</u> <u>b/</u>	<u>ACCOUNT (Current Dollars)</u>		<u>Annual Budget</u>
	<u>Average Low</u>	<u>Average High</u>	
Travel	\$ 7,445	\$ 18,291	\$ 25,000
Communications	3,462	12,114	59,000
Printing and Reproduction	968	2,927	2,000
Contractual Services <u>c/</u>	199	442	478,000 <u>d/</u>
Supplies and Materials	764	1,980	3,000
Acquisition of Capital Assets <u>e/</u>		\$ 2,319	\$ 20,640

a/ Annual rates were projected for each project based on the spending rate since the project's start-up date. Annual figures for the ten projects were then analyzed. Any "high" rate that far exceeded the next highest, and any "low" rate far below the next lowest, was excluded. Expenditures for all projects were then divided into high and low groups of equal size and the average for each group appears in the data above.

b/ See Figure 33 on the previous page for budget subclassifications.

c/ Excludes pre-employment investigations which accounted for total expenditures of \$144,206 among all projects.

d/ Would include substantive purchase of service program.

e/ One-time costs, actual yearly value.

FIGURE 35

SAMPLE BUDGET FOR AN OPERATIONAL
Federal Pretrial Services Agency
(Division of Probation Model)

Item a/	Amount (1974 Dollars)		Percent of Total Cost
	Average Low	Average High	
PERSONNEL SERVICES			
Wages and Salaries			
Chief Pretrial Services Officer (@ \$35,369 x 16%)	\$ 5,688	\$ 5,688	2.3
Supervising Pretrial Services Officer	20,771	22,439	8.9
Pretrial Officers (8 @ \$12,248 - \$16,880)	97,984	135,040	53.5
Clerk Stenographers (3 @ \$8,236 - \$9,803)	24,708	29,409	11.7
Total Wages and Salaries	149,151	192,576	(76.4)
Fringe Benefits @ 16%	23,864	30,812	12.2
TOTAL PERSONNEL SERVICES	\$173,015	\$223,388	(88.6)
OTHER DIRECT COSTS			
Travel	2,208	2,537	1.0
Supplies	1,979	2,684	1.1
Communications	2,272	2,757	1.1
Printing and Reproduction	918	2,775	1.1
Contract Services	6,903	8,372	3.3
Rent, Utilities and Maintenance	5,752	6,956	2.8
Equipment	1,989	1,989	.8
Other	477	661	.3
TOTAL OTHER DIRECT COSTS.....	22,498	28,731	(11.4)
ANNUAL CRIMINAL JUSTICE SYSTEM PUBLIC EXPENDITURES.....	\$195,513	\$252,119	(100.0)

a/ See accompanying text for explanation of specific budget items.

b/ Percentages may not add to subtotals and totals due to rounding; they reflect the distribution of costs shown in the average high budget and vary only slightly from those applicable to the average low.

FIGURE 36

SAMPLE BUDGET FOR AN OPERATIONAL FEDERAL
PRETRIAL SERVICES AGENCY
(BOARD OF TRUSTEE MODEL)

Items a/	Amount (1974 Dollars)		Percent of Total Cost b/
	Average Low	Average High	
PERSONNEL SERVICES:			
Wages and Salaries:			
Chief Pretrial Services Officer	22,439	25,464	10.9
Supervising Pretrial Services Officer	21,715	23,888	10.5
Pretrial Officers (7 @ \$12,011- \$13,401)	84,077	93,807	40.3
Clerk-Stenographers (3 @ \$7,083- \$9,475)	21,249	28,425	12.2
Total Wages and Salaries	149,480	171,584	(73.7)
Fringe Benefits @ 16%	23,917	27,453	11.8
TOTAL: Personnel Services	173,397	199,037	(85.5)
OTHER DIRECT COSTS:			
Travel	2,214	2,547	1.1
Supplies	1,944	2,637	1.1
Communications	2,232	2,709	1.2
Printing and Reproduction	900	2,232	1.0
Contract Services c/	11,763	14,211	6.1
Rent, Utilities and Maintenance	5,676	6,864	2.9
Equipment	2,003	2,003	.9
Other	468	648	.3
TOTAL: Other Direct Costs	27,200	33,851	(14.5)
ANNUAL CRIMINAL JUSTICE SYSTEM			
PUBLIC EXPENDITURES	\$200,597.....	\$232,888.....	(100.0)

a/ See accompanying text for explanation of specific budget items.

b/ Percentages may not add to subtotals due to rounding. They reflect the distribution of costs shown in the average high budget and vary only slightly from those applicable to the average low.

c/ Includes imputed value of board member time. See accompanying text.

SPECIFIC BUDGET ITEMS FOR OPERATIONAL FEDERAL PRETRIAL SERVICES AGENCIES --
DIVISION OF PROBATION MODEL

Contrasted with data presented in Figure 35, the sample budgets contain a set of estimates for non-personnel costs that are designed to reflect ongoing and stable project operations.¹ With the adjustments that are discussed below, the non-personnel costs shown in the model budgets are based on those found for a sample of probation departments and documented in a companion report of the Standards and Goals Project.²

Salaries and Wages reflect the actual costs for this item among the ten demonstration projects. Data were available on each authorized position and the corresponding salary that was paid for that position in each of the ten agencies. Wherever there was a difference in salary among two or more positions of the same type in a single agency, the average salary for that position was calculated. The salary levels were then arrayed for the ten agencies. The "average high" estimate for each position in the model budget is a mean based on the highest five salaries in the array and the "average low" is based on the remaining five salary levels.

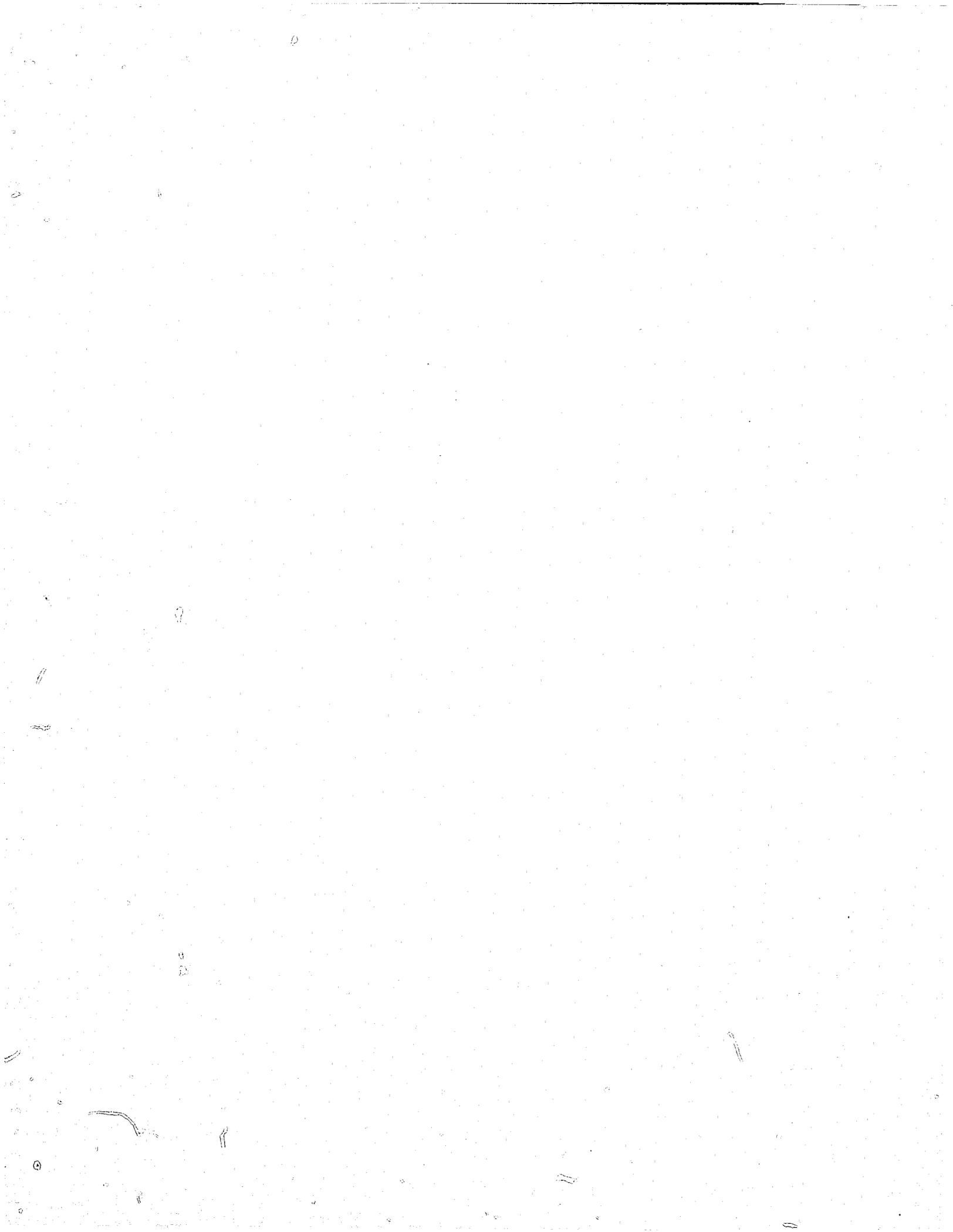
Fringe Benefits were estimated at the rate of 16% of salary in accordance with latest available data from the U.S. Civil Service Commission and the Office of Management and Budget. This rate reflects employer contributions to health, life and accident insurance, as well as worker's compensation and unemployment benefits, and retirement plans.³

Travel is based on a cost rate per non-support staff member. The range used here is \$241-\$277, an upward adjustment of 30% over that used in estimating such costs for state probation departments. This accounts for two factors: 1) nearly all travel, a significant component in Federal expenditures, was local, and 2) the Federal districts comprise in a significantly greater geographic area than do probation districts.

¹For an explanation of the difference between sample and model budgets, consult Appendix C.

²See Thalheimer, Cost Analysis: Probation, Restitution, and Community Service, Appendix A-2.

³"Changes in Compensation Structure of Federal Government and Private Industry, 1970-72," Summary from Supplementary Compensation in the PATC Industry Survey, Publication #419 (Washington, D.C.: Department of Labor, Bureau of Labor Statistics, 1973).



CONTINUED

2 OF 3

Supplies are based on the probation rate of \$216-\$293 per non-support staff member. The base rate of \$248-\$301 per non-support staff member was used in estimating communications costs which would cover telephone, postage and, in this case, minimal rental of copy equipment.

Printing and Reproduction costs reflect the actual range of expenditures among the ten demonstration projects. Annual cost for each project was extrapolated from the expenditures to date. The resulting average for all projects did not vary significantly from the total budgeted amount for this item when averaged across all projects. Thus, the actual expenditures at an annualized rate are shown in the sample budget. On a per staff basis, these would be \$100-\$248 per non-support staff member.

Contract Services would include all items shown for this classification in Figure 33 in this Appendix. It accounts for 48 percent of the actual budget allotment for the federal demonstration effort, and reflects the heavy reliance on purchase of service from ancillary agencies. For probation department estimates, even those in compliance with Corrections Standards, this item accounted for only a small portion of the total budget. That estimate has been raised substantially to a range of \$752-\$912 per non-support staff, which makes this the largest single "other direct cost" item. The relatively high amount shown in the sample federal budgets would also cover central service costs, including the costs of research and evaluation, which are being borne during the demonstration phase by the Administrative Office of the U.S. Courts.

Rent, Utilities and Maintenance are estimated on the basis of 110 square feet per staff member (total staff) at high and low average rates of \$5.20 and \$4.73 per square foot. Projects surveyed in this analysis fell within that cost range, which was found for probation departments generally.

Equipment Costs reflects the actual value of new office equipment (of average quality) purchased for each of the demonstration projects. Data were available on the furniture allocation and purchase price by type of staff member and by general office requirements. Figures in the sample budget reflect the annual cost of these purchases for each type of staff position shown. Equipment value was amortized using a 5-year straight line depreciation, which means that the annual cost of the equipment is 20% of the purchase price. This is the Internal Revenue Service allowable depreciation rate for non-debt financed capital investment. Equipment purchase prices by type of staff are: Administrative and Supervisory: \$803; Line: \$733; Clerical Support: \$429; and, General Office: \$1,992.

Other. The only data in the federal demonstration budget not counted above would be books and accessions, including law books. These

would be one-time costs, but an annual allowance has been made here to cover this item and any miscellaneous expenditures. The rate is one-half that used for probation departments. That rate covered special equipment purchases, but also included insurance and discretionary funds. The Federal rate than, per non-support staff member, is \$52-\$72.

SPECIFIC BUDGET ITEMS FOR OPERATIONAL FEDERAL PRETRIAL SERVICE AGENCIES --
BOARD OF TRUSTEES MODEL

All but two items in this budget were estimated using the procedures and/or rate described for the Division of Probation Model. The adjusted items include:

- Contract Services, where an imputed value for board members' time has been included.¹ This is quite properly considered a cost of the program, but could also be accounted for as an in-kind contribution, since payment for the trustees' time would be made by some agency other than the pretrial services agency. It is difficult to determine at this point what the actual workload would be for the seven trustees designated by statute. A conservative estimate would have each member devote 5 percent of his or her time, at an average cost of \$25,000 per year including salary only. For the seven board members, this would represent an annual cost to the program of \$8,750. However, only four of the board members are sure to be compensated by public expenditures of the criminal justice system. Possible exclusions would be the representatives of community organizations (2) and a member of the local bar. The value of the lawyer's time represents a private expenditure of the criminal justice system; the value of the others' time represents an external cost.² The average salary might also be higher than \$25,000 and no additional fringe or indirect costs have been estimated specifically for the board members. Donating five percent of their time would yield an annual expenditure of \$5,000. To acknowledge any variation a range of \$5,000-\$6,000 has been included in the sample budget to account for the trustees' contribution. This raises the contract services rate per non-support staff member to \$1,307-\$1,577.
- Travel Costs have been raised slightly to include board member travel and subsistence. Travel would still be local and subsistence costs minimal, thus an adjustment of only 2 percent over the previous rate has been used.

¹See §3153 of the authorization legislation (Figure 31) for composition of the board.

²See Appendix B for the typology of costs treated in this analysis.

APPENDIX F*

RESEARCH NEEDS AND DATA REQUIREMENTS

A study of this type, which relies on secondary data sources, is necessarily limited due to the inadequacies of available research and gaps between what has been done in the past and what is needed now. One of the most common problems facing such research efforts is a lack of comparable data among available sources. For example, many functions required for pretrial release activities appear identical -- defendants are interviewed, the information is verified and so forth. However, the number and types of defendants interviewed may vary widely, the staff conducting interviews may vary, the reported time required to complete even common functions may differ. Further, each program will vary because of the environment in which it operates; factors such as jurisdiction size, arrest rate and composition of the arrest population, facilities and their location, available criminal justice and non-criminal justice resources and so forth, will influence program costs. With comparable reporting, these differences and resulting cost variations could be identified.

Research into pretrial programs, especially from the economist's perspective, is beset by more than the usual constraints. The process in some ways resembles finding a breadcrumb and trying to describe the loaf that it came from. The bits of empirical research in this field have been valuable but they are too few. Most striking, but not unexpected, is the virtual absence of reliable cost information. Also in short supply are data with which to construct cost estimates applicable to an effective program. The following types of data are needed on a uniform basis:

- Time Studies clearly delineating the functions required to carry out pretrial activities and the average amount of productive time involved (for example, time required to interview defendants, to verify interview data, to negotiate and complete a referral, to notify a defendant of court appearance, etc.);
- Case Flow Data showing: the number and percentage of arrests excluded from release eligibility, number and percentage interviewed for release, number and percentage recommended, number and percentage released and appearing in court by type of release, number and percentage released and not appearing in court, with distinctions in failure-to-appear rates by such things as number of non-appearances relative to the total number required;

* This Appendix was written by Susan Weisberg.

- Evaluative Data on pretrial program operations that specify components of proven and questionable effectiveness, especially data that suggest which of several approaches is most effective (For example: how and when should defendants be notified of court proceedings to best assure their appearance; what is/are the best predictor(s) of appearance -- defendant characteristics, agency notification procedures, time between appearances?);
- Program Budget/Expenditures Information that provides detail on: all resources (budgetary and in-kind) allocated to or expended for 1) individual activities (for example, citation or unconditional release on recognizance) or 2) functions (for example, monitoring release conditions or notifying defendants of their court appearances);
- Output Data that correspond to program budget categories (for example, number of persons interviewed, number of completed verifications, number of notices processed, number of violation hearings conducted, and so forth);
- Detailed Staffing Information on organizations involved in pretrial activities including: number of board members or other resource personnel and percentage of their time devoted to pretrial activities; actual number of full-time and full-time equivalent line staff by function; and, line/supervisory/administrative/support staff ratios or actual distribution by function;
- Workload Capacity Estimates, the number of identical tasks that can be completed in a given time period by a single person (assuming maximum and normal efficiency), for example number of interviews per line staff-day, number of citations issued per patrol officer hour and so forth.

Many of the data needs above are related, but comparable data presented in any one of the related forms would be useful.

The methodology used in this study represents an attempt to resolve these problems. The following techniques have been used:

- Analysis of empirical data generated through local level or national research;
- Review of descriptive studies of pretrial release programs, to identify: 1) key functions performed by various types of agencies involved in pretrial release, and 2) types of staff performing the various functions;

- Review of evaluation efforts for projects or activities of any size to identify components of an effective program -- one that appears to assure appearance at trial;
- Collection and detailed analysis of line item budget and expenditure data for various pretrial projects, several operating in jurisdictions of the size analyzed in this report;¹
- In-person and telephone interviews with the directors of pretrial projects and with others doing research in this field;
- On-site visits to nine "prototypical" jurisdictions which had implemented two or more pretrial activities recommended in Corrections Standards;²
- Specification of all variables required to estimate cost;
- Estimation of cost based on the most complete and/or detailed data made available through the techniques cited.

A total of 380 separate measures was estimated to be required in order to derive reliable comparative costs for three situations:

- The situation prior to bail reform efforts in which money bail or jail were virtually the only pretrial options available to defendants;
- The "typical" current situation in which some, but not all, types of pretrial activities recommended in Corrections Standards would be operational in a given jurisdiction; and,
- The "recommended" situation in which all types of pretrial activities urged in the standards would be available and utilized.

Such an approach would have allowed both costs and benefits of a fairly comprehensive program to be estimated more accurately than tends to be done in current literature. Some data were collected on nearly all 380 measures, and much information was collected on many of the measures. On the whole, however, reliable data in sufficient quantities were not available, thus the accuracy of resulting estimates for the three analytically desirable situations would be questionable.

¹ See Chapter III.

² See Figure 26 for list of sites surveyed.

The availability of fairly detailed and comparable data on pretrial program operations will be critical to the quality of future research in this field.

A partial list of data items required for cost analysis of pretrial programs is presented in Figure 37 of this Appendix. The items are grouped into five categories:

- Defendant Flow Data
- Time Data
- Workload Data
- Unit Cost Data
- Other

None of the groupings is exhaustive, but all identified data items are now quantifiable to some degree (for example, such data may be available from one or more jurisdictions, but not from a sufficient number to allow for generalized conclusions about magnitude; or, data may have been collected on a national basis but not with sufficient detail). Several things about the items in Figure 37 should be noted:

- Defendant flow data uses "annual arrests" as a starting point, and subsequent measures are phrased in terms of percentage of arrests, thus:
 - the items emphasize that the relevant defendant flow starts at an earlier point than indicated in most reported data on pretrial release. (Such data normally begin with "number of interviews.");
 - there is a consistency in the measures listed here, though they may not, and need not, be normally presented in the same way (for example, a data item presented here is "percent of eligible arrests recommended for non-financial release", this would normally be presented as "percent of interviews recommended for non-financial release". As long as all interviews among the arrested population [including citation interviews] are accounted for in the latter item, there would be no difference in the magnitude of the resulting figure);
- Much of the data listed here is expressed in terms of an annual value, but any constant time period would be appropriate;
- Some specific data items have been consolidated in the listing, creating what would be essentially "cross-tabulations" to indicate how some of the items can be applied most usefully.

There is an additional consideration attached to the need for more and better information. Without specific definitions for each required data item and without specific instructions to those collecting data, resulting figures will not be accurate. The definitional questions and the training questions are issues that require the attention of both research and management.

FIGURE 37

PARTIAL LIST OF DATA ITEMS REQUIRED
FOR COST ANALYSIS OF PRETRIAL PROGRAMS

A. DEFENDANT FLOW DATA:

1. Number of annual adult arrests:
 - percent felony
 - percent misdemeanor
 - percent felony reduced to misdemeanor
2. Percent of arrests for victimless crimes
3. Percent of arrests made by:
 - municipal police
 - county police
 - other
4. Percent of arrests in which bail denied
5. Percent of arrests released on money bail at stationhouse
6. Percent of arrests eligible for (not excluded from) non-financial release
7. Percent of eligible arrests interviewed for non-financial release
8. Percent of eligible arrests recommended for non-financial release, by type of release recommended
9. Percent of eligible arrests not recommended for non-financial release, and released by court, by type of release recommended
10. Percent of arrests issued citations:
 - pre-booking, by location (field, stationhouse, jail)
 - post-booking, by location (stationhouse, jail)
11. Percent of arrests released on own recognizance
12. Percent of arrests released on non-financial conditions, by type and number of conditions imposed: (includes diversion: conditions in contemplation of case dismissal)
13. Percent of initial bail settings later reduced
14. Percent of arrests released on deposit bail
15. Percent of arrests released on money bail set by court (for which full cash and/or security is required)
16. Percent of bailed cases in which:
 - defendant posted full cash or security
 - friends or relatives of defendant posted full bail
 - commercial bondwriter posted bail
17. Percent of bail bonds forfeited
18. Percent of bail forfeitures in which payment was required by court
19. Percent of bail bond forfeitures paid within given time periods, e.g., within 10, 30, 60 or 90 days of failure to appear
20. Percent of diverted defendants returned to normal court processing
21. Percent of conditional releases resulting in petitions for hearings on violation of conditions
22. Percent of hearings petitions resulting in hearings

23. Percent of violations hearings resulting in:
 - no action
 - imposition of additional conditions
 - revocation of release
24. Percent of defendants appealing imposition of additional conditions or revocation of release
25. Percent of arrests held in custody until first court appearance only
26. Percent of arrests resulting in attrition or disposition at first appearance:
 - nolle prosee
 - dismissal
 - plea
27. Percent of arrests held in custody beyond first court appearance and released prior to case disposition, by type of release
28. Percent of defendants proceeding beyond first appearance who are detained until disposition
29. Percent of arrests proceeding beyond first appearance and resulting in non-trial dispositions:
 - dismissal
 - plea
30. Failure to appear:
 - by type of non-financial release
 - by recommendation/release status:
 - recommended and released
 - not recommended and released
 - by type of FTA (inadvertent, willful, fugitive)
 - by number of missed appearances out of total appearances required
 - by percent of defendants failing to appear (by number of appearances missed)
 - by percent of willful failures to appear by time on release
 - by index figures based on combinations of above measures
31. Percent of arrests in which bench warrants issued for failure to appear, by type of release
32. Percent of bench warrants quashed, by type of release
33. Percent of defendants willfully failing to appear and:
 - returned to court on that charge specifically
 - returned to court on that and/or other charges
34. Percent of bail FTA's apprehended by:
 - bondwriters
 - police
35. Percent of arrests prosecuted for failure to appear
36. Percent of arrests with record of previous willful FTA or release revocation
37. Percent of arrested population on probation or parole at time of arrest
38. Percent of arrests resulting in conviction and in which defendant was on probation or parole at time of arrest

B. TIME DATA:

39. Time allowed from apprehension to charge -- maximum pre-charge investigation time
40. Average time from arrest to first court appearance:
 - released defendants (citation or stationhouse bail)
 - defendants in custody
41. Average time from arrest to disposition for cases proceeding beyond first appearance:
 - by type of offense (felony, misdemeanor)
 - by type of disposition (trial, non-trial)
 - by bail status at disposition (released, in custody)

42. Average length of time between failure to appear of bailed defendants and payment for bail forfeiture by bondwriters
43. Time periods allowed by court for "installment" payments on forfeited bail
44. Average time per bail investigation per defendant
45. Average time per defendant for verification of bail interview information
46. Average time per defendant for preparation of release recommendation
47. Average days to release by type of release

C. WORKLOAD DATA:

48. Annual number of police-escorted defendant trips between points of apprehension and/or criminal justice facilities:
 - local lock-ups and booking facilities
 - main jail and/or booking facility
 - courts
 - other (state or federal facilities, detox. centers, etc.)
49. Annual bookings
50. Annual number of bail bonds written in jurisdiction
51. Pretrial line staff workload capacity per unit time, e.g.:
 - number of interviews per working hour
 - number of completed verifications per day (not elapsed time to completion, but productive time)
 - number of referrals per day
52. Annual number of interviews for pretrial release
53. Number of released defendants receiving one or a combination of the following services, by source of service:
 - notification of court appearances:
 - by phone
 - by mail
 - by personal visit
 - information and referral to other agency
 - follow-up on referral to confirm service delivery
 - service delivery:
 - by type of service (drug treatment, custodial, educational, vocational, etc.)
 - by service units received (number of interviews, number of treatment sessions, number of outpatient days, etc.)
 - by duration of service delivery period (number of weeks, months)
 - by method of payment (contract, non-contract)
54. Annual number of hearings on violation of release conditions
55. Average daily jail population

D. UNIT COST DATA:

56. Average bail amount established in stationhouse bail schedule
57. Average felony bail amount established by court
58. Average misdemeanor bail amount established by court
59. Average dollar amount of bail reductions (range in dollar amounts)
60. Bond premium rate
61. Average and marginal costs per:
 - bail interview
 - recommendation
 - release, by type of release

- 62. Average and marginal costs per function:
 - screening and recommendation
 - notification
 - other supervision
 - service delivery
- 63. Police cost per unit time:
 - municipal
 - county
 - other
 - urban
 - rural
 - suburban
- 64. Prosecutor cost per unit time
- 65. Defense cost per unit time:
 - retained counsel
 - court appointed
 - public defender
- 66. Judicial officer cost per unit time:
 - magistrate
 - judge
- 67. Cost per unit time for other court personnel:
 - bailiff
 - clerk
 - other non-clerical
- 68. Total cost per unit time of other line staff devoting time to pretrial services while administratively part of:
 - courts
 - law enforcement
 - corrections
 - other governmental units
 - private agencies
- 69. Cost per witness day
- 70. Cost per juror day
- 71. Average and marginal cost per jail inmate day

E. OTHER DATA ITEMS

- 72. Population of jurisdiction:
 - total
 - percent urban, non-urban
- 73. Size of jurisdiction in square miles
- 74. Failure to appear rate for witnesses
- 75. Failure to appear rate for attorneys
- 76. Annual value of forfeited bail bonds
- 77. Interest earnings on bail amounts retained by bondwriters beyond a "reasonable" period following a defendant's failure to appear
- 78. Average value of "excess" bail (value of collateral posted by defendant LESS bail amount set by court) in cases resulting in forfeiture

79. Sources of defendant income at the time of arrest:
- employment earnings
 - family or friends
 - welfare
 - other federal transfer payments
 - other
80. Defendant income for year prior to arrest, by source of income and defendant bail status (nonfinancial release, by type; bail; custody) at case disposition
81. Percent of jurisdictions surveyed with continuous calendaring (at each defendant appearance, establishing date, time and location of the next appearance) (comparison data sought for this study)
82. Percent of jurisdictions with option for continuous arraignment or bail setting:
- night or weekend court
 - bail commissioners
 - court delegated release authority
 - other
- (comparison data sought for this study)

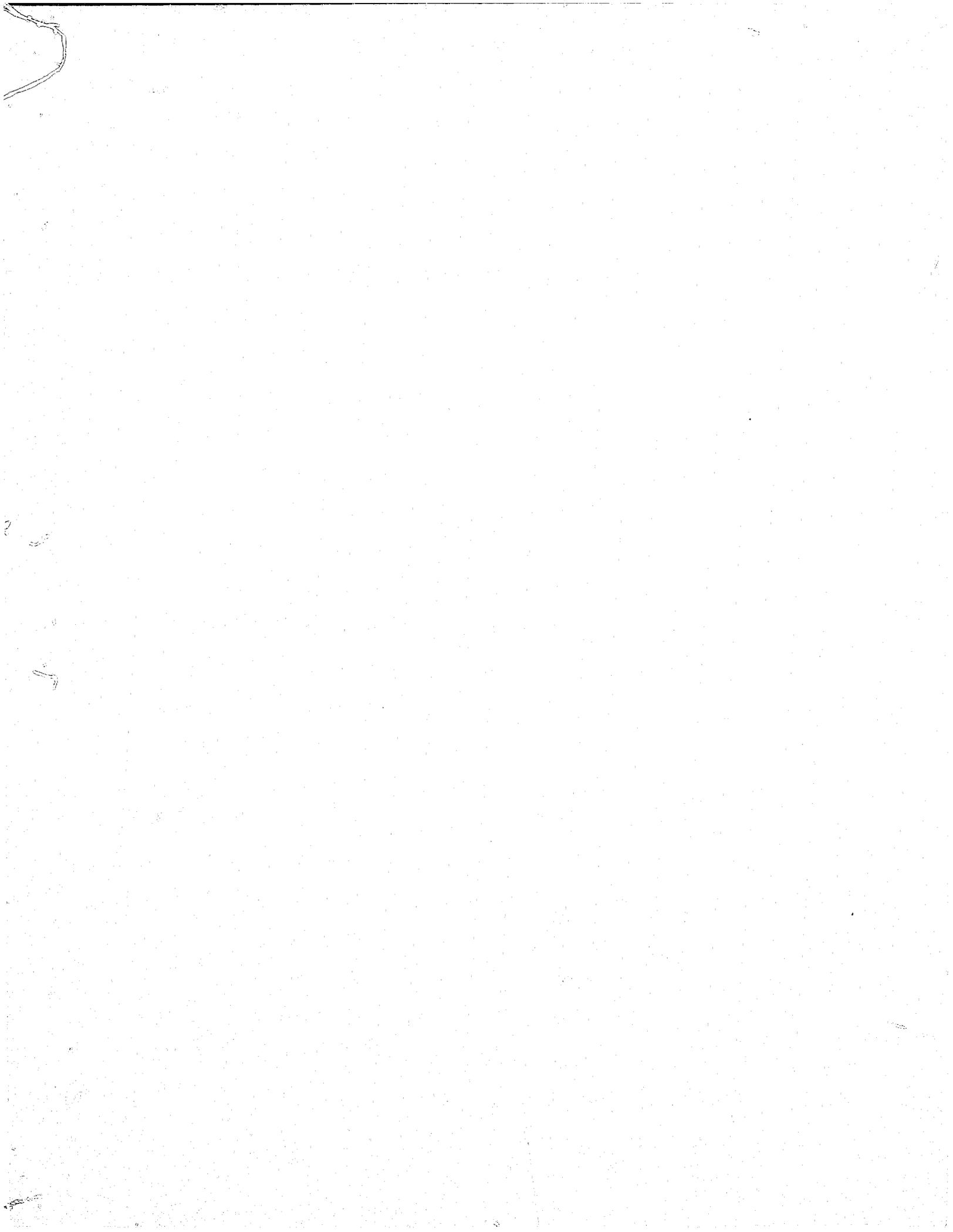
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