

# **A CROSS-CITY COMPARISON OF FELONY CASE PROCESSING**

U.S. Department of Justice  
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National Criminal Justice Information and Statistics Service

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# **A CROSS-CITY COMPARISON OF FELONY CASE PROCESSING**

April 1979



by Kathleen B. Brosi

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Law Enforcement Assistance Administration  
National Criminal Justice Information and Statistics Service**

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## ***FOREWORD***

Thirteen dedicated and courageous public officials—12 district attorneys and a court administrator—have cooperated to produce this remarkably detailed and candid portrait of what happens to felony arrests in their jurisdictions. Their statesmenlike action in presenting the actual workings of their offices and courts to public view deserves both gratitude and emulation.

We have historically had very little data available about what happens between arrest and final disposition. Because of this, we have no idea about what is normal or abnormal in regard to such vital measures of system operation as case mortality rates, proportions of cases terminated for various reasons, plea bargaining practices, bail, continuances, sentencing policies, and recidivism. This study provides some of our first tentative data on these subjects.

This report emerged from an extraordinary series of meetings of the LEAA-sponsored PROMIS Users Group, during which these 13 officials presented the first statistical glimpses of their operations for the benefit of approximately 100 other jurisdictions that are currently planning to install PROMIS. As the report chronicles, the comparisons among the 13 jurisdictions have already prompted changes in policies and practices.

As Congress and the Administration move toward the creation of a federal Bureau of Criminal Statistics, the availability of comparable data on the workings of our courts and prosecution agencies becomes increasingly important. The report notes striking parallels between many of the problems surfacing in the computerized PROMIS data today and the court problems uncovered in a series of important but, unfortunately, largely forgotten hand-tabulation studies of the 1920s by such eminent figures as Felix Frankfurter and Roscoe Pound. With the possible advent of the Bureau of Criminal Statistics and the installation of PROMIS across the country, we should no longer be able to forget about the problems of our courts and prosecutors. Moreover, we will be in a much better position to focus federal research and development funds on the most important problems of these jurisdictions. For all of these reasons, we owe a debt of gratitude for the high example set by these 13 officials.

Henry S. Dogin  
Administrator  
Law Enforcement Assistance Administration  
January 1979

## ***INTRODUCTORY LETTER FROM PARTICIPANTS***

As criminal justice policy makers, we have an obligation to improve the criminal justice system. Each of us has installed PROMIS in our office because we believe it will help us to meet that obligation. We have also actively participated in this study in the hope that it will provide practical information both for ourselves and for other policy makers.

Much criminal justice research deals with the causes of crime. Such basic research is often of limited practical value to criminal justice policy makers, since the causes of crime are usually beyond their reach. Policy-oriented research about how the criminal justice system is functioning, where its problems lie, and what effects certain policies and decisions have on case processing provides information that can readily be put to use to improve the criminal justice process.

This report sets out the basic facts about felony case processing in each of our jurisdictions. Those facts reveal that our criminal justice systems have a great deal in common. Our felony disposition rates are quite similar. About half of all felony arrests are dropped before guilty plea or adjudication on the merits. The reasons for those terminations are also similar: problems with citizen witnesses and lack of sufficient evidence. A guilty plea is the most common disposition of felonies filed with our courts. Most of the trials that occur are jury trials, and most of them result in the conviction of the defendant. Repeat offenders plague the citizens in our jurisdictions and account for a substantial share of our work load. And, the failure of defendants to appear for court proceedings is a problem that causes many of our cases to be continued.

Knowing that we share the same problems enables us to work together to find solutions to them. Each of us has instituted certain policies and procedures to deal with specific issues. By comparing our PROMIS transaction data, we can begin to assess the impact of such policies on case flow and disposition rates. We can identify programs that work and share that information with our counterparts across the country. In fact, based on the information in this report, some of us have already changed our procedures and policies.

The significance of cross-jurisdictional research for criminal justice was recognized as early as 1931 by the Wickersham Commission, which stated:

The court is the main battle ground in society's war on crime. It is therefore very important to know the number of defendants accused of various offenses and what happened to them in court—the proportion who are dismissed, acquitted, sentenced, etc. The value of this information is greatly increased if it is made comparable between different years and different places. It is difficult to overrate the value of court statistics . . . It may be possible to use court statistics to form a basis for estimates of the efficiency of the courts and to indicate desirable topics for further study to the end that the weaknesses in the judicial machine may be discovered and remedied. (*Wickersham Commission Reports*, 1931, Vol. 3:67).

We believe, as did the Wickersham Commission, that the empirical approach to identifying problem areas and monitoring policy changes provides important information necessary for us to improve our criminal justice systems. We hope that such efforts will continue.

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November 1, 1978

## ***ACKNOWLEDGMENTS***

This study would not have been possible without the help, support, and good nature of so many people that a list of all of them would resemble the phone directory of one of the cities. It has been my great privilege to work with each of these people and to learn from them.

First, I would like to thank Benjamin H. Renshaw, Director, Statistics Division, National Criminal Justice Information and Statistics Service, who provided the funding for this study. Ben also offered encouragement, constructive criticism, and an extensive review of the final draft.

The District Attorneys and Court Administrator who agreed to allow me to compare their data are the ones who really made this study possible. Each of them took a major political risk by having his office exposed to this kind of analysis, and, on a few occasions, some of them took some heat in the press because of this effort. In spite of that, they allowed me to continue the study and publish this report. I am indebted to each for his patience and his trust:

The Honorable David Armstrong  
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The Honorable Harry F. Connick  
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County Attorney  
Salt Lake County, UT

The Honorable John K. Van de Kamp  
District Attorney  
Los Angeles County, CA



A number of other people in each city lent their insights and their time to this report. In Cobb County, Russ Kirkpatrick and Ronnie Stroup generated both management report runs and manual counts of data. Dominick Carnovale, First Deputy Prosecuting Attorney in Detroit, gave the study the benefit of his experience and also let me know when a theory of mine was off base. Bill Chiquelin from Louisville produced the first set of management report runs in record time. Harry Greene and Gloria Dellavale of the District of Columbia spent many hours helping to interpret the data, as did Sarge Visser and Peter Giordano of Indianapolis. Bill Hyde, Chief Deputy in the Criminal Division in Salt Lake, carefully reviewed the draft and supplied manually collected comparative data. Frank Clapp and Bill Webb, also in Salt Lake, produced many computer runs. In Rhode Island, Bob Harrall, Ron La Chance, and Mary Drozd all were patient in teaching me about their court system, as were Dale Croy and Kathy Shelander in Florida. Ralph Capitelli of New Orleans very carefully reviewed the report and spent a day with me ironing out the kinks. Tim Cerniglia and Bill Wessell, also of New Orleans, gave me their ideas for the study, and Al Atienne and Glen Christina did the data processing work. In Los Angeles, Larry Morrison and Neil Riddle produced the management report runs. Herman John compiled the manual data that are included here for Milwaukee.

Two other persons deserve special recognition for making this report possible: Al Ash of LEAA and Charles R. Work, now an attorney in private practice. Al had the vision and persistence to mobilize LEAA support for the development of PROMIS, its transfer across the country, and research and analysis of its data over all of the years of its life. Chuck Work was the prosecutor in the District of Columbia who conceived the system, sustained it through its troubled early years, and helped explain its importance and potential to the legal community.

My colleagues at INSLAW did too much of the work of this study with too little of the credit. Bill Hamilton not only conceived the idea, but also supervised every step of the effort. My friends, Bill Falcon and Etta Johnson, wrote two appendixes. Bill produced Appendix C from my handwritten calculations; and Etta did the research and writing for Appendix B. Jean Shirhall took my rough draft and, without complaining, reorganized and rewrote the body.

Joyce Deroy and Dean Merrill provided both ideas for study and careful review of the report. Joyce and Al Behnke spent a great deal of time and energy tailoring the Management Report Package for individual cities so that those cities could be included.

Cynthia Huth typed and retyped the report, drew the diagrams, and caught my errors. Katherine Falkner often helped in the effort, and Joanne Benner made the final changes.

I am indebted to each of these people and to many others not mentioned here.

Kathleen B. Brosi

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## *EXECUTIVE SUMMARY*

This study presents comparative statistics on the disposition of felony arrests (and the reasons for those dispositions) during the first six months of 1977. Data for the study were provided by 12 district attorneys and one court administrator who use PROMIS, a computer-based case management system developed by INSLAW with funding from LEAA. (The thirteen jurisdictions included in the study are Cobb County, GA; Detroit; District of Columbia; Florida Second Circuit; Golden, CO; Indianapolis; Kalamazoo; Los Angeles; Louisville; Milwaukee; New Orleans; Rhode Island; and Salt Lake.)

In tracing the flow of felony cases from arrest through sentencing in the 13 jurisdictions, the study found striking similarities in the way felony arrests are handled:

- About half of the cases in the jurisdictions studied were dropped after arrest without plea bargaining or trial (e.g., Los Angeles, 76 percent; New Orleans, 64 percent; District of Columbia, 49 percent; Salt Lake, 45 percent; and Milwaukee, 40 percent).
- In almost all of the jurisdictions studied, insufficient evidence collection by the police and problems in the court appearance of witnesses accounted for more than half of the decisions to drop cases.
- The conventional wisdom that Supreme Court decisions cause many arrests to be dropped because of technicalities is not supported by the statistics. In felony cases other than drugs, less than 2 percent of the rejections in each city involved abrogations of due process.
- Next to rejections at screening and nolle and dismissals, the most common disposition in these urban court systems in 1977 was a guilty plea (in 11 of the 13 jurisdictions, 50 percent or more of the cases filed with the court were disposed by plea).
- Pleas not only make up the majority of dispositions of cases filed with the court, they account for almost all of the convictions (guilty pleas accounted for 68 percent to 100 percent of the convictions in 10 jurisdictions reported on).
- Judicial decisions regarding the conditions for the defendant's release pending trial varied across cities. In the District of Columbia, half of those charged with felonies were released on nonfinancial conditions. Comparable percentages in Detroit and Salt Lake were 29 percent and 22 percent, respectively. Bail conditions are subject to change, however. According to prosecution records in Salt Lake, for example, the 41 percent detention rate at initial appearance dropped to 10 to 12 percent by trial.
- Pleas are not necessarily bargains for the defendant, however. In New Orleans, for example, from 78 percent to 92 percent of the pleas in cases of robbery, burglary, assault, or larceny were to the top charge. Comparable percentages in Los Angeles ranged from 61 percent to 80 percent.
- Trial is the least common disposition of criminal arrests. Less than 10 percent of the arrests brought to any of the prosecution agencies studied resulted in trials. Of those arrests that were filed with the court, the trial rate ranged from a low of 2 percent in Cobb County, to a high of 21 percent in New Orleans and Indianapolis.
- For those defendants who go to trial, however, conviction is much more likely than acquittal. Conviction rates at trial ranged from a low of 55 percent in Detroit to a high of 93 percent for Florida's Second Circuit. The average was about 75 percent.
- Convicted offenders were sentenced to a period of incarceration 81 percent of the time in Indianapolis, 73 percent of the time in Los Angeles, but only 39 percent of the time in Detroit. Persons convicted in robbery cases were much more likely to be incarcerated than were persons convicted of other crimes.

- The time from arrest to post-indictment (higher court) disposition varied substantially across the cities studied—from 102 days to 725 days. Interestingly, New Orleans, which had the shortest time to disposition (102 days), also had one of the highest trial rates (21 percent of filed cases). Los Angeles, on the other hand, had a relatively low trial rate (13 percent) and a relatively short time to disposition (132 days).
- Variations are apparent between cases prosecuted under career criminal programs and those that were not. In career criminal cases, pleas were less common but the combined guilty rate (pleas and trials) was about the same or better than the average for all felonies (75 percent). Incarceration rates for defendants convicted under career criminal programs were quite different, however. In each city, almost all of the career criminal defendants who were convicted were incarcerated, and the sentences imposed tended to be longer.

In addition to tracing what happens to felony arrests in general, the study provides a detailed picture of the disposition of arrests for eight felony crime categories: homicide, rape, assault, robbery, burglary, larceny, auto theft, and drugs. Statistics are presented on filing rates per 100,000 population, disposition rates, reasons for case dispositions, case-processing times, pretrial release decisions, arrests while on conditional release, and incarceration rates and sentence lengths.

After reviewing their PROMIS statistics, several district attorneys have changed their office operations. In Salt Lake, for example, the County Attorney tightened case-screening policies and placed a senior prosecutor in charge of monitoring adherence to office policy. Based on an investigation of its PROMIS statistics, Detroit has instituted new procedures to avoid witness problems stemming from incorrect phone numbers and addresses.

Attorney General Bell recently submitted a bill to Congress that includes the establishment of a federal Bureau of Criminal Statistics, with the objective of collecting and disseminating data that will present a system-wide picture of criminal justice operations. The new bureau, this study points out, will confront a major vacuum in the existing statistical activities of the Department of Justice. Through the FBI's *Uniform Crime Reports*, we have considerable data about the numbers of crimes known to the police and the number cleared by arrest, and through LEAA's *National Prisoner Statistics* we know about the operations and populations of the prisons. But no comparable national statistics are available about the intervening steps in the process—about what happens between arrest and incarceration. The absence of information on the steps between arrest and conviction deprives us of information about the criminal justice system's response to the major portion of its work load.

Jurisdictions that implement PROMIS or other information systems could readily provide the Bureau of Criminal Statistics with data on their operations to fill that void. Such data could provide information necessary for federal decision making on criminal justice policies and priorities. These statistics could be reported periodically to show, for the first time, what is happening to the majority of arrests. The reports could also provide a basis for informing the public about the realities of law enforcement and criminal justice. Such information could also galvanize public and legislative support for reforms where needed.

## 1. INTRODUCTION

*The public is accustomed to thinking that arrests are followed by trials and that juries and judges decide the fate of persons accused of crime. The prosecutor is to the public a person who must prosecute all who fall into the toils of the criminal justice process. This conception is far from correct.<sup>1</sup>*

Public awareness of the criminal justice system has been shaped, in large part, by media accounts of heinous crimes or defendants of great notoriety. Just as "dog bites man" stories are traditionally not news, neither are accounts of the day-to-day functioning of the criminal justice system. As a result, the public is not aware that most arrests result in dismissal of the charges against the defendant; that of those cases that are prosecuted, most result in pleas; and that very few cases go to trial.

How, then, can it be that we hear of conviction rates of 90 percent? The reason seems to be a matter of perspective. Since the criminal justice system is not a system at all, but rather a loose confederation of independent agencies (police, prosecution, courts, corrections), much of the crime data that exist have been collected from an intraagency perspective. The police compute clearance rates (roughly the number of arrests divided by the number of crimes known to the police). Prosecutors calculate conviction rates, but from a number of different points in the system: arrests, cases filed, cases indicted, or cases tried. Traditionally, conviction rates have been based on the number of cases indicted or held to answer, which means that cases that are dropped between arrest and indictment are not included in the calculation.

One measure of the court's performance is time in the system. This, too, can be measured from different perspectives. Court administrators may calculate time in the system from filing, from indictment, or from the point at which a case is assigned to a particular trial judge. Rarely do they calculate the time a case remains in the system from the day of arrest.

An example of various performance perspectives may help to illustrate the point. Shown below are conviction rates from the perspective of the prosecutor, police, and the public for commercial robbery cases in the District of Columbia in 1973.

Prosecutor's Perspective	Guilty Pleas and Findings ÷ Indictments (89 ÷ 100)	89%
	Guilty Pleas and Findings ÷ Cases Accepted at Screening (93 ÷ 167)	56%
Police Perspective	Guilty Pleas and Findings ÷ Arrests (93 ÷ 177)	53%
	At Least One Adult Guilty ÷ Reported Offenses (108 ÷ 2070)	5.2%
Public's Perspective	At Least One Adult Guilty ÷ Victimizations (108 ÷ 2300)	4.7%
	At Least One Incarceration ÷ Victimizations (81 ÷ 2300)	3.5%

The public's perception of the conviction rate—3.5 percent or 4.7 percent—varies dramatically from the prosecutor's perception of it—56 percent or 89 percent.<sup>2</sup>

Because the statistics that are available from various agencies and jurisdictions are so often reported from different perspectives, it has been difficult to develop a national picture of the performance of the criminal justice system. As the President's Commission on Law Enforcement and the Administration of Justice

1. *The Missouri Crime Survey* (1926; reprint ed., Montclair, N.J.: Patterson Smith, 1968): 125.

2. See, *Expanding the Perspectives of Crime Data: Performance Implications for Policymakers*, PROMIS Research Publication no. 2 (INSLAW, 1977).



observed, "the greatest need is the need to know . . . There is probably no subject of comparable concern to which the nation is devoting so many resources and so much effort with so little knowledge of what it is doing."<sup>3</sup> And, the National Advisory Commission on Criminal Justice Standards and Goals noted: "official judgment in criminal justice, as in other policy areas, is not likely to be sounder than the available facts."<sup>4</sup>

Through the FBI's *Uniform Crime Reports*, we can learn the number of crimes known to the police and the number of crimes for which an arrest is made. At the opposite end of the system, LEAA's *National Prisoner Statistics* provide data on state and local prison populations. Until recently, however, systematic information about what happens between the police station and prison has not been available.

A number of state and local prosecution and court agencies have begun to use computers to collect step-by-step information on their daily operations. The most widespread of these information systems in operation is PROMIS, which was developed with funding from the Law Enforcement Assistance Administration. PROMIS collects approximately 170 items of information on each case.<sup>5</sup> This enables the prosecutor and court to track complaints, charges, defendants, cases, witnesses, attorneys, and police officers when these become involved in the court process. It also makes possible the immediate identification of defendants who have other cases pending against them.

Offender-based transaction statistics such as these describe how the criminal justice system handles its work load as accused persons are arrested and processed through the system.<sup>6</sup> These data on the flow of offenders and their cases can be of great practical value to the court and prosecution officials responsible for managing the process. As an example, such transaction or flow statistics can alert a manager that *a change* in policy or procedure *at one point* in the system *is creating perturbations in other parts* of the system. Relaxed standards for the filing of charges may be followed by an increase in the number of prosecutive and judicial dismissals of cases prior to trial.

By *monitoring offender flow statistics over time*, court and prosecution managers can identify trouble spots before they reach serious dimensions. For example, court managers can see increases in indictment rates and deploy additional judges to felony trials in time to avert a buildup in the number of cases awaiting trial. Prosecution managers can obtain an early warning of a worsening situation regarding the appearance of witnesses in scheduled cases and thereby make a prompt determination whether notification procedures have broken down.

Court and prosecution managers can also *compare their jurisdictions with other jurisdictions*. Such comparisons can suggest a basis for assessing the magnitude of local problems and for identifying possible solutions. As examples, using PROMIS data contained in this report, the Wayne County Prosecuting Attorney's Office discovered that compared with most other PROMIS jurisdictions, it had an unusually high proportion of dismissals attributed to witness problems, and consequently, it took steps to bolster its victim-witness assistance program. Similarly, the Salt Lake County Attorney's Office sought to tighten its case-screening policies after discovering that other jurisdictions were employing more stringent standards.

This report uses PROMIS data to compare, on an equivalent basis, the functioning of criminal justice systems in a number of jurisdictions across the country.<sup>7</sup> One of the first major cross-city comparisons of

3. President's Commission on Law Enforcement and the Administration of Justice, *The Challenge of Crime in a Free Society* (Washington, D.C.: Government Printing Office, 1967): 273.

4. National Advisory Commission on Criminal Justice Standards and Goals, *Criminal Justice System* (Washington, D.C.: Government Printing Office, 1973): 2.

5. In 1971, the Superior Court Division of the U.S. Attorney's Office in the District of Columbia was the site of the first installation of PROMIS (Prosecutor's Management Information System). (The purpose, capabilities, and components of PROMIS are described in William A. Hamilton and Charles R. Work, "The Prosecutor's Role in the Urban Court System: The Case for Management Consciousness," *Journal of Criminal Law and Criminology*, June 1973, and in the series of 21 *INSLAW Briefing Papers*.)

6. LEAA has encouraged states to implement Offender Based Transaction Statistics (OBTS) systems as part of its Comprehensive Data System (CDS) program. OBTS is intended to provide statistics linking each significant step or stage in the criminal justice process. PROMIS records all of the information conventionally associated with OBTS systems, except information on the actual time served by those convicted and sent to prison.

7. As described in Appendix A, the PROMIS Management Report Package provides easily understandable statistical reports for use by prosecution and court managers and makes possible comparisons of the flow of criminal cases at each step in the process in any jurisdiction in which PROMIS is operational.

criminal case processing was made in 1931 by the Wickersham Commission, which compiled statistics gathered manually by several different crime commissions.<sup>8</sup> During the 1920s and early 1930s, a number of communities became so alarmed about their crime problems that they commissioned these special studies of their criminal justice systems by distinguished scholars and civic leaders.

Felix Frankfurter and Roscoe Pound directed and edited the first of these studies, an analysis of the administration of criminal justice in Cleveland. Their statistical analysis of the flow of about 5,000 arrests through the criminal justice system in the early 1920s revealed a "practical breakdown of the criminal machinery."<sup>9</sup> The most common dispositions of arrests were refusal to prosecute and dismissals before trial.

Several years later, in 1925, the Missouri Crime Survey, the first statewide crime study, found that most arrests were refused prosecution or dropped after filing with the court. After tracing the disposition of about 10,000 cases, the authors concluded that prosecutors were dropping large numbers of cases because of "the lack of cooperation of arresting officials in procuring the evidence" and because of the "lack of assistance which would enable the prosecutor to interview witnesses while the evidence is fresh and prevent absence of witnesses."<sup>10</sup>

The Wickersham Commission, the first national crime commission, was established in 1930. Its reports compared the flow of criminal cases through a number of urban jurisdictions, relying often on the special studies of the 1920s. Figure 1 summarizes the findings for New York City, Chicago, Cleveland, and St. Louis. In each of these jurisdictions, over half of the felony cases were dropped after arrest, but before disposition by plea or trial. In New York City and Chicago, another 16 percent of the felony arrests were referred for misdemeanor prosecutions. (The outcomes of those misdemeanor cases were not reported.)

As the Commission pointed out, most cases were dropped by the prosecutor; very few were tried. Cleveland had the highest rate of trial—14 percent of arrests. In St. Louis, 8 percent of the arrests resulted in trial; in New York City, 6 percent; and in Chicago, 4 percent.

There is a striking similarity between the Wickersham Commission statistics for the 1920s and PROMIS statistics for the first six months of 1977. In 1977, too, about half of the cases in the jurisdictions studied were dropped after arrest but before plea or trial. Subsequent sections of this report will present a snapshot of 13 criminal justice systems for the first six months of 1977.<sup>11</sup> The data reflect the output (or work load) of the systems for that period.<sup>12</sup> Each decision point will be discussed, and the reasons for the actions taken at each point will be presented. Not all 13 jurisdictions will appear in each comparison because data were not available on all jurisdictions at all points. Some of the jurisdictions are in the early stages of their PROMIS implementation and not all of the data are yet being collected. Some collect data only from filing and therefore do not capture rejections at initial review. (Jurisdictions also were not included in comparisons if they had too few cases of a particular type.)

Since the District of Columbia was the first PROMIS installation, more in-depth research results are available for that city. Hence, research from the District of Columbia is often used as a point of reference for comparison.

The statistics presented in this report describe the functioning of state and local criminal justice systems. This approach by no means provides all the answers, but it does allow us to focus on problem areas. Through the

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8. Other, more recent cross-jurisdictional studies include James Eisenstein and Herbert Jacob, *Felony Justice* (Boston: Little Brown, 1976); Wayne R. LaFare, *Arrest: The Decision to Take a Suspect into Custody* (Boston: Little Brown, 1965); Donald J. Newman, *Conviction: The Determination of Guilt or Innocence Without Trial* (Boston: Little Brown, 1966); and Thomas Church, Jr., et al., *Justice Delayed, The Pace of Litigation in Urban Trial Courts* (Williamsburg, Va.: National Center for State Courts, 1978).

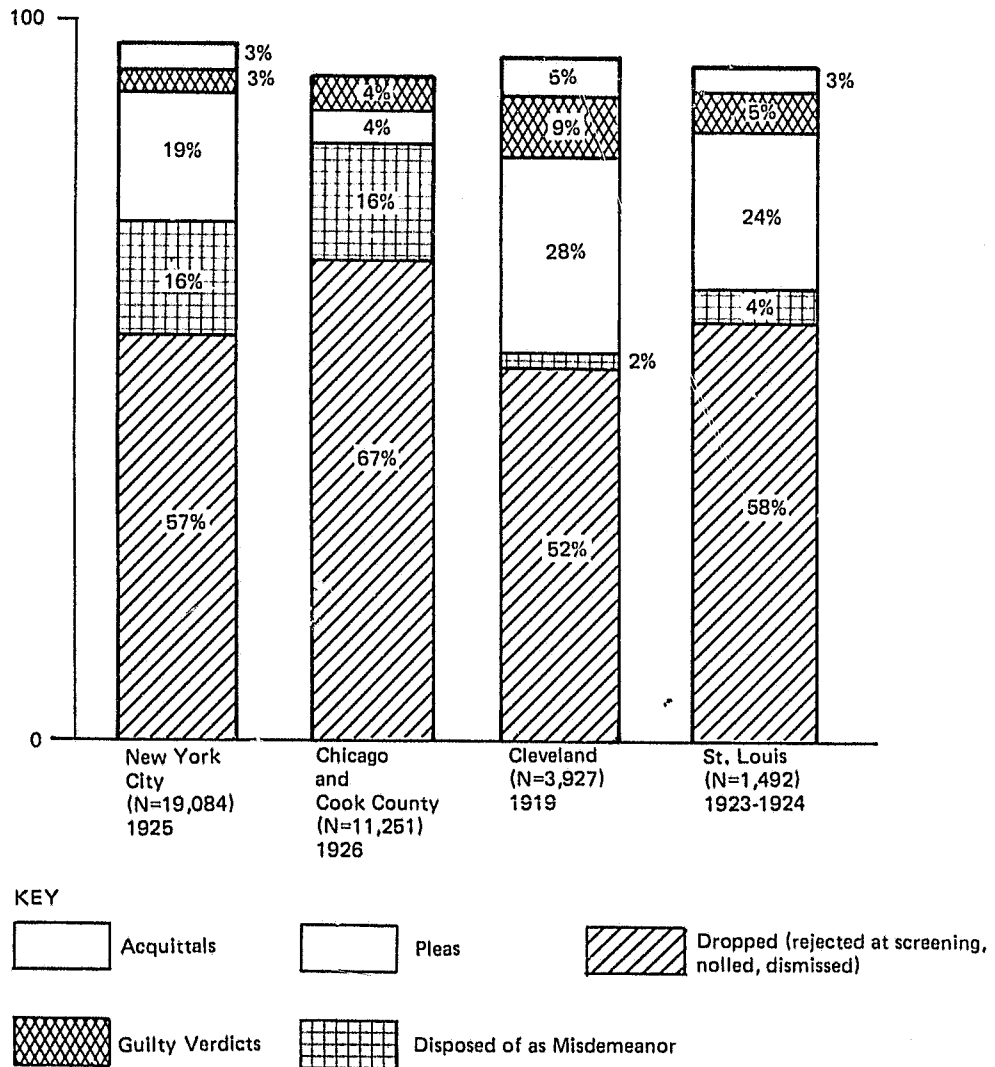
9. Felix Frankfurter and Roscoe Pound, *Criminal Justice in Cleveland* (1922, reprint ed., Montclair, N.J.: Patterson Smith, 1968); vi.

10. *The Missouri Crime Survey* (1926, reprint ed., Montclair, N.J.: Patterson Smith, 1968); 156. As will be seen in Chapter 3, these remain the primary reasons for case attrition a half-century later.

11. The data used were gathered by PROMIS for the first six months of 1977 in each city, except Milwaukee and Kalamazoo, for which data were taken from manual reports. Milwaukee's data reflect the first six months of 1977, Kalamazoo's reflect the entire year. (Kalamazoo's automated data reflected manual statistics in most cases within 1 percent.)

12. Actions and dispositions that occurred during the first six months of 1977 are counted. That is not the same as tracking to their completion cases that came into the system during those months.

Figure 1. DISPOSITION OF CRIMINAL CASES FROM ARREST,  
WICKERSHAM COMMISSION REPORT, 1931



Source: Wickersham Commission, *Report on Criminal Statistics* (1931, reprint ed., Montclair, N.J.: Patterson Smith, 1968).

Note: Totals do not add to 100; open cases and administrative and "other" dispositions are not included.

application of more advanced statistical techniques, future studies will be able to infer causal relationships. In the words of Mr. Justice Harlan F. Stone:

The statistical method of dealing with social problems often cannot be relied on as mathematical demonstration leading to specific conclusions, but it may be used to indicate tendencies, to mark out the boundaries of a problem and to point out the direction which should be given to a particular investigation of a nonstatistical character.<sup>13</sup>

In sum, from the earliest studies by such legal giants as Pound and Frankfurter to the present day, transaction or flow statistics have been recognized as the most powerful diagnostic tool to measure the performance of systems for the administration of criminal justice.

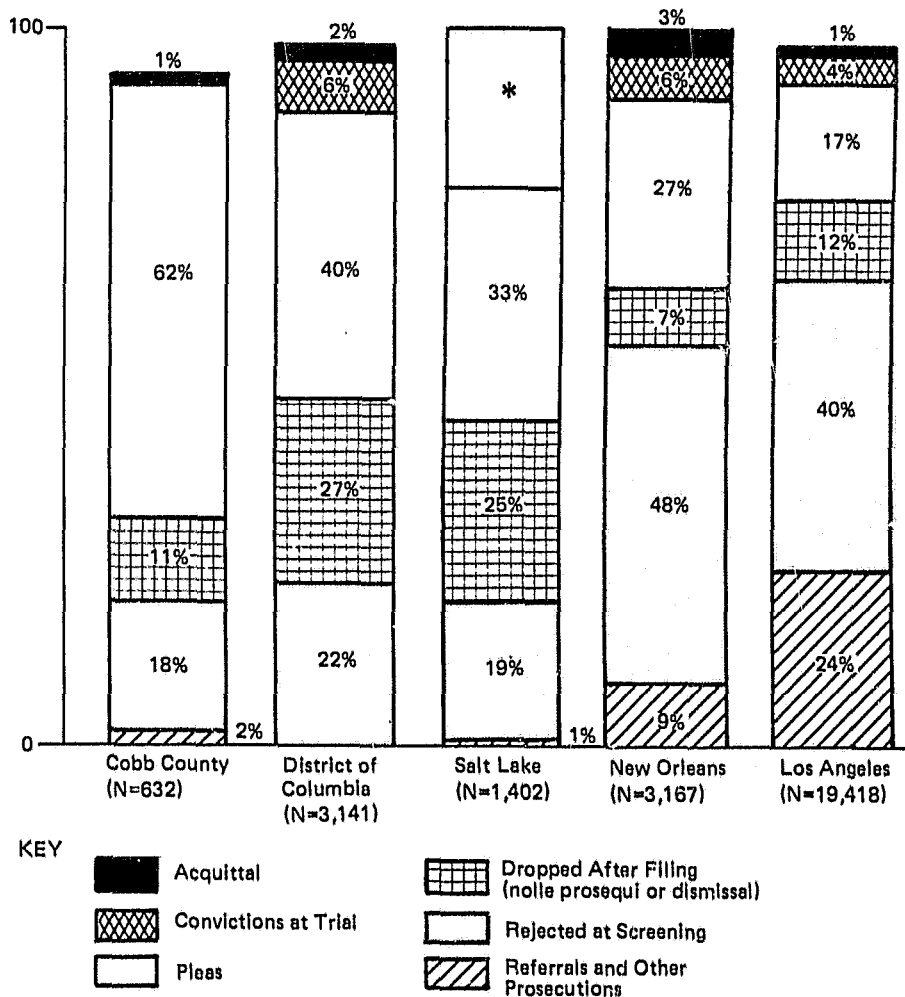
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13. Quoted in Wickersham Commission, *Report on Criminal Statistics* (1931, reprint ed., Montclair, N.J.: Patterson Smith, 1968): 28.

## 2. OVERVIEW

As noted in the Introduction, there is a striking similarity between the Wickersham Commission statistics for the 1920s and PROMIS statistics for the first six months of 1977. Figure 2 shows the dispositions of felony cases in Cobb County, Georgia; the District of Columbia; Salt Lake County; New Orleans; and Los Angeles County.

Figure 2. DISPOSITION OF CRIMINAL CASES FROM ARREST,  
PROMIS DATA, JANUARY-JUNE, 1977,  
FELONIES



Note: Totals do not always add to 100; open cases and administrative and "other" dispositions are not included.

\*Data not available.

As in the 1920s about half of the cases were dropped after arrest but before disposition on the merits. In Los Angeles and New Orleans, a substantial number of cases were referred for prosecution by other agencies, usually as misdemeanors. That is consistent with the situation described in the studies of New York in 1925 and of Chicago in 1926.

Next to rejections at screening and nolle and dismissals, the most common disposition in these urban court systems in 1977 was a guilty plea. The pleas do not automatically represent "bargains," however; we will see in Chapter 5 that many pleas are to the top charge in the case and do not entail sentencing concessions.

In each jurisdiction shown in Figure 2, a smaller proportion of arrests resulted in trials than in dismissals or pleas. The trial rate for Cobb County, Georgia, was 1 percent of arrests; for the District of Columbia, 8 percent; for New Orleans, 9 percent; and for Los Angeles, 5 percent.<sup>1</sup>

Of those arrested, the percentages convicted (by plea or trial *and excluding possible convictions in the referrals and other prosecutions*) in the various jurisdictions were as follows:

Los Angeles	21%
New Orleans	33
District of Columbia	46
Cobb County	62

Figure 3 also shows the dispositions of felony cases in 1977, but the starting point is filing rather than arrest; that is, cases that were rejected by the prosecutor at the initial case screening are not included in the data base.

From the perspective of cases filed with the court, the rate of case attrition is much smaller than it is from arrest, as shown below.

	<u>Rate of Case Attrition</u>	
	<u>from arrest</u>	<u>from filing</u>
Cobb County	31%	14%
Milwaukee	40	25
Salt Lake	45	38
District of Columbia	49	35
New Orleans*	64	17
Los Angeles*	76	34
Detroit	**	27
Indianapolis		29
Rhode Island		46
Florida Second Circuit		44
Louisville***		13
Kalamazoo		25
Golden, Colorado		38

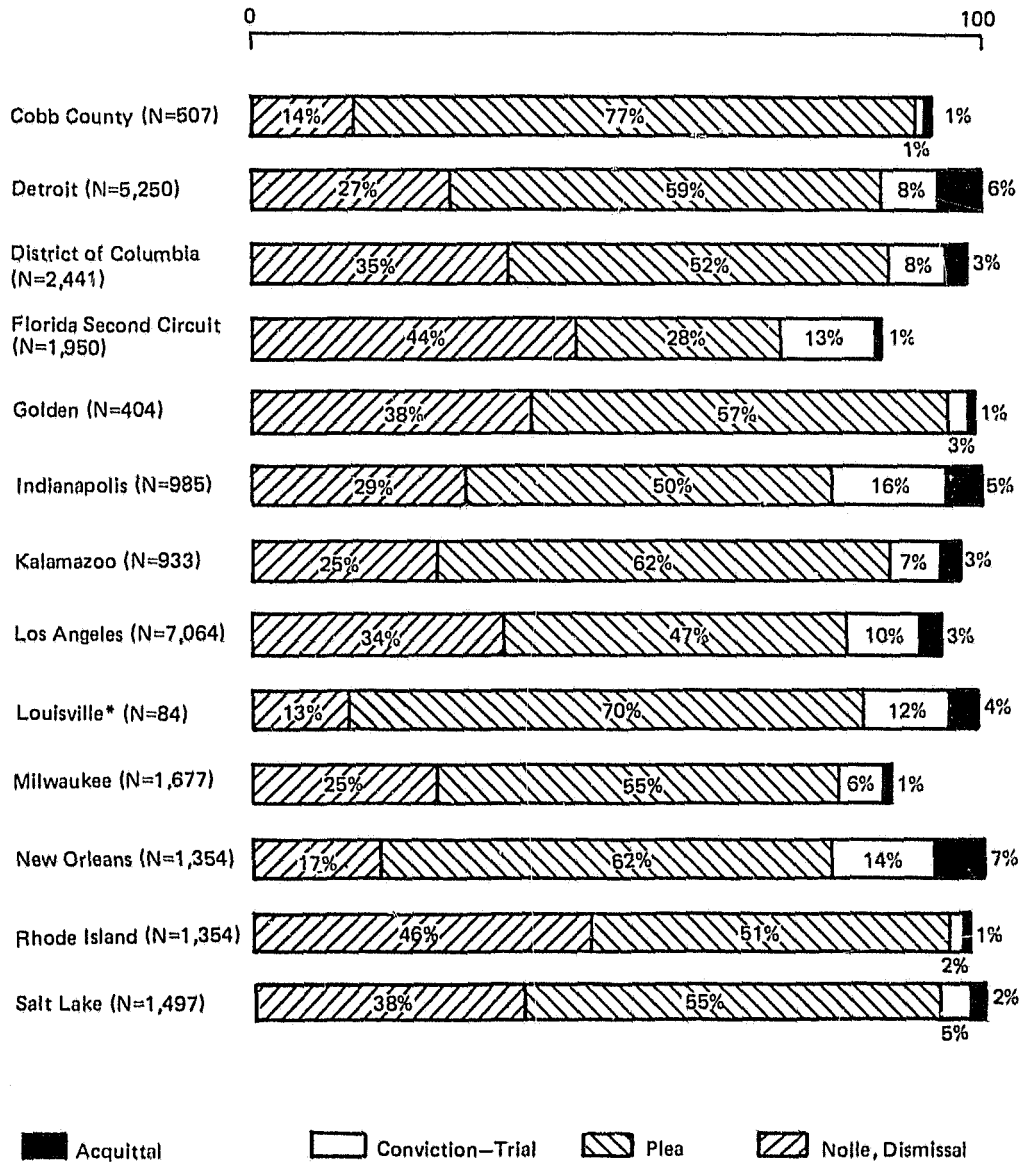
\*In both of these cities, a substantial number of rejections at screening are referred for prosecution by city prosecutors. If we take those referrals into account, the attrition rate from arrest would be 55 percent in New Orleans and 52 percent in Los Angeles. We do not know the dispositions of those referrals.

\*\*Rejection information is not available for the remaining jurisdictions.

\*\*\*Approximately 10 percent of Louisville's dispositions.

1. Salt Lake County, which appears from Figure 2 to have held no trials, was experiencing data collection problems at the time this study was conducted.

Figure 3. DISPOSITION OF CRIMINAL CASES FROM FILING



Source: PROMIS data, January-June 1977, except Kalamazoo and Salt Lake (manual data, January-December 1977) and Milwaukee (manual data, January-June 1977).

Note: Totals do not always add to 100; open cases and administrative and "other" dispositions are not included.

\* Because data collection had only just begun in Louisville, this figure represents only approximately 10 percent of their dispositions.

Trial rates and conviction rates also differ depending on the perspective adopted.

	<u>Trial Rate</u>	
	<u>from arrest</u>	<u>from filing</u>
Cobb County	1%	2%
Salt Lake	—	7
Los Angeles	5	13
District of Columbia	8	11
New Orleans	9	21
	<u>Conviction Rate (including pleas)*</u>	
	<u>from arrest</u>	<u>from filing</u>
Los Angeles	21%	57%
New Orleans	33	76
Salt Lake	—	60
District of Columbia	46	60
Cobb County	62	78

\*Excludes possible convictions in cases referred to other agencies.

These disposition rates for felony cases in 1977, particularly the attrition rates, will come as a surprise to many. Certainly, some amount of attrition of criminal cases is necessary and even, perhaps, desirable. Some dismissals might be termed therapeutic; for example, dismissals because the defendant successfully completed a pretrial diversion program or because the offense really lacked prosecutive merit. As will be shown later in this report, however, other cases are dropped for reasons that might have been avoided or corrected. Some dismissals are caused by witnesses failing to appear for scheduled events. A substantial number of those appear to be the result of the failure of the system to communicate adequately with witnesses.

The chapters that follow focus on specific points in the flow of criminal cases, in approximate chronological order. Chapter 3 addresses case attrition, both at screening and later in the case, and the reasons for it. Chapter 4 discusses bail practices and failures to appear. In Chapter 5, dispositions by plea and the extent of charge reduction in plea negotiations are described. Dispositions by trial and sentencing patterns are the subject of Chapters 6 and 7, respectively. Chapter 8 examines the length of time cases remain in the system before disposition, and Chapter 9 focuses on the extent of recidivism among felony defendants and the operation of career criminal programs designed to handle repeat offenders. Chapter 10 summarizes the study's findings and suggests areas for future research.

Relevant research findings from other studies will be discussed throughout this report. Some of those findings help to explain the descriptive statistics. Others suggest the possible implications of different types of policy decisions.

Three appendixes round out this report. Appendix A discusses the operation of the PROMIS Management Report Package, which was used in each jurisdiction to obtain the data for this report. Appendix B describes pertinent demographic characteristics and the prosecution and court environments of the jurisdictions studied. Appendix C compares the flow of cases in a number of jurisdictions, by crime type: homicide, rape, robbery, burglary, assault, larceny, auto theft, and drugs.



### 3. CASE ATTRITION

*The prosecutor stands at a most critical point in the criminal justice system . . . the character, quality and efficiency of the whole system is shaped in great measure by the manner in which he exercises his broad discretionary powers.<sup>1</sup>*

*By legal authority and by practice, U.S. prosecutors have the greatest discretion in the formally organized criminal justice network.<sup>2</sup>*

This chapter focuses on cases that were dropped by the prosecutor or the court before plea or trial. The rate of such terminations, the stages at which they occur, and the reasons for them are presented.

#### The Decision To Charge

The prosecutor controls the door to the court; he can decide, with almost unlimited discretion, which arrests will result in court cases, and which will not. This critical decision is not generally subject to review by the court.<sup>3</sup>

In some jurisdictions, such as the District of Columbia, virtually all arrests are taken to the prosecutor. In other jurisdictions, such as Los Angeles, the police screen arrests before they take them to the prosecutor. (This process leads to some arrests being dismissed by the police; it can also give the police an opportunity to do additional investigative work before they take the arrest to the prosecutor.) In most jurisdictions, the police book defendants with particular crimes (e.g., robbery, burglary) and suggest those charges to the prosecutor. The prosecutor then has discretion to accept, modify, or drop those charges. In Detroit, however, the police book defendants on "suspicion of a felony," and the prosecutor is the first to name specific charges. The variety of these procedures for processing arrests from place to place imposes some limits on the comparability of many of the statistics that follow.

The initial review by the prosecutor (screening) occurs within a day or two of the arrest in most jurisdictions. The New Orleans system is different, however. There, case screening occurs about one week after the arrest. State law in Louisiana permits the prosecutor to hold a case for up to ten days before bringing it to the judge or magistrate. Career criminal cases, however, are screened within three days of the arrest.<sup>4</sup>

The rate of rejection at screening varies considerably from city to city, as does the screening philosophy and organization of various prosecutors' offices. Figure 4 shows the rejection rates for cases reviewed by the prosecutor at screening.

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1. American Bar Association Project on Standards for Criminal Justice, *The Prosecution Function and the Defense Function* (New York: American Bar Association, 1971): 44.

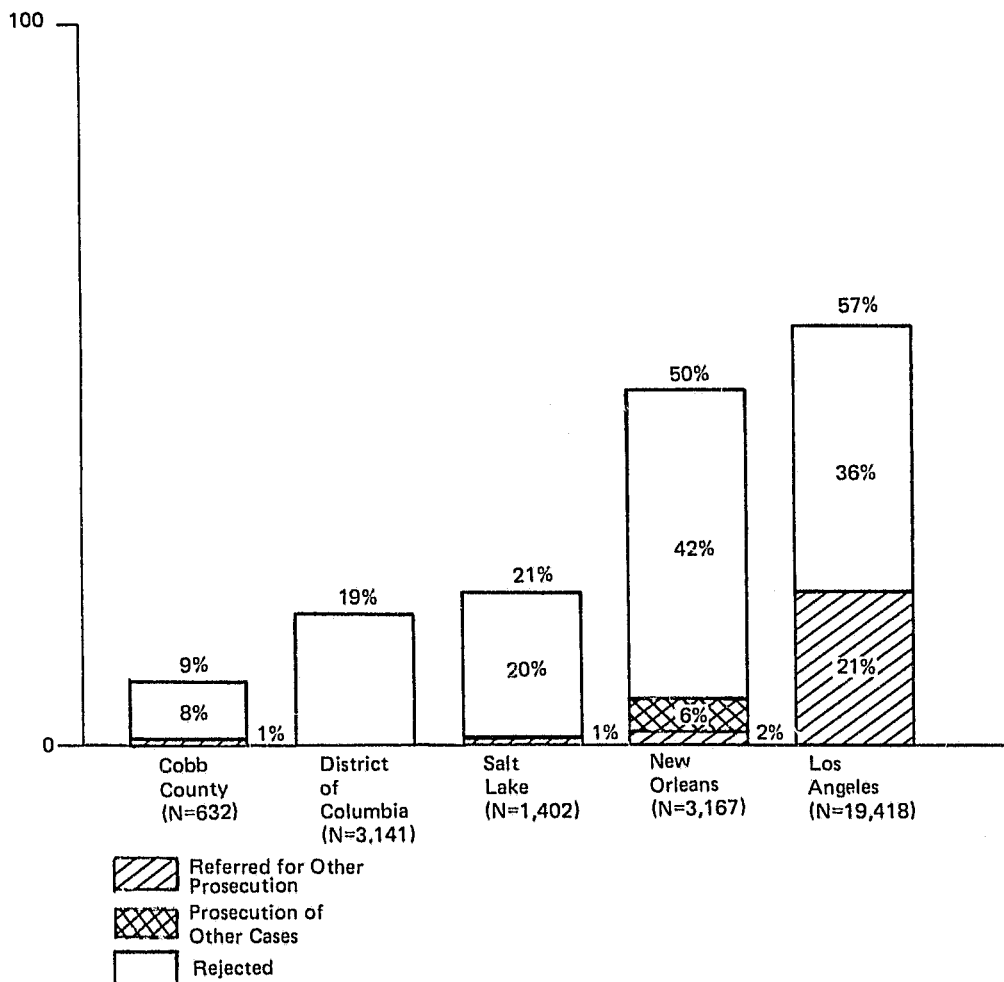
2. Albert J. Reiss, Jr., "Discretionary Justice in the United States," *International Journal of Criminology and Penology*, May 1974: 195.

3. In *Powell v. Katzenbach* 359 F.2d 234 (D.C. Cir. 1965), cert. denied, 384 U.S. 906 (1966), reh. denied, 384 U.S. 967 (1968), among other cases, the prosecutor's absolute discretion in deciding whether to charge has been judicially upheld: "It is well settled that the question of whether and when prosecution is to be instituted is within the discretion of the Attorney General." The large majority of the courts that have heard challenges to the exercise of prosecutory discretion have held that discretionary decisions are immune from review. This well-established position is supported by the doctrine of separation of powers, as well as by policy considerations of the difficulty of review and the complexity of the decision.

Other arguments that support the discretion of the prosecutor in the charging decision include the necessity of a "fairness valve" and the ever present consideration of resource constraints.

4. Career criminal cases will be discussed at length in Chapter 9. New Orleans is the only city of those studied here that selects career criminal cases before screening. In New Orleans, career criminal candidates are identified at the time of their arrest with the assistance of a computerized system.

Figure 4. REJECTIONS AT SCREENING, FELONIES



Source: PROMIS data, January-June 1977.

Three of the jurisdictions shown in Figure 4 refer a number of felony arrests to another prosecution agency, usually for possible prosecution as misdemeanors. Los Angeles, for example, which appears to have a 57 percent rejection rate, referred 21 percent of the cases screened to the city prosecutor; this means that 36 percent of the cases were rejected outright. Similarly, in New Orleans, 2 percent of the cases screened were referred, and another 6 percent were rejected because of another prosecution of the same offender; consequently, 42 percent (not 50 percent) were rejected outright. In Cobb County, which has the smallest population of the jurisdictions compared here, only 8 percent of the cases were completely rejected. In the District of Columbia and Salt Lake, 19 percent and 20 percent, respectively, of the cases were rejected at screening.

Different types of crimes had different rates of rejection. (See Appendix C.) Assaults and rapes, for example, were more often rejected at screening than other felonies; crimes involving property, such as robbery, burglary, and larceny, were less often rejected. Assault most often involves victims and defendants who know one another, and in many of these cases, victims who initially wish to prosecute apparently reconcile with the

defendant before trial.<sup>5</sup> Before prosecutors in New Orleans accept cases involving victims and defendants who know one another, they wait a week or two and then question the victim again to make sure that he or she still wishes to pursue the case.

A number of factors affect the rate at which cases are rejected at screening. The quality of the arrests the police bring to the prosecutor obviously has an impact on the screening decision. Not all arrests can or should lead to the prosecution of the arrestee. At times, an arrest is the most effective response to a volatile situation (such as a family quarrel, a street brawl, or public drunkenness) that might otherwise become more dangerous. Stopping the situation rather than prosecuting the offenders is the foremost concern of the police at such times. At the same time, arrests that should be prosecuted are frequently dropped by the prosecutor because the strength of evidence against the arrestee is such that the case has a low probability of ending in a conviction.

The case-assignment practices of the prosecutor's office can also affect screening decisions. The experience of the assistant prosecutors who conduct initial case screening varies from city to city. In the District of Columbia, for example, the relatively inexperienced attorneys (one year in the office) are assigned as screening prosecutors. However, their decisions are subject to review by a much more experienced assistant. In New Orleans, the most experienced prosecutors are assigned to screening. The philosophy there is that prosecutive effectiveness is determined largely by screening. Thus, a case is not filed in New Orleans unless there is substantial chance of conviction.

A review of PROMIS statistics in Salt Lake County revealed that prosecutors were screening out 20 percent of the cases brought by the police. This led to a thorough analysis of their screening operation and a major change in screening policy. A senior prosecutor now serves as a full-time screening supervisor who monitors adherence to office standards. The Salt Lake County Attorney believes that resources are used more efficiently when cases are screened out early if they have irreparable evidence or witness problems, rather than letting them proceed and, in effect, be screened out later by the system.<sup>6</sup> In the first six months after the institution of the new screening procedures, the rejection rate increased to 26 percent.

New York County (Manhattan) has also changed its screening procedures as part of an overall office reorganization from horizontal prosecution to vertical prosecution.<sup>7</sup> A complaint room supervisor (the chief or deputy chief of one of the six trial bureaus) reviews each felony arrest with the police officer as arrests are brought into the office. He then rejects the case, refers it for misdemeanor prosecution, or refers it to a senior assistant for thorough screening and evaluation. PROMIS has been operational in Manhattan only since December 1977, not long enough for data to be included in this study.

The District of Columbia has a police liaison officer who reviews all arrests rejected by the prosecutor, including the reasons for rejections and the prosecutor's notes. In that way, important feedback can be provided to the officers about why their arrests were not accepted for prosecution. Cases that the police still believe warrant prosecution can be re-presented to the prosecutor, sometimes after further investigative work. Prosecutors in the District of Columbia have found that keeping open these lines of communication has resulted in better arrests.

Los Angeles has a policy of refusing to file a case with the court until the officer brings forth all the evidence the prosecutor considers necessary. The Los Angeles prosecutors have been working closely with the police to improve the investigative effort. They believe that the policy of holding cases in abeyance until all necessary reports are received has resulted in marked improvement in police reporting procedures and investigative effort.

5. In the three cities listed below, for example, over 50 percent of the assaults involved victims and defendants who were not strangers:

District of Columbia	54%
New York	69
Indianapolis	56

Data for the District of Columbia and Indianapolis are from the PROMIS systems in those jurisdictions. New York data are from a hand-collected sample gathered by the Vera Institute of Justice; see *Felony Arrests: Their Prosecution and Disposition in New York City's Courts* (New York, 1977): 19.

6. An important aspect of an effective screening policy is communication with the police. Both New Orleans and Salt Lake found that keeping the police informed of their screening procedures and requirements avoided difficulties and fostered interagency cooperation.

7. "Horizontal prosecution" is a term of art that means that a different prosecutor handles each proceeding in the case. He then passes his notes and the case file to the prosecutor assigned for the next proceeding. With vertical prosecution, the same prosecutor is responsible for all case proceedings.

## The Decision To Nolle Or Dismiss a Case After Filing

Screening is not the only stage at which the prosecutor has discretion to drop a case. The decision to prosecute made at the case-screening stage can be affirmed, modified, or reversed at a number of subsequent decision points, and for a variety of reasons. Judges also dismiss some cases. Table 1 presents the rates at which cases are rejected at screening and dropped after filing.

Table 1.

### CASE ATTRITION

Jurisdiction	Rejected at Screening	Nolled or Dismissed	Total Drop-out Rate
Cobb County	20%	11%	31%
Milwaukee	17	23	40
Salt Lake*	20	25	45
District of Columbia	22	27	49
New Orleans	57**	7	64
Los Angeles	64**	12	76

Source: PROMIS data, January-June 1977, except Milwaukee (manual data for the same period).

\*In Salt Lake, some of the post-filing dispositions were not known.

\*\*In New Orleans and Los Angeles substantial numbers of rejected cases were referred to other prosecution agencies.

Another way of looking at case attrition is to consider the stage at which the terminations occur. Figure 5 shows the percentage of eventual case terminations that occurred at screening and later. In New Orleans, Los Angeles, and to a lesser extent Cobb County, the overwhelming majority of the terminations occurred at screening. In the District of Columbia, Salt Lake, and Milwaukee more of the terminations occurred after screening.

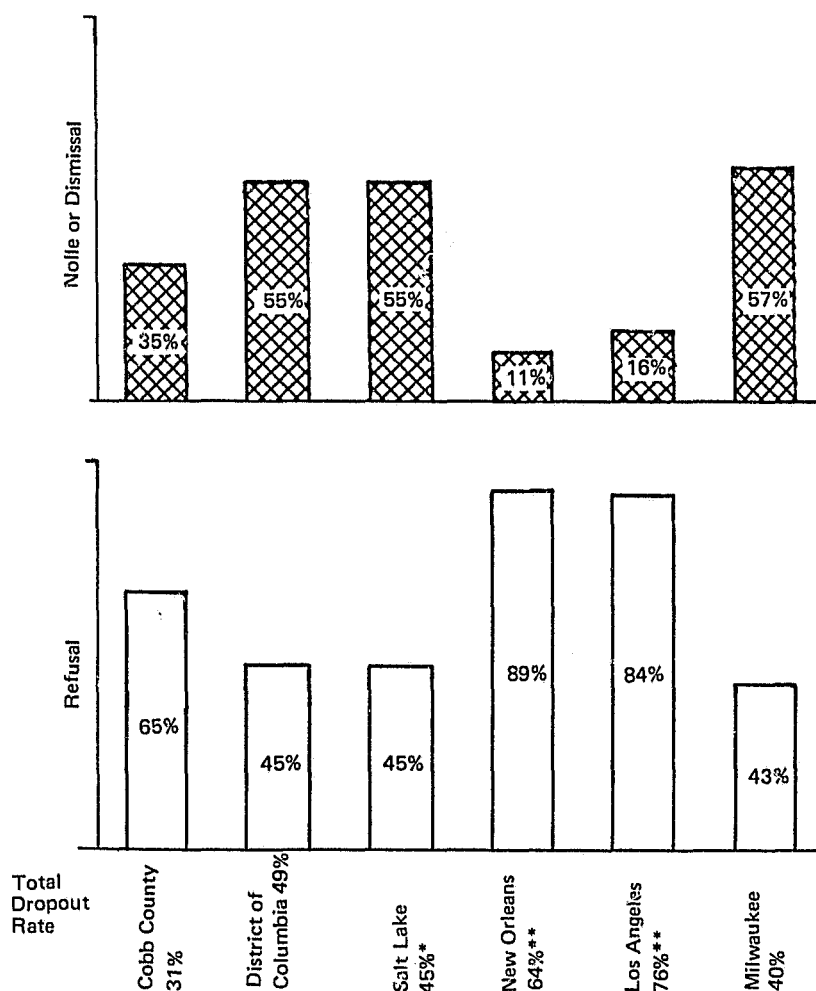
From the standpoint of cost effectiveness, the earlier cases that will eventually result in dismissals and nolle can be identified, the greater the savings. In addition, inconvenience to all those involved in the case is minimized. The New Orleans policy of assigning experienced prosecutors to screening appears to help to identify early those cases that will eventually be dropped. New Orleans, as noted, screens cases later in the process than the other cities. In most cases in New Orleans, lineups occur before screening. The District of Columbia, on the other hand, conducts lineups after screening; this means that some cases begin to proceed through the system only to be dropped later when the witness fails to identify the defendant at the lineup.

If we consider only those cases that are filed with the court, a substantial proportion of cases still drop out. Shown below are the post-filing dismissal and nolle rates for all felonies in twelve jurisdictions:

Louisville*	13%
Cobb County	14
New Orleans	17
Kalamazoo	25
Milwaukee	25
Detroit	27
Indianapolis	29
Los Angeles	34
District of Columbia	35
Golden	38
Florida Second Circuit	44
Rhode Island	46

\*Represents approximately 10% of dispositions for the period.

Figure 5. STAGE AT WHICH DROPOUT OCCURRED, FELONIES



Source: PROMIS data, January-June 1977, except Milwaukee (manual data for the same period).

\*Changes in Salt Lake's screening policy caused these percentages to change in July-December 1977 to 54 percent rejected and 46 percent nolle or dismissed.

\*\*Recall that substantial numbers of the cases in these cities were referred to other agencies for prosecution.

In general, about one-third of the felony cases were dropped after filing. Cobb County (the smallest jurisdiction studied), Louisville (which takes cases only after they have reached the point of indictment), and New Orleans (which has strict screening requirements) had much lower post-filing termination rates than the other jurisdictions. Rhode Island and the Second Judicial Circuit of Florida had much higher rates. As part of a concerted effort to reduce its pending case load, during the first six months of 1977, the Rhode Island court initiated the dismissal of cases not involving fugitives that had been open since 1972. This explains, in large part, the high dropout rate for Rhode Island.

In Detroit, where one-quarter of the post-filing dispositions were dismissals or nolles, most of the terminations occurred at the preliminary hearing or the mandatory pretrial conference, which is held about 10 days after the charges are filed. Only 12 percent of the terminations occurred at the trial stage.

In Los Angeles as well, most (68 percent) of the dismissals and nolles occurred in the early stages of prosecution—either at the preliminary hearing or the lower court stage—but 32 percent occurred at the trial stage. In the District of Columbia, one-quarter of the nolles and dismissals occurred at the trial stage.

In each jurisdiction, homicide and burglary cases were terminated by nolle or dismissal less frequently than felonies in general. (See Appendix C.) In all of the jurisdictions, except Salt Lake County, those crimes also had lower rejection rates at screening than felonies in general. Across the sites, none of the crime categories had a dismissal or nolle rate consistently higher than felonies in general.

## Reasons for Case Attrition

Since a large portion of arrests for all types of felonies are rejected at screening or later dismissed, knowledge of the reasons for those decisions is important to an understanding of the exercise of prosecutory discretion and its effect. When reasons for discretionary decisions are known, supervisory prosecutors are in a better position to determine whether office objectives and priorities are being followed, including evenhanded exercise of prosecutory discretion. In addition, the police can gain a better understanding of what is necessary if cases are to proceed through the court system. The public also benefits from an increased awareness of the practical problems of law enforcement. And finally, the criminal justice system as a whole benefits from the capability to identify problem areas and to develop policies and procedures to remedy them.

Table 2 shows the reasons for which felony cases were rejected at screening, as recorded in PROMIS by the screening prosecutors.<sup>8</sup>

Table 2.

### REASONS FOR REJECTION OF FELONY CASES AT SCREENING

Reasons	Salt Lake	New Orleans	Cobb County	Los Angeles	District of Columbia
Evidence problems	56%	35%	17%	29%	33%
Witness problems	16	34	63	6	29
Lacks prosecutive merit	12	3	9	14	22
Due process	2	9	2	4	—
Referrals	12	5	11	37	1
Diversion	—	3	—	—	—
Prosecute other case	—	12	—	—	—
Number of Cases	287	1,813	126	12,354	700

Source: PROMIS data, January-June 1977.

In every jurisdiction, except Los Angeles, evidence-related insufficiencies and problems with witnesses accounted for more than half of the rejections at screening. (In Los Angeles, 37 percent of the rejections were for referrals to other prosecutors.) Problems with witnesses accounted for a substantial proportion of the rejections even in crimes such as robbery, in which the victim and defendant are most often strangers. (Appendix C.) In 1926, the Missouri Crime Survey reported that the major reasons for case dismissals (all dismissals—not only rejections at screening) were:

- Lack of cooperation of arresting officials in procuring the evidence;
- Lack of assistance which would enable the prosecutor to interview witnesses while the evidence is fresh and prevent absence of witnesses;
- Lack of library and other facilities necessary to prepare cases on the law.<sup>9</sup>

After fifty years, evidence and witness problems remain the major causes of case attrition.

8. To test the accuracy of the reasons recorded, the prosecutor in Indianapolis selected 80 cases in which witness problems were listed as the reason for termination and checked those reasons by phoning the witnesses. In only two, or possibly three, cases, the reasons indicated were not verified as correct.

9. *Missouri Crime Survey* (1926; reprint ed., Montclair, N.J.: Patterson Smith, 1968): 156.

## Witness-related Problems

In New Orleans, Salt Lake, and the District of Columbia, the major cause of witness-related rejections appeared to be "witness sign-off." The incidence of sign-offs was particularly pronounced in cases of felonious assault. As mentioned earlier, assault cases often involve victims and defendants who know each other. Recent research by the Vera Institute of Justice and INSLAW revealed that cases involving close social relationships between the victim and defendant, particularly those involving spouses and persons with current or past romantic involvements, often are dismissed because of witness-related problems.<sup>10</sup>

Problems with witness testimony appeared to be the second most frequent cause of witness-related rejections at screening. Included in this category are the following kinds of problems: unable to qualify witness (because of age, competency, or privilege); witness testimony confused, garbled, or contradicted by the facts; and witness's personal credibility questioned.

As part of an extensive analysis of witness-related problems, INSLAW conducted household interviews with almost 1,000 citizens who were victims of, or witness to, crimes brought to the prosecutor's office in 1973.<sup>11</sup> The witnesses selected for household interviews were chosen in such a way as to permit a comparison of the attitudes and behavior of cooperative witnesses (i.e., witnesses whose cases were not declined or dismissed because of witness problems) with those of noncooperative witnesses (i.e., those whose cases were declined or dismissed because of witness problems).

The major difference uncovered between the two groups was that the "noncooperative" either did not receive their subpoenas or failed to understand what they were supposed to do if they did receive them:

- One-fourth of the witnesses selected to be interviewed could not be located because their names, addresses, or phone numbers were incorrectly recorded at the crime scene.
- Half of the remaining number of potentially cooperative witnesses said that they did not receive an explanation of the major steps of the court process from any criminal justice official. Not surprisingly, many did not know where they were supposed to go and what they were supposed to do. Some confused appearances at preliminary court events with the trial appearance and, consequently, ignored later subpoenas for testimony—viewing them as analogous to dunning notices from a department store after a late paid bill.

The report makes several recommendations for improving witness cooperation:

- Police officers at the crime scene could ask witnesses for identification so that names and addresses could be more accurately recorded.
- Information cards containing detailed information about what is expected of witnesses could be given to them at the crime scene. These cards could include a phone number for the witness to call if he or she has questions.
- At the first personal contact with a witness, the prosecutor could give the witness an information pamphlet containing details about the duties and rights of witnesses.

Indianapolis, Detroit, New Orleans, Milwaukee, Salt Lake, Golden, and Kalamazoo all have witness units that attempt to ensure that witnesses are kept informed about the progress of their cases and know when and where they should appear.

Based on an investigation of its PROMIS statistics, Detroit found that many of its witness problems stemmed from incorrect phone numbers and addresses. As a result, additional interviews with witnesses are now conducted, phone numbers and addresses are checked, and follow-up phone calls are made to ensure that witnesses will be able to appear.

10. Vera Institute of Justice, *Felony Arrests*, and Kristen M. Williams, *The Role of the Victim in the Prosecution of Violent Crimes*, PROMIS Research Publication no. 12 (INSLAW, 1978).

11. Frank J. Cannavale, Jr., and William D. Falcon (ed.), *Witness Cooperation*, Institute for Law and Social Research (Lexington, Mass.: Lexington Books, 1977).

The Indianapolis program also maintains close contact with witnesses by telephone, mail, and personal interviews. At the end of a case, the Indianapolis prosecutor sends disposition and thank you letters to witnesses.

One of the most frustrating aspects of being a victim or witness in a criminal case can be the not-so-temporary loss of one's property for use by police and prosecutors as evidence. The New York County District Attorney's Office soon will implement a PROMIS based property-tracking system to facilitate the return of property to victims. For each case entered into PROMIS, six to eight sets of property numbers can also be entered (although the Office has determined that its average case requires only two). When a witness calls the prosecutor's office concerning the return of his or her property, the witness's name can be typed onto the terminal keyboard and the applicable property numbers will appear. Once supplied these numbers by the prosecutor, witnesses can go to the police property room to recover their property.

## Evidence Problems

As for evidence-related problems, the majority of cases rejected for this reason in New Orleans, Salt Lake, the District of Columbia, Los Angeles, and Cobb County involved insufficient testimonial evidence to corroborate the offense or to establish a necessary element of it. Testimonial evidence problems differ from witness-related problems in that the witnesses did appear and were willing to testify, but their statements did not lend sufficient support to the prosecutor's case. Lack of sufficient physical evidence, such as stolen property or weapons, was another serious problem.

Evidence-related reasons were more prevalent in rejections of burglary and larceny cases than in all felonies in each city. (Appendix C.) Assault rejections were less often attributed to evidence reasons. These findings have intuitive appeal since burglary and larceny are property crimes and the recovery of physical evidence is important to the case.

These data can be further analyzed to obtain additional information about the importance of evidence. An analysis of PROMIS data from Washington, D.C., for example, investigated the relationship of physical evidence to convictions.<sup>12</sup> The study found that when physical evidence was recovered by the police the number of convictions per 100 arrests was 60 percent higher in robberies, 33 percent higher in other violent crimes, and 36 percent higher in nonviolent property offenses. The elapsed time between the offense and the arrest was also found to influence the likelihood that the arrestee would be convicted, largely, it appears, out of the enhanced ability of the police to recover physical evidence when the delay was short. In stranger-to-stranger robbery episodes, recovery of evidence was more than twice as likely when the arrest was made within 30 minutes of the occurrence of the offense than when it was made at least 24 hours afterward. This pattern was similar for violent offenses other than robbery, and somewhat less extreme in nonviolent property offenses. The study also found that in the District of Columbia only 15 percent of the police officers who made arrests accounted for over half of the convictions. Almost one-third of the police officers who made arrests made no arrests that led to conviction. The "supercops" (the ones that produced the most convictions) were not concentrated in any particular squad or assignment.<sup>13</sup> This analysis is currently being replicated in seven PROMIS cities, which will provide a basis for further cross-jurisdictional comparisons.<sup>14</sup>

## Due Process Reasons

The exclusionary rule and other due process related issues have been the topic of much attention among criminal justice practitioners and scholars alike.<sup>15</sup> While these issues may be substantial in terms of legal theory, they appear to have little impact on the overall flow of criminal cases after arrest. As shown

12. Brian Forst, Judith Lucianovic, and Sarah J. Cox, *What Happens After Arrest? A Court Perspective of Police Operations in the District of Columbia*, PROMIS Research Publication no. 4 (INSLAW, 1977).

13. A reporter for the *Los Angeles Times* interviewed a number of the "supercops" and found that some had developed their own techniques for securing evidence and the cooperation of witnesses. Ronald J. Ostrow, "Few Officers Make Most of Arrests That Stick," *Los Angeles Times*, May 16, 1977.

14. LEAA's National Institute of Law Enforcement and Criminal Justice, which funded the original research, has also funded the replication. The study is scheduled for completion in late 1979.

15. See Ramsey Clark, *Crime in America* (New York: Simon and Schuster, 1970).



below, due process related reasons accounted for only a small portion of the rejections at screening—from 1 to 9 percent:

	<u>%</u>	<u>Number</u>
District of Columbia	1	700
Cobb County	2	125
Salt Lake	2	287
Los Angeles	4	12,354
New Orleans	9	1,813

While it may be that the police do not arrest some suspects because of search and seizure limitations, these percentages seem to counter the conventional wisdom that Supreme Court decisions cause many arrests to fail because of technicalities. In fact, in the jurisdictions listed above, only one homicide arrest was rejected for due process reasons, and no rapes were rejected for these reasons. Most of the due process related rejections were concentrated in drug cases, as might be expected, because drug offenses are possessional crimes and due process violations usually relate to search and seizure. Of the due process related rejections in New Orleans, Salt Lake, and Los Angeles, 83 percent, 33 percent, and 50 percent, respectively, occurred in drug cases.<sup>16</sup> Due process (search and seizure) problems accounted for from 13 to 42 percent of the drug rejections. In felony cases other than drugs, less than 2 percent of the rejections in each city involved abrogations of due process. (See Appendix C.)

### Other Reasons for Terminations

A number of other reasons for case rejection fall into the category "lacks prosecutive merit." Included in this group would be offenses that violate the letter but not the spirit of the law (e.g., inadvertent offenses), offenses involving very minor injuries or insignificant amounts of property damage, and those that fit a formal office policy not to proceed. This category may represent a "fairness valve" in the exercise of prosecutory discretion.

New Orleans was the only one of the jurisdictions studied that referred felonies to diversion programs. The New Orleans diversion program is run by the prosecutor's office and accepts defendants who are adult first offenders charged with nonviolent crimes.

A study of recidivism in the District of Columbia examined the relationship between successful misdemeanor diversion and future crime.<sup>17</sup> Two misdemeanor diversion programs operate in the District of Columbia. First Offender Treatment (FOT), the less intensive of the two, requires that defendants tour the FBI facilities, observe court proceedings, and write an essay on an assigned topic related to the offense. Project Crossroads involves job counseling and training and supervision of three to six months. By following a panel of defendants in the PROMIS data for 30-34 months after their first arrest, the study was able to compute rearrest rates for first offenders who did not successfully complete the diversion program, for those who completed FOT, and for those who were successfully diverted in Project Crossroads. The study found that the rearrest rate for successfully diverted defendants in both programs (18 percent) was lower than that for other first offenders (23 percent).<sup>18</sup>

16. No felony drug cases in the District of Columbia were rejected for due process problems; however, few felony drug cases are handled by the Superior Court Division (i.e., local prosecutor) of the United States Attorney's Office. Most of the felony drug cases in the District are prosecuted in federal court.

17. Kristen M. Williams, *The Scope and Prediction of Recidivism*, PROMIS Research Publication no. 10 (INSLAW, forthcoming).

18. After using multivariate techniques to consider many factors other than successful diversion, the study tentatively concluded that FOT had no impact one way or the other on recidivism. Project Crossroads may be having an impact on the participants, but the study could not tell conclusively whether the impact was due to the standards used in the selection of people into the program or whether it was due to the program itself.

### Reasons for Post-filing Nolles and Dismissals

As with rejections at screening, the major reasons for post-filing dismissals and nolles were evidence- and witness-related. (See Table 3.) Due process problems again accounted for little of the attrition, and again most of the due process problems were accounted for by the drug cases. Plea bargaining was responsible for a substantial number of the nolles and dismissals in Indianapolis; that is, cases were sometimes dropped if defendants with two or more cases pled guilty in one of them. As might be expected, dismissals due to witness problems were more pronounced in rape and assault cases than in other felonies. Figure 6 shows a finer breakdown of witness-related reasons for post-filing dismissals and nolles.

Witness "no show" appeared to be a sizable problem in several cities, but it accounted for only 2 percent of the witness-related terminations in Indianapolis. This low percentage was attributed to the effectiveness of the prosecutor's Witness Coordination Program, which attempts to contact each witness before trial. If the unit discovers that a witness cannot be located or will be otherwise unavailable, the case is nolle. In this way, prosecutors avoid spending time preparing cases that will have to be dismissed on the day of trial.

Detroit's 62 percent no-show rate for witnesses was attributed, in part, to Michigan's requirement that all *res gestae* witnesses (all witnesses who may have some knowledge of the crime itself) appear in court whether the prosecutor intends to use them or not. This gives rise to dismissals later in the case when a *res gestae* witness is unavailable.

The specific nature of evidence-related dismissals and nolles (shown in Figure 7) also varied from city to city. In Detroit, Los Angeles, and New Orleans, a major explanation of evidence-related dismissals and nolles was the lack of a sufficient connection between the defendant and the offense (36 percent, 37 percent, and 36 percent, respectively). A missing element of the offense accounted for 36 percent in both Detroit and Los Angeles. Insufficient testimonial evidence was the major reason given in the District of Columbia (56 percent), and an important reason in New Orleans (29 percent). In Cobb County, 98 percent of the evidence-related dismissals and nolles were attributed to lack of scientific evidence.<sup>19</sup>

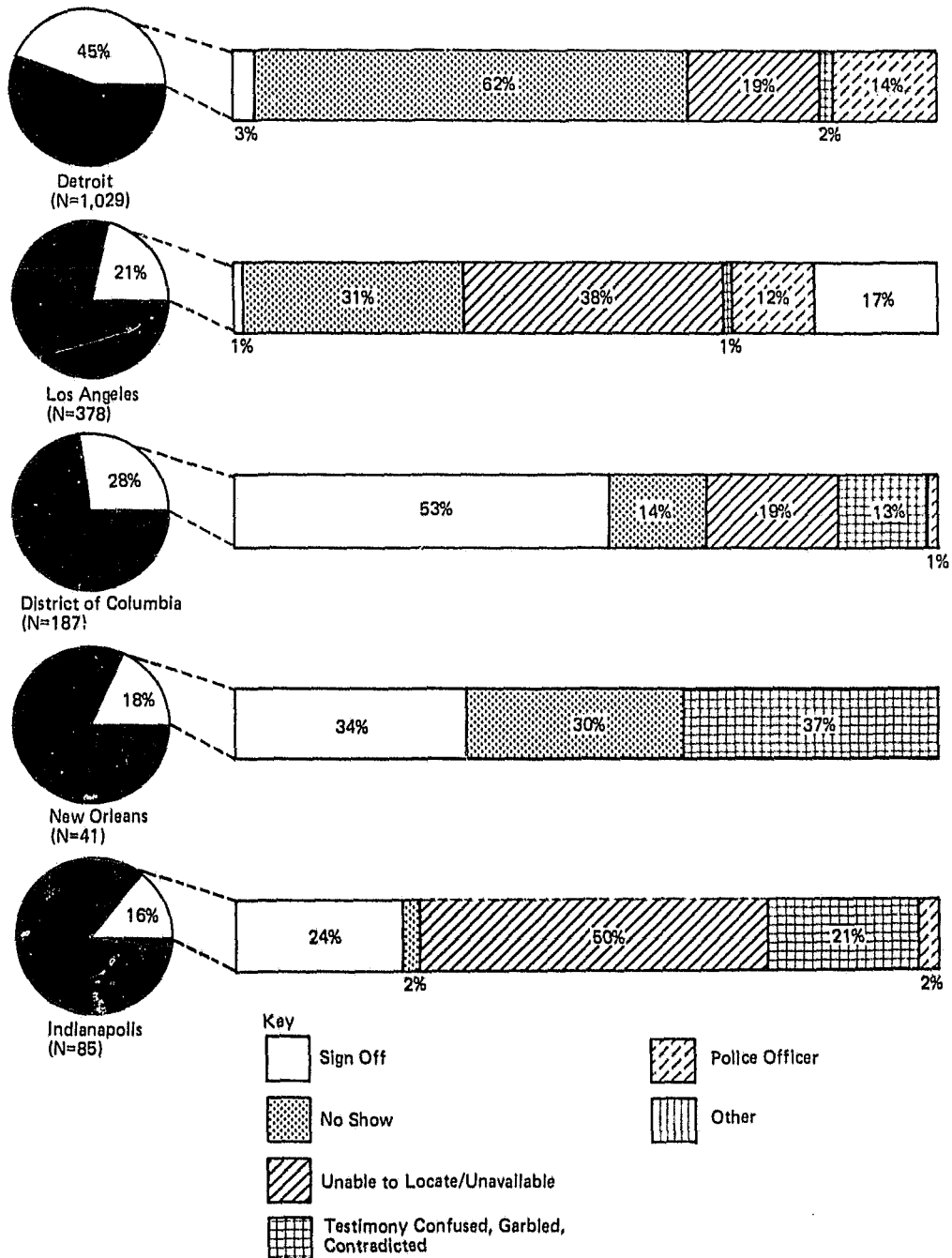
Table 3.  
REASONS FOR POST-FILING DISMISSALS AND NOLLES

Reasons	Los Angeles	Cobb County	District of Columbia	New Orleans	Detroit	Indianapolis
Evidence problems	25%	85%	26%	20%	15%	28%
Witness problems	21	3	28	18	43	16
Lacks prosecutive merit	26	7	5	9	1	6
Due process	12	2	4	10	5	1
Plea bargaining			3	8	6	22
Other and unknown	16	3	34	35	30	27
Number of Cases	1,795	68	671	229	1,318	285

Source: PROMIS data, January-June 1977.

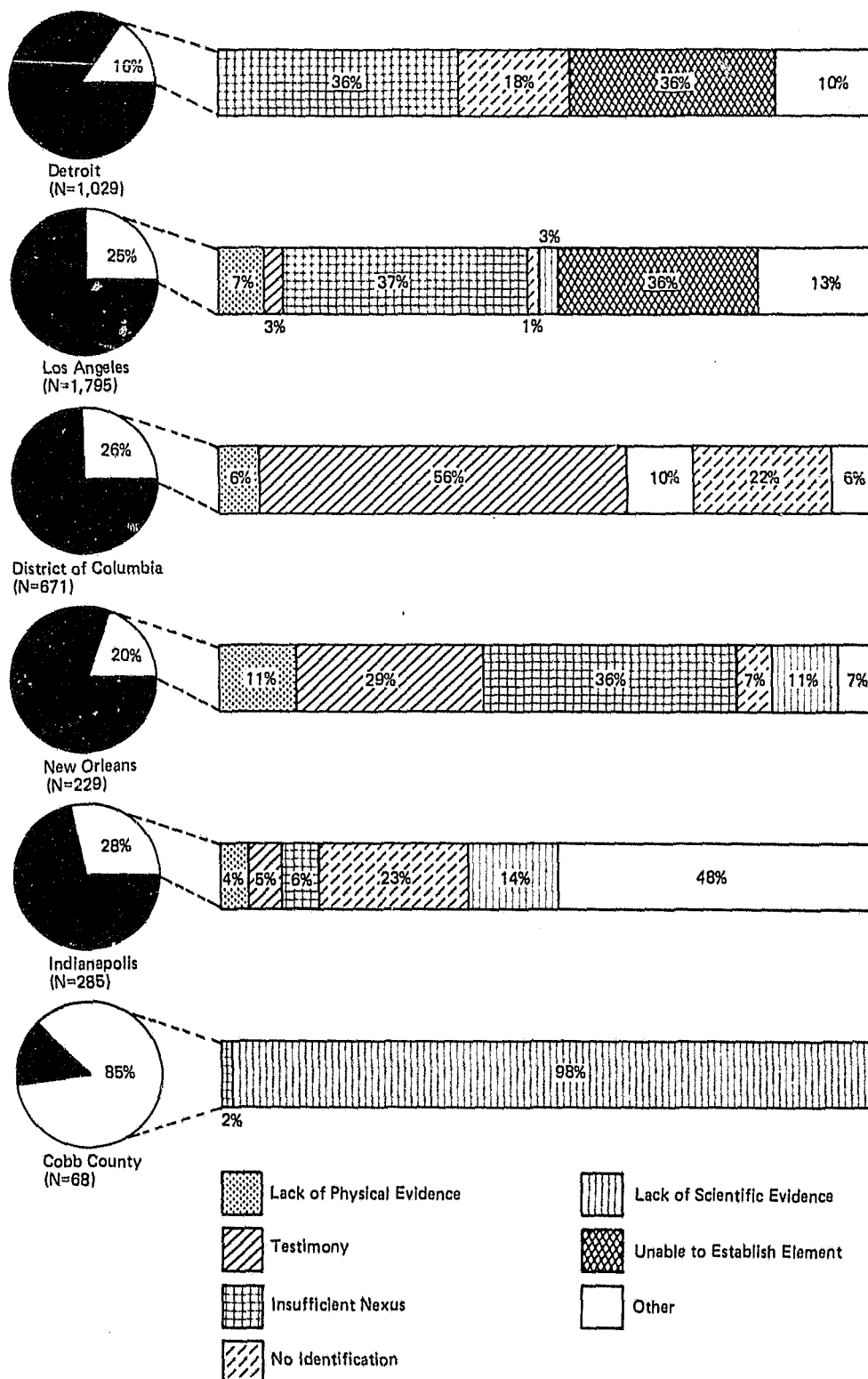
19. Cobb County has a relatively high proportion of drug cases, which may partially explain the large percentage of scientific evidence problems. Data coding errors are another possible explanation.

Figure 6. POST-FILING NOLLES AND DISMISSALS,  
WITNESS-RELATED REASONS



Source: PROMIS data, January-June 1977.

Figure 7. POST-FILING NOLLES AND DISMISSALS  
EVIDENCE-RELATED REASONS



Source: PROMIS data, January-June 1977.

## Differences by Police Agency

Several of the prosecutors in this report accept arrests from more than one police agency. Some case attrition and the reasons for it may be related to the police agency responsible for the arrest.

For several jurisdictions, this section presents simple comparisons of the dispositions of cases brought by different police agencies.

<u>Jurisdiction</u>	<u>Police Agencies</u>
Salt Lake	Salt Lake City Police Department Salt Lake County Sheriff's Office
Indianapolis	Indianapolis Police Department Marion County Sheriff's Office
Cobb County	Cobb County Police Department Cobb County Sheriff's Department
Los Angeles <sup>20</sup>	Marietta Police Department Los Angeles Police Department Los Angeles County Sheriff's Office
Rhode Island	Providence Police Department Pawtucket Police Department Central Falls Police Department

At initial review in both Los Angeles and Salt Lake, the sheriff's department had a higher proportion of felony cases accepted than did the police department. (See Figure 8.) These higher success rates for the sheriffs' departments are not due entirely to the type of charges that are brought. For every major crime category,<sup>21</sup> the sheriffs' departments had higher acceptance rates than did police departments:

<u>Acceptance Rates in Salt Lake</u>					
	<u>SLPD</u>			<u>SLSO</u>	
Robbery	64%	(n = 129)		93%	(n = 57)
Burglary	75	(n = 297)		88	(n = 189)
Assault	40	(n = 154)		63	(n = 49)

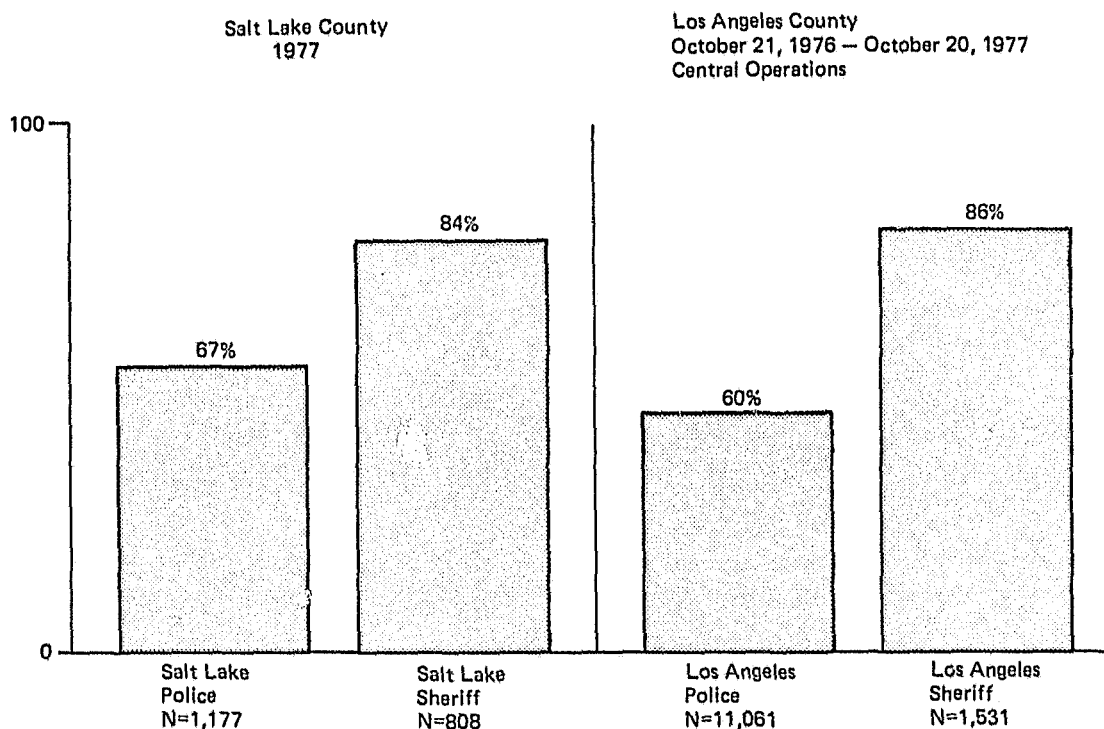
<u>Acceptance Rates for Los Angeles</u>					
	<u>Central Operations</u>				
	<u>LAPD</u>			<u>LASO</u>	
Homicide	72%	(n = 406)		95%	(n = 37)
Rape	26	(n = 492)		74	(n = 38)
Robbery	61	(n = 1533)		90	(n = 117)
Burglary	71	(n = 1732)		97	(n = 232)

Recall that the Los Angeles District Attorney's Office has a policy of refusing to file any case unless the police officer brings forth all the evidence the prosecutor considers necessary. In addition to having a higher percentage of cases refused at screening, the LAPD also had a higher proportion of cases returned for further

20. In this section, cases in Los Angeles that involve a misdemeanor alternative or that were referred to the city prosecutor have been excluded from the base. Because a higher percentage of cases brought by the police department than by the sheriff's department were referred, the referrals were excluded to make the comparison more equitable.

21. Only those crime categories that had 35 or more cases for each department were compared.

Figure 8. RATE OF ACCEPTANCE AT SCREENING, ALL FELONIES



Source: PROMIS data.

investigation. In Central Operations during the year ending October 1977, 5 percent of the police department cases were returned; only 1 percent of the sheriff's cases were returned. (Only those sheriff's cases brought to Central Operations are included in this analysis; the percentages reported might change if we were able to consider sheriff's cases brought to the other offices of the District Attorney.)

At preliminary hearings as well, the dismissal rate was higher for police department cases than for sheriff's cases. That dismissal decision is made by the judge and affects only those cases that survive initial review.

Although data were not available to compare screening statistics for the police departments and sheriffs' departments in Cobb County and Indianapolis, conviction rates could be compared. In each of these jurisdictions and in Los Angeles, the conviction rates for all felony cases and for specific crime categories were higher for arrests brought by the sheriff. (See Figures 9, 10, and 11.) The rates for Cobb County and Indianapolis are based on filings; for Los Angeles they are based on arrests not referred to other agencies.

We do not have a full explanation for why sheriffs' departments appear to do better in terms of both case acceptance and conviction in every jurisdiction for which we could make comparisons.<sup>22</sup> In Indianapolis, at least, there was very little difference between the police department and the sheriff's office in the proportion of felony arrests made at the scene of the offense—58 percent and 56 percent, respectively. Similarly, there was little difference in the percentage of their arrests that involved stranger-to-stranger crime—70 percent for the police and 72 percent for the sheriff. Therefore, neither of those factors appears to explain the difference between the agencies.

22. In Rhode Island, where three separate police departments, none of them a sheriff's department, were compared, there was virtually no difference in the percentage of cases charged nor the disposition rates.

The differences in performance may be explained by factors that we were not able to measure. For example, the case load per officer in an agency might well affect the conviction rate of that agency, but we had no knowledge of officer case load in the departments studied.

Differences in the level of urbanization and other socioeconomic characteristics of the communities the agencies serve may also help to explain differences in performance. In the Central Operations area of the Los Angeles County District Attorney's Office, however, both the police department and the sheriff's office include inner city communities in their areas of coverage.

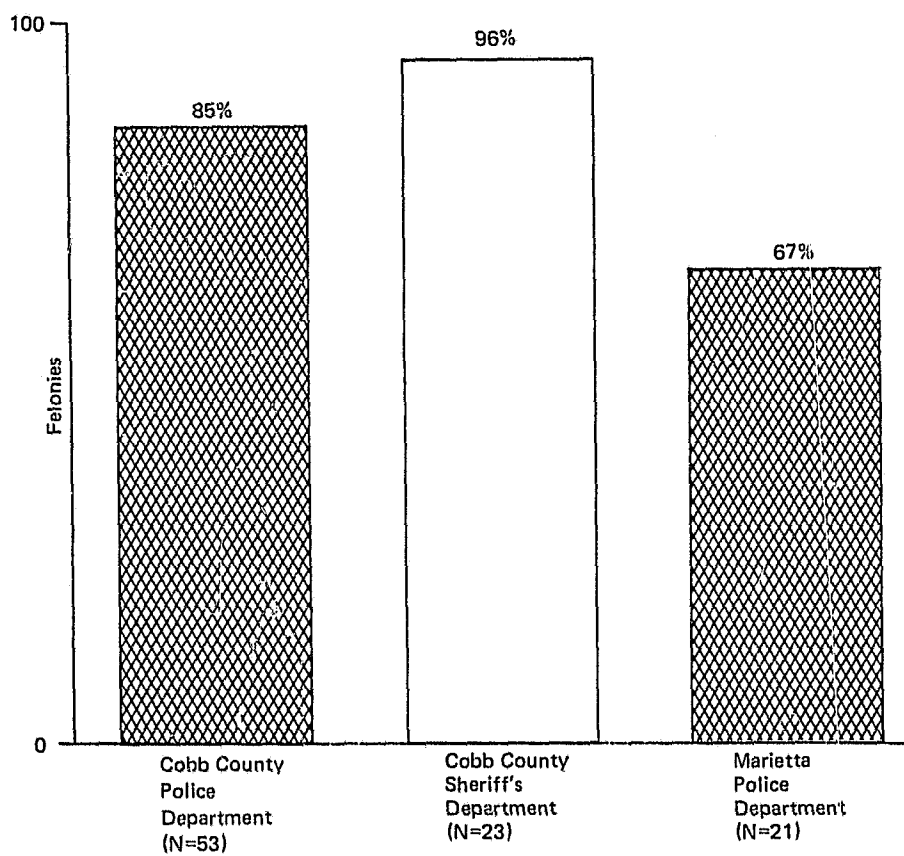
## Further Study

The statistics presented in this chapter document sizable case attrition and provide some insights into the reasons behind it. Most of the reasons are witness or evidence related; few cases are dropped because of due process inadequacies.

An important next step would seem to be the development of a core set of reason codes to be used in each jurisdiction to enhance cross-jurisdictional analyses of the causes of attrition. That core set of reasons could be supplemented with specific examples in order to provide more consistency in the recording of reasons across jurisdictions. One area in which this would be especially important is the distinction between witness problems and testimonial evidence problems.

Monitoring disposition rates and the reasons for dispositions can assist court and prosecution managers in evaluating changes in case processing and in pinpointing problem areas. For example, New Orleans recently observed an increase in the number of nolle in assault cases and found that the reason was that victims were not coming to court to testify. A check with the victim-witness assistance program revealed that they had decreased their contacts with witnesses. The old procedure was resumed and the number of nolle for witness problems began to decrease.

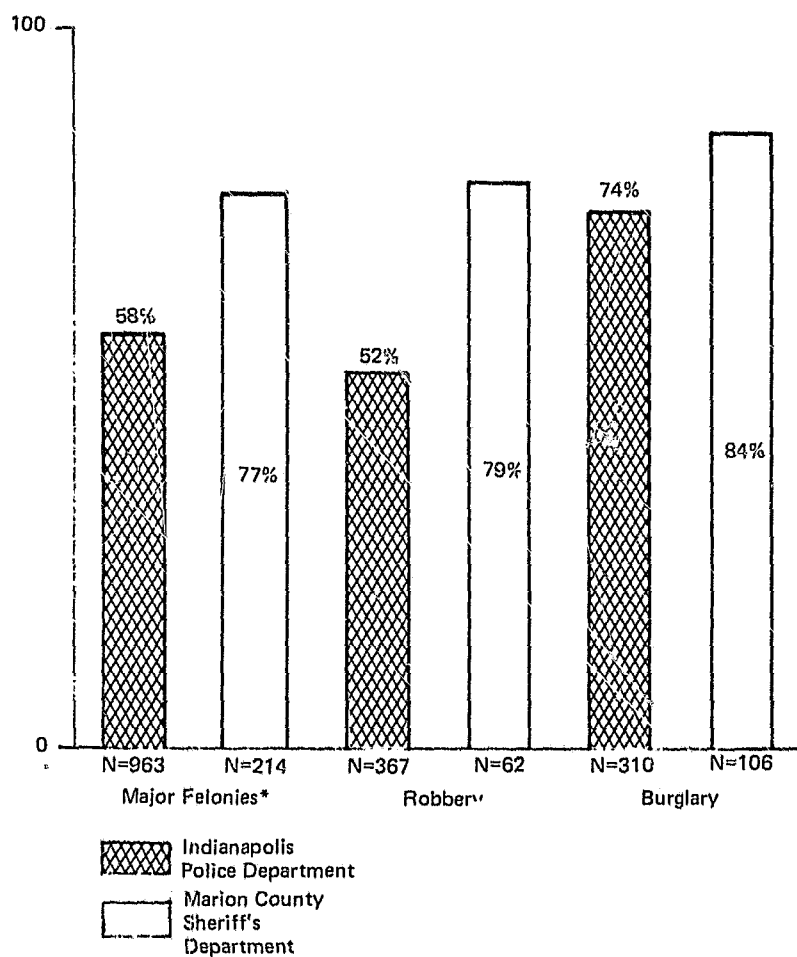
Figure 9. CONVICTION RATE OF FILED CASES,  
COBB COUNTY, GEORGIA



Source: PROMIS data, January-June 1977.



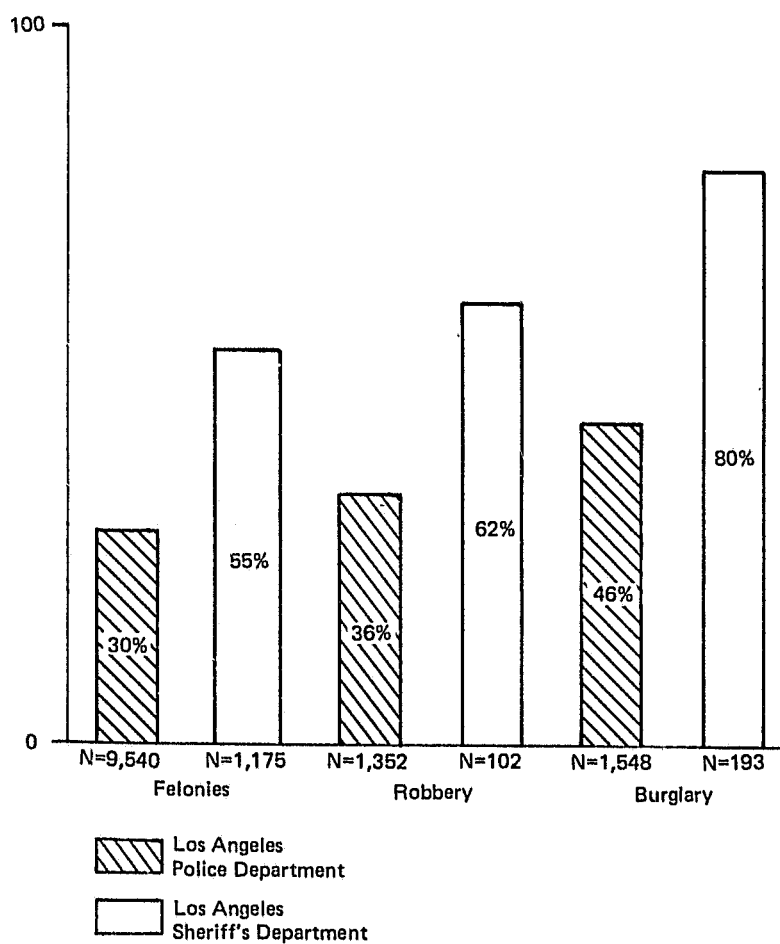
Figure 10. CONVICTION RATE OF FILED CASES, INDIANAPOLIS



Source: PROMIS data, September 30, 1976 - September 30, 1977.

\*Homicide, Rape, Robbery, Burglary, Assault

Figure 11. CONVICTION RATE OF ARRESTS NOT REFERRED TO ANOTHER AGENCY, LOS ANGELES



Source: PROMIS data for Central Operations, October 21, 1976-October 20, 1977.

## 4. BAIL DECISIONS, REARREST, AND FAILURE TO APPEAR

Shortly after the prosecutor files a case with the court, the defendant goes before a judge, who sets conditions for the defendant's release pending trial. These judicial decisions varied across cities. Table 4 shows initial judicial release decisions at arraignment (or presentment) in felony cases. These figures represent only the initial decision on bail in each city. Bail conditions are generally subject to change, but those changes are not reflected in the table. According to prosecution records in Salt Lake, for example, the 41 percent detention rate at initial appearance dropped to 10 to 12 percent by trial.

Table 4.  
PRETRIAL RELEASE DECISIONS

Release Conditions	District of Columbia	Salt Lake	Detroit
Out (personal recognizance, release on nonfinancial conditions)	49%	22%	29%
Money (cash or surety)	40	18	58
In (detention)	1	41	3
Unknown (not recorded)	9	19	10
Number of Defendants	2,357	1,083	4,693

Source: PROMIS data, January-June 1977.

In the District of Columbia, where pretrial release conditions are governed by a variation of the Bail Reform Act,<sup>1</sup> half of those charged with felonies were released at arraignment on their own recognizance or in the custody of a third party. (That percentage varied from a low of 38 percent of the homicide defendants to a high of 62 percent of assault defendants.) Salt Lake (22 percent) and Detroit (29 percent) released similar proportions on nonfinancial conditions; however, at the initial hearing, Salt Lake detained a much higher proportion. Two-thirds of the homicide and rape defendants in Salt Lake were returned to jail at arraignment. Looking at pretrial release decisions by type of crime, nearly half (46 percent) of the robbery defendants in the District of Columbia were released on nonfinancial conditions pretrial. In Detroit and Salt Lake, only 4 percent of the robbery defendants were so released. In rape cases, only 8 percent of the defendants received nonfinancial release in Detroit compared with 49 percent in the District of Columbia. (See Appendix C.)

Pretrial release decisions may be related to recidivism. The District of Columbia, which had the highest rate (49 percent) of release on nonfinancial conditions, also had the highest rate of arrests of persons on conditional release—bail, probation or parole—at the time of arrest (22 percent). (See the discussion of recidivism in Chapter 9.)

1. Under the terms of the D.C. bail statutes, release on bail is to be based on the defendant's likelihood of appearance in court. A separate provision, called "preventive detention," permits denial of pretrial release to certain categories of defendants based on their dangerousness to the community and the strength of evidence in their cases.

Chief Justice Burger discussed the possible relation between recidivism and bail decisions in his keynote address to the National Conference on the Causes of Popular Dissatisfaction with the Administration of Justice:

It now appears, especially in larger cities, that crimes are committed by persons while released pending trial on earlier charges. It is not uncommon for an accused, when finally tried, to have other indictments pending. If the matter is disposed of by a guilty plea, after conviction on one charge, there is some evidence of a tendency to dismiss or defer other charges and to impose a single sentence. In high crime rate communities, law abiding citizens must be forgiven if they ask whether such practices are giving rise to a belief that a criminal can commit two, or even three, crimes and pay the price for only one. That this reaction may not withstand careful analysis does not alter the disturbing reality of public opinion engendered by the evening newscast reporting homicides and other serious crimes.

This phenomenon is related to the actual operation of the Bail Reform Act in which likelihood of flight in most cases is the only test, and no consideration is given to possible danger to the community. Here, we cannot be sure of the answers because we do not know all the facts. The facts we need can be found only by a careful study in one or more sample jurisdictions to prove, case by case, name by name, and determine how many arrests have been made of persons who were on release pending trial on a prior charge. Only then will we know whether the Bail Reform Act needs reexamination and amendment.<sup>2</sup>

The statistics presented here for the District of Columbia, Detroit, and Salt Lake do not address whether bond setting is related to either failure to appear or pretrial rearrest. However, the data on which these statistics are based can be analyzed toward this purpose. Findings of such an analysis for the District of Columbia were somewhat surprising.<sup>3</sup> The factors that influenced bail decisions had almost nothing to do with either failure to appear or crime on bail. (See Figure 12.) For example, bond was more often required of defendants who were arrested while on probation or parole, even though the pretrial conduct of such persons was no worse than that of other defendants, on average. Yet, drug users, whose pretrial arrest and appearance records were both worse than those of other defendants, were not held on money bond more often than other defendants.

The setting of financial conditions in felony cases appeared more likely if the current charge was homicide or bail violation, if the defendant had a pending case or was on probation or parole, if the defendant had a prior arrest record, and if the defendant was white. Other findings of the study included the following:

- The capacity of the jail appeared to have some effect on the pretrial release decision. Defendants were more likely to be released on their own recognizance or to a third-party custodian if the population of the jail in the month prior to their arraignment was high.
- Among the judges who set pretrial release conditions in sizable numbers of cases, there was little variation in the rate of release on nonfinancial conditions. There was, however, substantial variation in the choices between release on personal recognizance and release to a third-party custodian.
- Defendants charged with robbery, burglary, larceny, arson, or property destruction were more likely than other defendants to be rearrested in the future if they were released before trial. Yet they were no more likely than other defendants to be held on bond.

Estimates of the failure to appear rate were also made in the study. Eleven percent of the defendants in felony cases failed to appear as scheduled, but the study concluded that only 4 percent were willful failures.

2. Chief Justice Warren Burger, keynote address to National Conference on the Causes of Popular Dissatisfaction with the Administration of Justice, April 1976.

3. Jeffrey A. Roth and Paul B. Wice, *Pretrial Release and Misconduct in the District of Columbia*, PROMIS Research Publication no. 16 (INSLAW, forthcoming).

Figure 12. COMPARISON OF VARIABLES EXPLAINING FINANCIAL CONDITIONS, FAILURE TO APPEAR, AND PRETRIAL REARREST

Explanatory Attribute	Behavior Being Explained		
	Use of Financial Bond	Failure to Appear	Pretrial Rearrest
<u>Current Charge:</u>			
Homicide	+	0	0
Assault	-	-	0
Drug violation	-	0	0
Bail violation	+	0	0
Sexual assault	0	-	0
Weapon violation	0	-	0
Robbery	0	0	+
Burglary	0	0	+
Larceny	0	0	+
Arson/Property destruction	0	0	+
<u>Crime Severity:</u>			
No weapon used	-	0	+
<u>Defendant History:</u>			
Nonappearance in pending case	+	0	0
Parole/Probation when arrested	+	0	0
No. pending cases	+	0	+
No. prior arrests/all crimes	+	0	0
No. prior arrests/crimes against persons	0	0	+
Arrested last 5 years?	+	0	0
No. arrests in preceding 12 months?	0	0	+
<u>Defendant Descriptors:</u>			
Local residence	-	0	0
Employed	-	-	-
Low income	-	0	0
Drug user	0	+	+
Caucasian	+	0	-
Older	0	0	-

Source: Jeffrey A. Roth and Paul B. Wice, *Pretrial Release and Misconduct in the District of Columbia*, PROMIS Research Publication no. 16 (INSLAW, forthcoming).

Note: The +, -, or 0 in each column indicates whether the attribute was found positively related, negatively related, or statistically unrelated to the probability of the event described by the column heading.

(Willful failures to appear were defined to include failures followed by arrest for bail violations and failures that prevented the cases from being closed, i.e., the failure was the last action of the case.) This type of study could be replicated in other jurisdictions that have data of this sort.

The defendant's failure to appear disrupts the scheduled flow of cases, causes the expenditure of prosecution and judicial resources that otherwise could have been directed to cases that were ready to proceed, and inconveniences victims, witnesses, and police officers who do appear as scheduled to testify. Table 5 illustrates the extent of this problem in a number of jurisdictions. Salt Lake has a statute aimed at remedying this problem. There, a defendant who fails to appear for a felony trial can be charged with a felony. The Salt Lake County Attorney has begun to invoke this statute to charge defendants who fail to appear. He believes that enforcement of the statute will encourage defense attorneys to keep track of their clients.

Table 5.  
THE PERCENTAGE OF NONPROCEDURAL CONTINUANCES  
ATTRIBUTED TO THE DEFENDANT'S FAILURE TO APPEAR

Jurisdiction	Rate	Number of Nonprocedural Continuances
Los Angeles	9%	16,222
Indianapolis	11	1,515
District of Columbia	14	1,940
Rhode Island	14	3,087
Detroit	15	9,690
New Orleans	18	3,021

Source: PROMIS data, January-June 1977.

Note: Nonprocedural continuances do not include those between different types of events (e.g., arraignment to trial, trial to sentencing).

The District of Columbia study concludes that lack of feedback to the judges who set bail about whether defendants fail to appear or are rearrested for new crimes may explain the lack of relationship between the factors that are associated with type of bail and those associated with either failure to appear or pretrial crime. Tools to aid judges in setting bail and prosecutors in making bail recommendations to the court are being developed by INSLAW based on research in the District of Columbia. Figure 13 is an example of such a tool. It shows the types of release decisions that were made in similar cases; for example, 65 percent of the defendants similar to the one currently before the judge were released on personal recognizance. The chart also presents the final dispositions in similar cases.

Each score on the left of the chart is a percentile (like College Board ranks). DEFEND represents the likelihood that a defendant like this one will recidivate. A score of 75 for DEFEND indicates that only 25 percent of all defendants are more likely than this one to be rearrested. CRIME reflects the relative seriousness of the offense; CONVICT is a measure of convictability; and FLIGHT represents the failure to appear potential of similar defendants.

4. Other studies have found that the willful failure to appear rate is much lower than the overall failure to appear rate. William M. Rhodes, *et al.*, found overall failure to appear rates ranging from 2 to 17 percent in five cities and willful failure to appear rates of 0 to 3 percent (*Costs and Benefits of Community Based Corrections*, unpublished study available from INSLAW). Wayne Thomas measured willful failure to appear by bench warrants not quashed within eight days. In the survey of 20 cities, he found a failure to appear rate of 10 percent and a willful failure to appear rate of 7 percent. (*Bail Reform in America*, Berkeley: University of California Press, 1976.) Susan Weisberg had similar findings: 11 percent overall, 4 percent willful. (*Cost Analysis of Correctional Standards: Alternatives to Arrest*, Vol. II, Standards and Goals Project, Correctional Economics Center of the American Bar Association, October 1975.) The consistency of these findings may indicate that defendants are not adequately notified of scheduled events. This lack of notification may be similar to witness notification problems, discussed in Chapter 3.

Figure 13. SUGGESTED TOOL TO AID JUDGES IN SETTING PRETRIAL RELEASE CONDITIONS

Defendant in This Case	Summary of Previous Decisions								
Burgess, P -- Case 00349972	Pretrial Release Conditions								
DEFEND 75 CRIME 20	Pers Recog	Third Party	Surety Bond	Cash Bond	Detain	Other	Total		
CONVICT 25 FLIGHT 10	65%	12%	7%	14%	2%	0%	100%		
<u>Charges</u>									
CDW Gun	Final Disposition								
	Pros Reject	Dismiss	Nolle/ Ignoramus	Plea Lower	Plea Same	Trial Guilty	Trial Acquit	Other	Total
	10%	6%	40%	16%	20%	6%	2%	0%	100%

In addition to the operational case-by-case use of the scores, periodic management reports will also be available. The reports will show release conditions granted for ranges of failure to appear scores, as well as actual failure to appear rates for each category.

## Further Study

Descriptive statistics on pretrial release, failure to appear, and crime on bail do not allow us to examine the relationship between the various conditions imposed and failure to appear. In-depth analyses of PROMIS data in several jurisdictions that have different bail policies could address a number of questions concerning pretrial release, the answers to which would help to provide a framework for bail reform where needed. For example:

- What factors are most powerful in predicting which arrestees will appear for trial if released?
- What factors are most powerful in predicting which arrestees will be rearrested for a new crime while on bail?
- What case and defendant characteristics explain judges' decisions?
- How is bail effectiveness influenced by characteristics of the criminal justice environment, such as the mix of cases, the availability of bondsmen, the speediness of the judicial process, and the release options available to the judge?
- Does pretrial incarceration increase the probability of conviction and the severity of sentence?
- What is the relationship between pretrial incarceration and time in system?
- Does the length of time from arrest to disposition have an effect on failure to appear or pretrial crime?

## 5. GUILTY PLEAS

In preceding chapters, we have seen that outright dismissal (i.e., refusal, nolle, and dismissal by the prosecutor or judge) is the most common disposition of criminal arrests. As shown below, once a case is accepted for prosecution, the most common disposition is a plea of guilty.

<u>Percentage of Filed Cases Disposed by Plea</u>		
	<u>Rate</u>	<u>Number</u>
Florida Second Circuit	28%	1,950
Los Angeles	47	7,064
Indianapolis	50	985
Rhode Island	51	1,354
District of Columbia	52	2,441
Milwaukee	55	1,677
Golden	57	404
Detroit	59	5,250
Kalamazoo	62	933
New Orleans	62	1,354
Louisville	70	84*
Cobb County	77	507

\*Because data collection had just begun in Louisville, this figure represents only approximately 10 percent of the dispositions.

Pleas not only make up the majority of dispositions of cases filed with the court, they account for almost all of the convictions, as shown below.<sup>1</sup>

<u>Percentage of Convictions That Were Guilty Pleas</u>		
	<u>Rate</u>	<u>Number</u>
Florida Second Circuit	68%	793
Indianapolis	75	655
New Orleans	82	1,030
Los Angeles	83	4,026
Louisville	86	67
District of Columbia	87	1,449
Detroit	88	4,654
Kalamazoo	90	642
Milwaukee	90	1,021
Cobb County	100	390

1. Cobb County did have a few trials; however trials are only possible in Cobb County during one week of each month.



Just a cursory look at the figures reveals that the guilty plea process is an important fact of life in urban court systems. In recent years, however, a debate over the use of the guilty plea process, and plea bargains in particular, has been waged in both legal circles and among the general public.<sup>2</sup> Proponents of the use of pleas argue that without them the courts would be hopelessly jammed and that the administration of justice would grind to a halt. Opponents counter that the use of pleas causes defendants to surrender constitutional rights designed to protect accused persons against unjustified convictions.

In its Task Force Report on the courts, the President's Commission on Law Enforcement and Administration of Justice did not debate the issue of whether pleas were a desirable method of dealing with criminal matters. In light of prosecution realities, the Commission directed its attention instead to "improving the operation of the plea bargaining system in those jurisdictions where negotiations are ordinary occurrences."<sup>3</sup> The American Bar Association has also addressed itself to reforming, not eliminating, the system of plea bargaining.<sup>4</sup>

Chief Justice Burger has called the plea process "an essential component of the administration of justice. Properly administered, it is to be encouraged . . . ." The National Advisory Commission on Criminal Justice Standards and Goals, on the other hand, has called for the abolition of pleas in the interest of protecting the rights of the defendant:

In many courts more than 90% of the criminal convictions are not obtained by the verdict of a jury or the decision of a judge. Rather they are based on the defendant's own plea of guilty. Such a plea functions not only as an admission of guilt but also as a surrender of the entire array of constitutional rights designed to protect a criminal defendant against unjustified conviction, including the right to remain silent, the right to confront witnesses against him, the right to trial by jury, and the right to be proven guilty by proof beyond a reasonable doubt.<sup>6</sup>

. . . As soon as possible, but in *no event later than 1978*, negotiations between prosecutors and defendants—either personally or through their attorneys—concerning concessions to be made in return for guilty pleas should be prohibited.<sup>7</sup>

Note that the National Advisory Commission did not condemn the entry of guilty pleas; its objection is to prosecutors granting concessions in return for pleas.

Earlier chapters have shown that many cases are dropped because of witness problems or evidence-related problems. It is likely that some cases that resulted in guilty pleas might otherwise have been dropped for one of those reasons—reasons that are not necessarily related to whether the defendant is factually innocent or guilty. Other cases in which a guilty plea was entered might have resulted in an acquittal at trial, since a trial outcome is always uncertain.

A recent study of plea bargaining in the District of Columbia concluded that, "if the initial screening prosecutor's estimate of the probability of conviction and the record of evidence stored in PROMIS can be taken as indicators, then while the factually guilty may be convicted by guilty pleas, guilty plea convictions may frequently result in conviction of the legally innocent, i.e., persons who would not be adjudged guilty at trial."<sup>8</sup>

2. See Herbert S. Miller, *et al.*, *Plea Bargaining in the United States: Phase I Report*, Georgetown University Law Center (Washington, D.C., 1977).

3. President's Commission on Law Enforcement and the Administration of Justice, *Task Force Report: The Courts* (Washington, D.C.: Government Printing Office, 1969): 10.

4. American Bar Association Project on Minimum Standards for Criminal Justice, *Standards Relating to Pleas of Guilty* (approved draft, 1968).

5. *Santabello v. Net*, 404 U.S. 257, 260 (1971).

6. National Advisory Commission on Criminal Justice Standards and Goals, *Courts* (Washington, D.C.: Government Printing Office, 1973): 42.

7. *Ibid.*: 46; italics added.

8. William M. Rhodes, *Plea Bargaining: Who Gains? Who Loses?* PROMIS Research Publication no. 14 (INSLAW, 1979).

In smaller jurisdictions and jurisdictions with limited court resources, work loads may have more of an influence on plea policies than elsewhere. Cobb County, Georgia, which has only one week of trials per month, for example, had the highest plea rate of any of the jurisdictions studied here. Salt Lake, which has only two full-time criminal judges for over half a million people, also has a high plea rate.

## When Do Guilty Pleas Occur?

Some critics of the plea process assert that the plea is often entered at the last minute. The National Advisory Commission observed that "the resulting need to pull cases out of the process makes efficient scheduling of cases difficult or impossible. Thus, plea bargaining makes it difficult to use judicial and prosecution time effectively."<sup>9</sup> In Detroit, about five years ago, the prosecutor's inquiry into office efficiency revealed that very few people who were charged with a crime were actually going to trial. With the cooperation of the court, new case-processing procedures were instituted that give the prosecutor's office more control over when pleas are entered. Automatically now, seven to ten days after a person is charged (equivalent to indictment) a mandatory pretrial conference is held. The conference occurs out of court, with the prosecutor, defense lawyer, and defendant present. At that conference, defendants decide whether to enter a plea (about 40 percent of the cases are pled at this stage) or go to trial. If a trial is requested, a cutoff date of 30 days hence is set, after which no plea other than guilty as charged is accepted.

Consistent with that policy, Detroit has a high rate of pleas to the top charge in the case. For burglary, robbery, and larceny cases, at least 94 percent of the pleas after the pretrial conference were to the top charge. In assault cases, 82 percent were to the top charge.<sup>10</sup>

Detroit's policy closely follows the National Advisory Commission's recommended Standard 3.4:

Each jurisdiction should set a time limit after which plea negotiations may no longer be conducted. The sole purpose of this limitation should be to insure the maintenance of a trial docket that lists only cases that will go to trial. After the specified time has elapsed, only pleas to the official charge should be allowed, except in unusual circumstances and with the approval of the judge and prosecutor.<sup>11</sup>

Ninety percent of the pleas that were eventually entered in Detroit occurred before the expiration of the time period.

Figure 14 shows the stage at which pleas occurred for three other jurisdictions. The dividing line represents indictment, held to answer, or, in general, the reaching of the higher court stage. The three jurisdictions shown in the figure do not hold automatic pretrial conferences as does Detroit. Not all of the pleas at the trial stage (on the right side of the chart) occur on the day of trial, however. Some of them resulted from less formal pretrial negotiations, but some did occur on the trial date. (Available data do not permit an estimate of the proportion that occurred on the day of trial.<sup>12</sup>)

The longer a case remains in the system prior to entry of a plea, the more prosecution and court resources are believed to be consumed and the greater the expected burden on victims and witnesses. There are limits, however, to the extent to which the prosecutor can control when guilty pleas are entered. Defendants may choose to wait to plea until they are fairly sure that their cases are not going to be dismissed, nolle, or ignored by the grand jury.

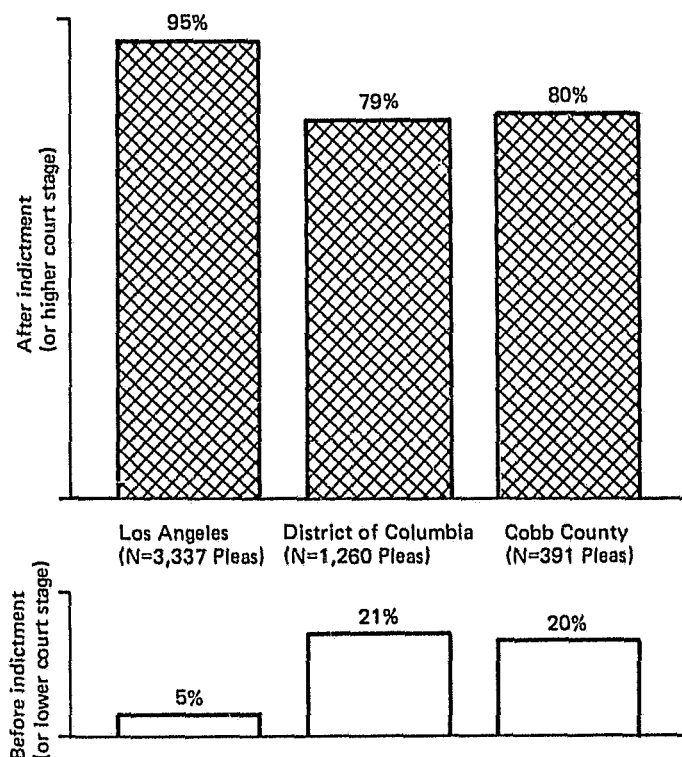
9. National Advisory Commission, *Courts*: 43.

10. One explanation offered for the difference in assault cases is that witnesses in these cases often do not show up for trial. Since Detroit has a *res gestae* witness requirement, under which the prosecution must produce all witnesses to a criminal incident in order to proceed with the case, charges in assault cases involving witness problems may be reduced in exchange for a plea.

11. National Advisory Commission, *Courts*: Standard 3.4.

12. Such data are contained in PROMIS but were not available on the particular set of computer printouts used to compare the jurisdictions in this report.

Figure 14. STAGE AT WHICH GUILTY PLEAS OCCURRED



Source: PROMIS data, January-June 1977.

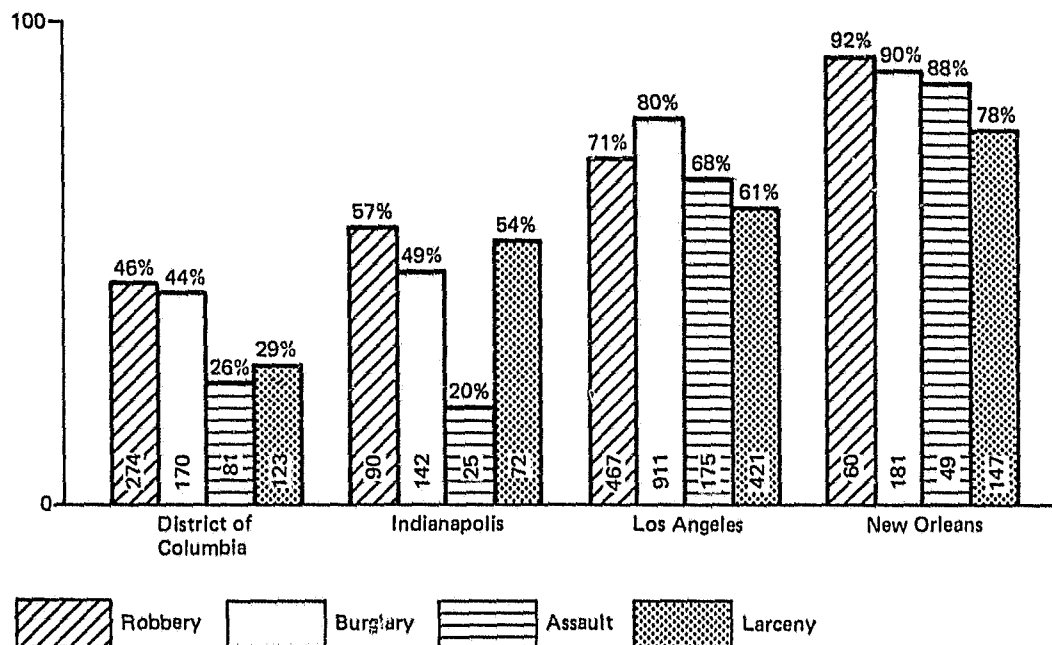
## Level of Guilty Pleas

Prosecutors can make two types of concessions in negotiating a plea. One involves a reduction of the charges against the defendant and the other involves a sentence recommendation to the judge. Whether prosecutors in a given jurisdiction do offer defendants sentence reductions in exchange for pleas cannot be determined from the data for this study, however. One way prosecutors can influence the severity of the sentence for which the defendant is liable is to reduce the severity of the lead charge against him. As noted earlier, not all dispositions by plea involve concessions. Many of them involve pleas as charged with no sentencing concessions. Figure 15 shows the rate at which pleas to the top charge were entered for robbery, burglary, assault, and larceny cases in four cities. These figures represent only those pleas that were taken after indictment, information, or its equivalent, in the District of Columbia, Indianapolis, Los Angeles, and New Orleans. Only reductions in charge are reflected—not sentencing concessions.

New Orleans, which reduces charges in very few cases, has a stringent anti-plea-bargaining policy. Institution of the policy led to an initial increase in the number of trials in New Orleans that has since tapered off. New Orleans found that once its tough anti-plea-bargaining policy was instituted and adhered to, defendants began to plead guilty as charged, including many of those defendants who were liable to increased sentences under Louisiana's Habitual Offender Act.

In Los Angeles, the substantial majority of pleas in all the crime categories were to the top charge. Los Angeles also has an anti-plea-bargaining policy, which includes a prohibition against sentence bargaining.

Figure 15. PERCENTAGE OF PLEAS (TRIAL STAGE) TO TOP CHARGE



Source: PROMIS data, January-June 1977.

High rates of pleas to the top charge may reflect screening policies as well as an anti-plea-bargaining policy. Jurisdictions that accept for prosecution only those cases that are strong enough to take to court may have less incentive to negotiate pleas.

Indianapolis and the District of Columbia had lower rates of pleas to the top charge than did Los Angeles and New Orleans. Nonetheless, in both jurisdictions about half of the robbery and burglary pleas were to the top charge.

### Level of Plea Compared With Level of Conviction at Trial

Another way of assessing plea bargaining practices is to compare the level of pleas taken with the level of verdicts at trial. Figures 16 through 20 show the percentages of pleas to the top charge and the percentage of verdicts to the top charge for various felonies in five jurisdictions. Only pleas taken at the higher court stage (or after indictment) are included in all the cities, except Detroit. For Detroit, only pleas that occur after the formal pretrial conference are included. In all cities, the convictions include only actual higher court convictions. Acquittals are not reflected. That is, the level of plea is compared with the level of charge at conviction—not to the chance of conviction to the top charge.

Detroit's pleas (subsequent to pretrial conference) and higher court convictions are depicted in Figure 16. In most crime categories, pleas were taken to the top charge at the same or a higher rate than verdicts to the top charge were returned. The prosecution does better with pleas at this stage than it does with convictions. This seems to indicate that defendants who do not settle their cases at pretrial conference have more to lose by pleading than by going to trial. (Data to compare sentences following conviction by plea and by trial were not available.<sup>13</sup>)

A similar pattern exists in New Orleans, as depicted in Figure 17. For the crimes shown, pleas were more often to the top charge in the case than were convictions at trials. As noted earlier, New Orleans operates on the

13. Although such data are available in and retrievable from PROMIS, they are not available through the Management Report Package, the instrument used for preparing comparative PROMIS data in each of the jurisdictions studied.

principle that adherence to a strict anti-plea-bargaining policy leads defendants to plead as charged. (New Orleans has also found that in front of certain judges, conviction rates are lower for bench trials than for jury trials.)

In Los Angeles (Figure 18), pleas tend to be taken to the top charge slightly less often than verdicts are returned to the top charge. In burglary and drug cases, there is very little difference between the level of pleas and convictions at trial. Los Angeles, as noted, also has an anti-plea-bargaining policy; however, the practice in Los Angeles is to assess the chances of conviction at trial realistically in offering plea reductions. The statistics for Los Angeles seem to indicate that that practice has worked.

The District of Columbia (Figure 19) and Indianapolis (Figure 20) generally take reductions in charges for pleas more often than charge reductions occur at trial. Neither of these cities engages in sentence bargaining, as discussed earlier. In Indianapolis, as in Los Angeles, the rate of burglary pleas to the top charge was close to the rate of verdicts to the top charge.

As mentioned before, these comparisons of level of plea and level of conviction at trial do not consider possible sentencing concessions. The study of plea bargaining in the District of Columbia, cited earlier, did estimate whether the sentence received following a guilty plea was the same as the sentence that would have been received had the defendant been convicted at trial.

The study concluded that, contrary to the popular image of leniency in plea bargaining, defendants who pled guilty in the District of Columbia did not appear to be receiving a bargain. For burglary, larceny, and assault cases, defendants who pled received substantially the same sentence they would have received had they gone to trial and been found guilty. That lack of sentencing concessions prevailed whether the plea was to the top charge or to a reduced charge.

In robbery cases, however, it appeared that significant sentencing concessions did occur. Sentences of probation followed 43 percent of the robbery pleas, but only 24 percent of the robbery convictions at trial that involved similar defendants and similar offenses. Only 14 percent of the robbery pleas resulted in sentences of three years or more, but 32 percent of the robbery convictions at trial (in cases involving similar defendants and offenses to those that were pled) resulted in sentences of three years or more.

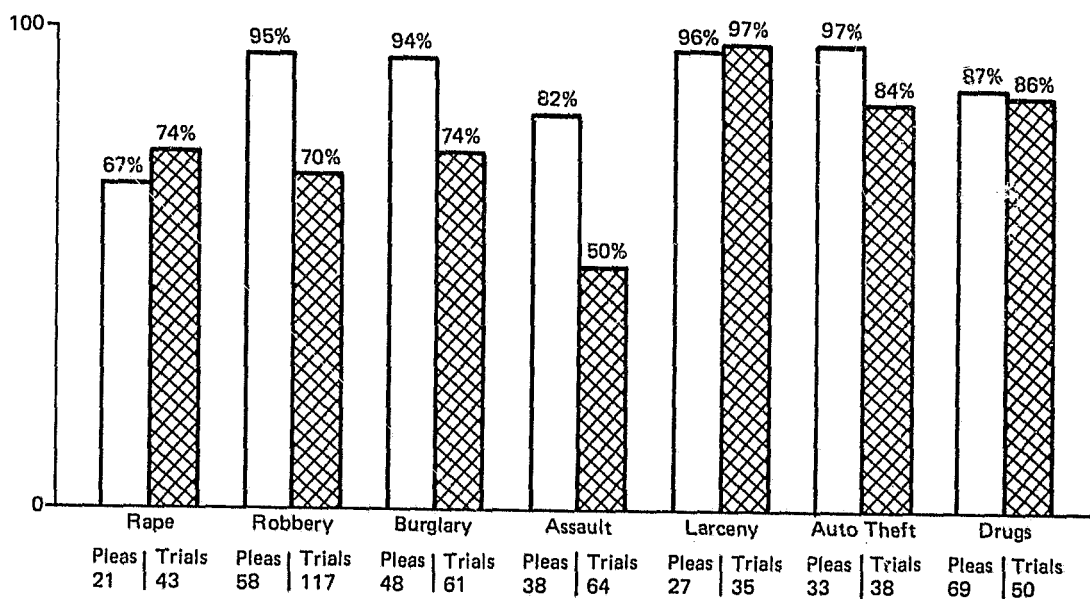
At first glance, the concessions in robbery cases apparently led to a significantly higher rate of rearrest for defendants who pled versus those found guilty at trial (due largely to the incapacitative effect). Twenty-eight percent of the robbery defendants who pled were rearrested within two years; only 17 percent of the robbery defendants convicted at trial were rearrested in the same period. It is more realistic, however, to compare those who pled with those who were tried (regardless of outcome) since some of those who pled would have been acquitted had they gone to trial. When such a comparison is made, the difference in the estimated rearrest rates becomes much less significant. Twenty-eight percent of those convicted by plea were rearrested, and 23 percent of those tried were rearrested. That finding, combined with the extraordinarily greater expense of trials versus pleas, suggests that the robbery concessions are sensible from the government's standpoint.

## Further Study

A plea of guilty is the most common post-filing disposition in criminal cases. Not all pleas appear to be bargains for the defendant, however, since many of them are to the top charge in the case. Differences in the rates of plea to the top charge and in the comparisons of level of plea with level of conviction at trial are substantial across the cities; however, we presently have no definitive empirical bases for knowing why these differences arise. Neither do we know the effects of those differences on criminal justice performance.

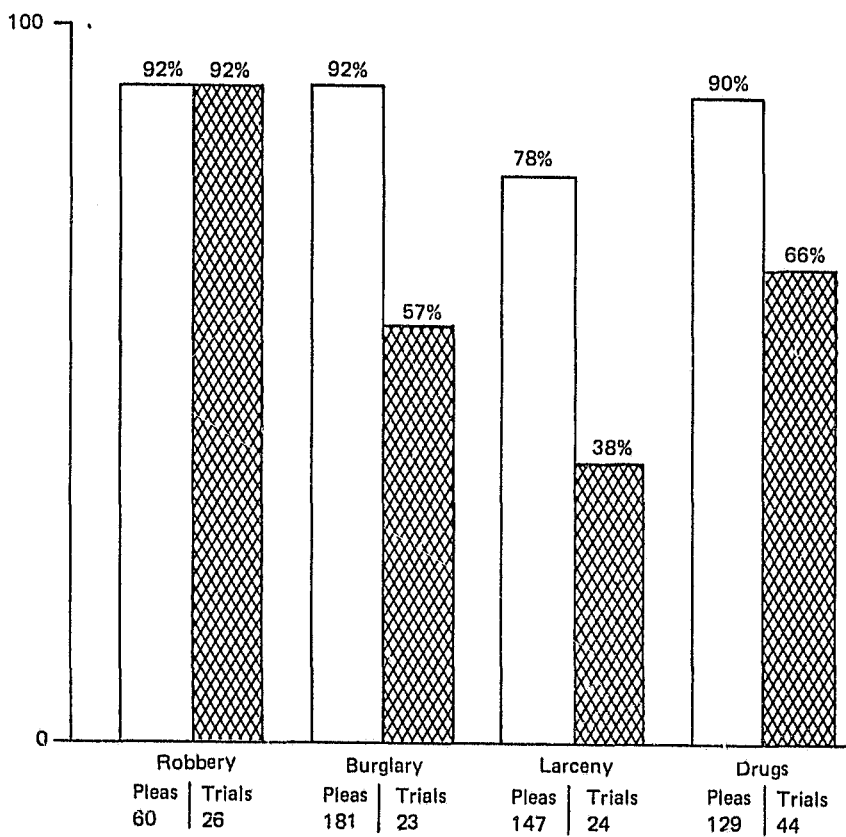
The study of plea bargaining in the District of Columbia provides a technique for jurisdictions to use to evaluate the effects of their plea bargaining practices *before* deciding whether to adopt different plea bargaining policies. That technique permits the actual level of current concessions as well as the impact of these concessions on recidivism to be assessed, by crime category, before any policy changes are made. Based on the findings for the District of Columbia, for example, from the prosecutor's standpoint, adoption of an anti-plea-bargaining policy in burglary, larceny, or assault cases would not be advisable since no actual concessions were given under the current policy. Such an analysis could be replicated in other jurisdictions that have the basic data elements used in this study.

Figure 16. PLEAS AND GUILTY VERDICTS AT THE TRIAL STAGE,  
DETROIT, PERCENTAGE TO THE TOP CHARGE



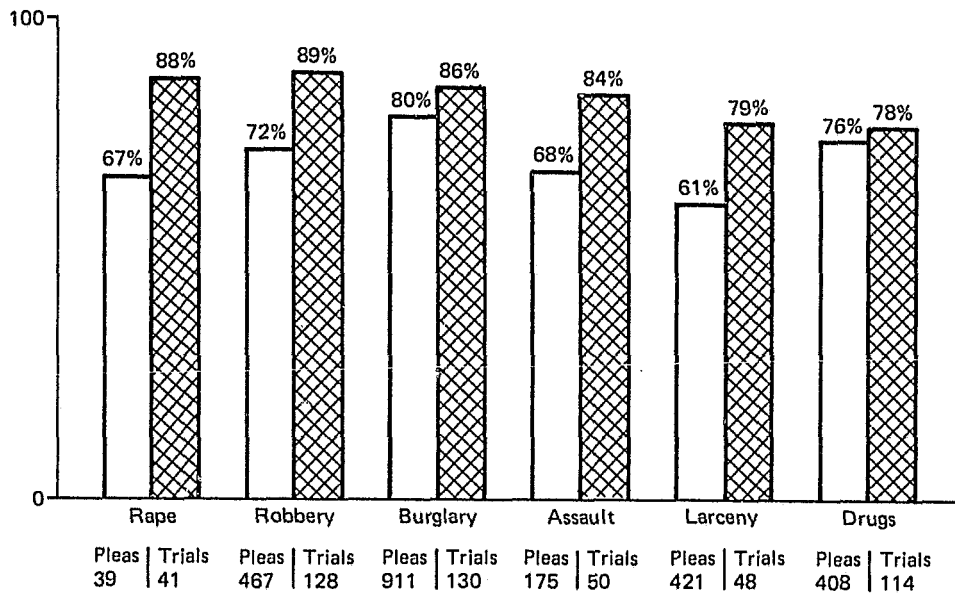
Source: PROMIS data, January-June 1977.

Figure 17. PLEAS AND GUILTY VERDICTS AT THE TRIAL STAGE, NEW ORLEANS, PERCENTAGE TO TOP CHARGE



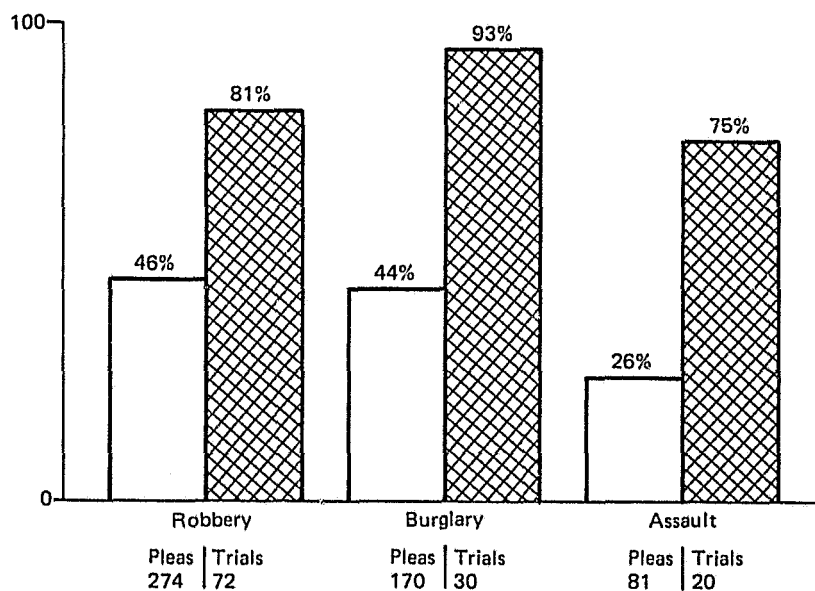
Source: PROMIS data, January-June 1977.

Figure 18. PLEAS AND GUILTY VERDICTS AT TRIAL STAGE,  
LOS ANGELES, PERCENTAGE TO TOP CHARGE



Source: PROMIS data, January-June 1977.

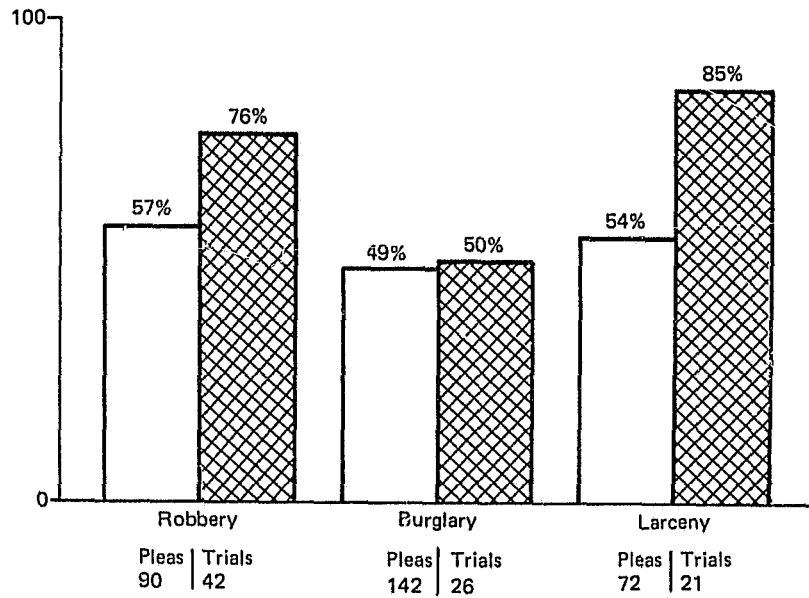
Figure 19. PLEAS AND GUILTY VERDICTS AT THE TRIAL STAGE,  
DISTRICT OF COLUMBIA, PERCENTAGE TO THE TOP CHARGE



Source: PROMIS data, January-June 1977.



Figure 20. PLEAS AND GUILTY VERDICTS AT THE TRIAL STAGE,  
INDIANAPOLIS, PERCENTAGE TO THE TOP CHARGE



Source: PROMIS data, January - June 1977.

## 6. TRIALS

Trials account for a very small portion of the work load of prosecutors and judges. The Perry Mason notion that arrests are followed by trials is inconsistent with reality. Law schools interested in preparing students to become prosecutors would be well advised to emphasize methods for screening cases and for negotiating plea agreements in addition to teaching trial techniques.

As has been demonstrated in earlier chapters, the most common disposition following arrest is dismissal, and the second most common disposition is a plea. *Trial is the least common disposition of criminal arrests.* In 1977, less than 10 percent of the arrests brought to any of the prosecution agencies studied resulted in trials:

	<u>Trial Rate</u>	<u>No. of Arrests</u>
Cobb County	1%	632
Los Angeles	5	19,418
District of Columbia	8	3,141
New Orleans	9	3,167

### Trial Rate of Filed Cases

Trial is also the least common disposition of cases filed with the court. Figure 21 shows the trial rate of filed cases in 12 jurisdictions. Indianapolis and New Orleans have the highest trial rate for felonies—21 percent. That means that, at best, 1 case in 5 filed with the court results in a trial. In Cobb County and Rhode Island, fewer than 1 case in 35 results in a trial.

Table 6 shows the trial rate of filed felony cases, by crime type. In all of the jurisdictions except the District of Columbia, homicides had a higher trial rate than other types of felonies. (In the District of Columbia, rape had the highest trial rate.) Trials were also more common in robbery cases than in felony cases in general in every city. Overall, violent crimes (i.e., homicide, rape, robbery, and assault) had higher trial rates than did property crimes and drugs.

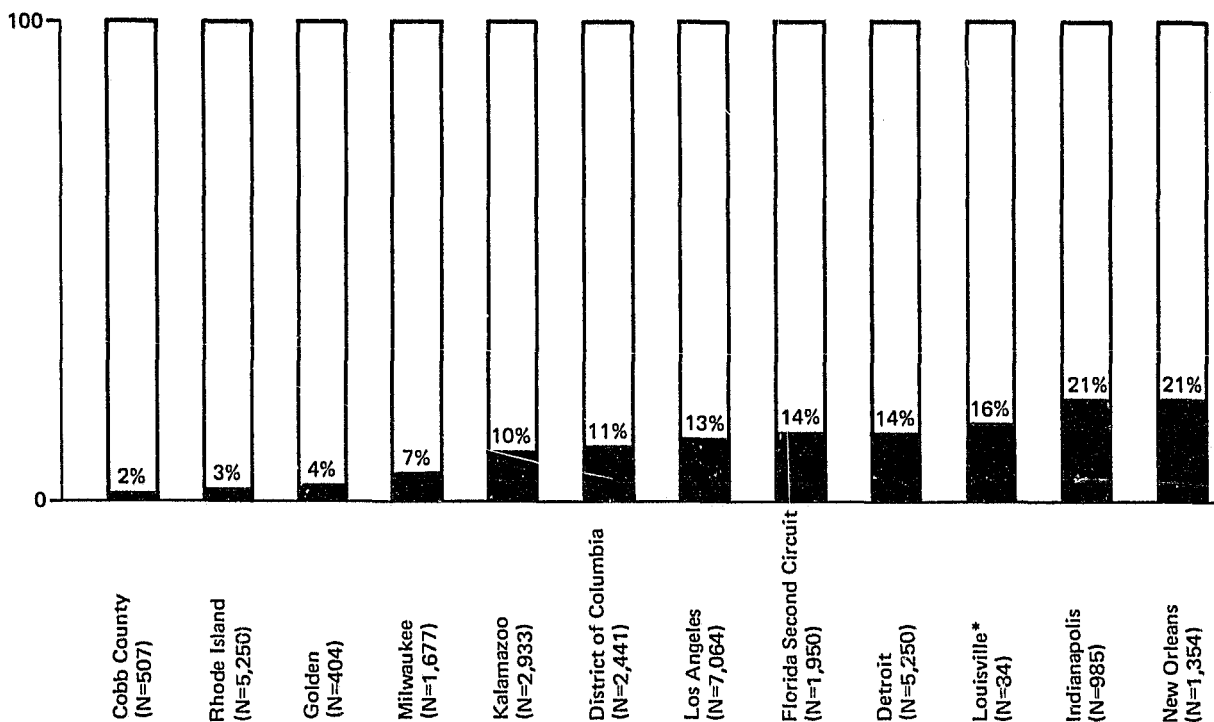
Table 6.  
TRIAL RATE OF FILED CASES, BY CRIME TYPE

Jurisdiction	Felony Crimes							
	Violent				Property			
	Homicide	Rape	Assault	Robbery	Burglary	Larceny	Auto Theft	Drugs
Indianapolis	36%	24%	26%	27%	14%	22%	30%	12%
Detroit	36	28	22	25	11	10	12	6
New Orleans	45	43	8	27	9	10	10	9
Los Angeles	44	44	20	17	11	6	..*	14
District of Columbia	30	33	12	14	10	8	..*	..*

Source: PROMIS data, January-June 1977.

\*Too few cases.

Figure 21. TRIAL RATE OF FILED FELONY CASES



Source: PROMIS data, January-June 1977, except Kalamazoo (January-December 1977) and Milwaukee (January-June 1977) manually collected data. (Kalamazoo's manual data closely reflect the PROMIS data for the same period.)

\*Approximately 10 percent of Louisville's dispositions for the period.

The higher trial rates for violent crimes in comparison with property crimes or drug cases reflect a number of considerations. First, defendants in the violent crime cases may opt for a trial because the prosecutor's strict "no plea bargain" policy in cases of violent crime means they have nothing to gain by entering a plea.<sup>1</sup> At trial, particularly jury trials, the defendant has a number of reasons to hope for acquittal or at least a conviction on a reduced charge. In homicide and assault cases, for example, the defendant may want to claim that he acted in self-defense. In assault cases (which frequently involve family members or friends) and in rape cases, the defense may seek to convince the jury that the word of the victim cannot be taken over that of the defendant. In cases that carry a severe sentence (homicide, rape, robbery), the defendant may be counting on a possible reluctance of the jury to put an individual "away" for 20 years or life. Finally, because cases that go to trial generally remain in the system longer than cases otherwise disposed, the defendant may hold out for trial in the hope that the case against him will deteriorate (e.g., witnesses' memories fade or witnesses become unavailable) with the passage of time. Conversely, in property crime cases, particularly those in which physical evidence was recovered or the defendant was arrested at the crime scene, the defendant may decide that there is nothing to be gained by holding out for trial. For drug cases, no consistent pattern of trial rates was apparent across the cities.

The overall number of trials in a given jurisdiction is also dependent on a number of variables. One factor is the number of filed cases that survive to the higher court stage. Another, discussed earlier, is the prosecutor's plea policy.

1. Recall, however, that in New Orleans, prosecutors found that once defendants became aware of the strict plea policy, the increased demand for trials began to subside (see Chapter 5).

The availability of judges may also be a determinant of the number of trials. Recall that Cobb County has only one trial week per month; this may partially explain why Cobb has the lowest trial rate. Judicial attitudes may also influence the trial rate. If collectively or individually the judges in a given jurisdiction have a reputation for meting out stiffer sentences to those convicted by trial rather than by plea, the ratio of pleas to trials may be high in that jurisdiction as a consequence.

The case loads of the prosecutor and the court may also affect the number of trials. Prosecutors with large numbers of cases to dispose may be more willing to make plea concessions in order to avoid expending the time required to prepare for trial. When Rhode Island recently instituted a program to reduce its pending case load, the trial rate dropped from about 7 percent to 1 percent of filings. (For details see Chapter 8.) Compliance with speedy trial requirements may also cause prosecutors and the courts to increase the number of cases disposed by plea or dismissal.

Detroit prosecutors see their relatively low trial rate (14 percent) as a positive factor, since trials are expensive. They believe that their pretrial conference requirement has helped them reduce the number of trials.

That trials are expensive has been demonstrated. A 1974 study of the California courts, for example, showed that a jury trial required 1,452 minutes of processing time, on the average, and cost the state over \$3,000, whereas a guilty plea required 15 minutes of court processing time and cost about \$215.<sup>2</sup> Based on these time estimates, INSLAW's PROMIS cost-benefit studies have also found that pleas result in substantial cost savings over trials. For each jurisdiction studied in this report, Table 7 shows the estimated savings per case to the prosecutor and court disposing of cases by plea rather than by trial.<sup>3</sup> The average total savings per case for these jurisdictions is \$1,980.

Table 7.  
DOLLAR BENEFIT PER TRIAL AVOIDED

Jurisdiction	Prosecutor Savings, per case	Court Savings, per case	Total Savings, per case
Cobb County	\$ 155.93	\$1278.00	\$1433.93
Detroit	146.73	2948.40	3095.14
District of Columbia	412.22	2683.50	3095.72
Florida Second Circuit	81.84	411.00	492.84
Golden	432.52	1440.00	1872.52
Indianapolis	1642.66	424.80	2067.46
Kalamazoo	402.59	1224.00	1626.59
Los Angeles	720.72	1765.77	2486.49
Louisville	671.15	1166.40	1837.55
Milwaukee	444.58	1629.60	2074.18
New Orleans	92.71	1266.51	1359.22
Rhode Island	273.32	2865.60	3143.92
Salt Lake County	375.29	760.50	1135.79

Source: PROMIS cost-benefit analysis.

2. Ralph Anderson and Associates, *Guidelines for Determining the Impact of Legislation in the Courts*, Judicial Council, State of California (Sacramento, 1974).

3. The court estimates may be underestimates since only judge and clerk time were considered.

## Jury Trials vs. Bench Trials

Courts have little control over whether trials are by judge or jury. As shown below, most of the felony trials in every jurisdiction were jury trials:

	<u>Percentage of Trials That Were Trials by Jury</u>	<u>Total Number of Trials</u>
Los Angeles	53%	922
Detroit	60	983
Indianapolis	68	206
New Orleans	57	255
District of Columbia	98	262

These percentages permit the computation of a jury trial rate for filed cases, i.e., the percentage of filed cases that result in a jury trial. The results are shown below.

	<u>Jury Trial Rate of Filed Cases</u>	<u>Number of Post-filing Dispositions</u>
Los Angeles	7%	7,064
Detroit	8	5,250
District of Columbia	11	2,441
New Orleans	13	1,354
Indianapolis	14	985

Indianapolis and New Orleans, which had the highest overall trial rates, also had the highest jury trial rates; however, the District of Columbia, which had one of the lowest overall trial rates, had a jury trial rate more in line with that of the other jurisdictions. There does not appear to be a great deal of variation in the jury trial rates across the cities studied.

Homicide, rape, and robbery trials were more often by jury than were trials in general in each city. (See Appendix C.) Larceny trials were less often by jury in each city. This lends support to our earlier discussion that defendants in violent crime cases often believe they will fare better before a jury than they will in negotiating a plea. Assault cases, as shown below, appear to be an exception.

For burglary, assault, and drugs, no consistent pattern is evident. In Indianapolis, New Orleans, and Los Angeles, the majority of felony drug trials were bench trials; Detroit, on the other hand, had a higher jury trial rate for drugs than for felonies in general.

Assaults less often involved jury trials than did felonies in general in Indianapolis, Detroit, and New Orleans. Los Angeles's assault trials were more often by jury.

In Indianapolis and New Orleans, burglaries were tried by jury at a higher rate than felonies in general. Detroit had a lower jury trial rate in burglaries than in other felonies, and in Los Angeles the burglary jury rate was the same as the rate for other felonies.

## Conviction Rates at Trial

In all of the cities, defendants in felony cases were much more likely to be convicted than acquitted:

	<u>Conviction Rate at Trial</u>	<u>Number of Trials</u>
Detroit	55%	983
Kalamazoo	70	93
District of Columbia	72	262
Golden	75	16
Louisville	75	13
Los Angeles	75	922
New Orleans	76	255
Indianapolis	78	206
Milwaukee	82	131
Florida Second Circuit	93	273

This holds true for all categories of crime, in all cities, with one minor exception. (In New Orleans, 41 percent of the assault trials ended in conviction.) It appears that, in general, prosecutors win about three of four trials.

Trial results, as shown below, seem to be somewhat affected by whether the case was heard by a judge or jury, but there is no discernible pattern to that effect among the jurisdictions.

	<u>Conviction Rate at Trial—Felonies</u>			
	<u>Bench</u>		<u>Jury</u>	
	<u>Rate</u>	<u>Number</u>	<u>Rate</u>	<u>Number</u>
Detroit	52%	393	58%	590
New Orleans	73	74	77	181
Los Angeles	83	414	74	468
Indianapolis	84	64	78	137

Indianapolis and Los Angeles had higher conviction rates for bench trials than jury trials; in Detroit and New Orleans the opposite situation prevailed. Prosecutors in New Orleans report that many defendants may choose to be tried by the judge because their attorneys realize that acquittals are more likely in bench trials. Rhode Island has found the opposite situation. Defendants there fare better before juries.

## 7. SENTENCING

For the minority of persons arrested for felonies who are convicted, sentencing is the most important step in the criminal justice process. In most jurisdictions, during the several weeks that usually elapse between conviction and sentencing, the probation agency prepares a presentence report for the court that describes the offense for which the defendant was convicted and the defendant's prior criminal record (if any) and family and personal situation.

Sentencing itself is generally the responsibility of the judge, although in some jurisdictions juries can impose sentence. In Indianapolis during the period of this study, about one-third of the felony sentences were returned by juries. (The statute on jury sentences has subsequently been changed and judges now sentence in all cases.) In Salt Lake as well, some of the sentencing was done by the juries. Both the National Advisory Commission on Criminal Justice Standards and Goals and the American Bar Association have advocated the abolition of jury sentencing on the grounds that it is nonprofessional and is more likely to be arbitrary and based on emotions than on the needs of the offender or society.<sup>1</sup>

The American Bar Association has set standards relating to the role of the prosecutor at sentencing.<sup>2</sup> After the determination of guilt, according to those standards, prosecutors should maintain an attitude of fairness and objectivity. They also assert that prosecutors should make sentencing recommendations only at the specific request of the court or as the result of plea negotiations with the defendant. Errors or omissions in the presentence report should be corrected for the court and for defense counsel by the prosecutor.

The U.S. Attorney for the District of Columbia, who is responsible for the prosecution of local street crime in the nation's capital, views the prosecutor's role in sentencing as a more active one:

If in the appropriate cases a prosecutor doesn't participate in the sentencing process . . . that means that at the critical juncture in the process, the public—and that's what we are—the public representative—the public is not represented before that judge. We aren't performing our job . . . if we're not there providing the judge with pertinent information . . . if we're not there in the appropriate cases letting him know what the public representative thinks ought to be done with that particular defendant.<sup>3</sup>

### Sentencing Patterns

Figure 22 shows the extent to which defendants who were filed against for felonies and who were subsequently convicted (either of a felony or a misdemeanor) were sentenced to incarceration or split sentences (incarceration of six months or less, plus probation).

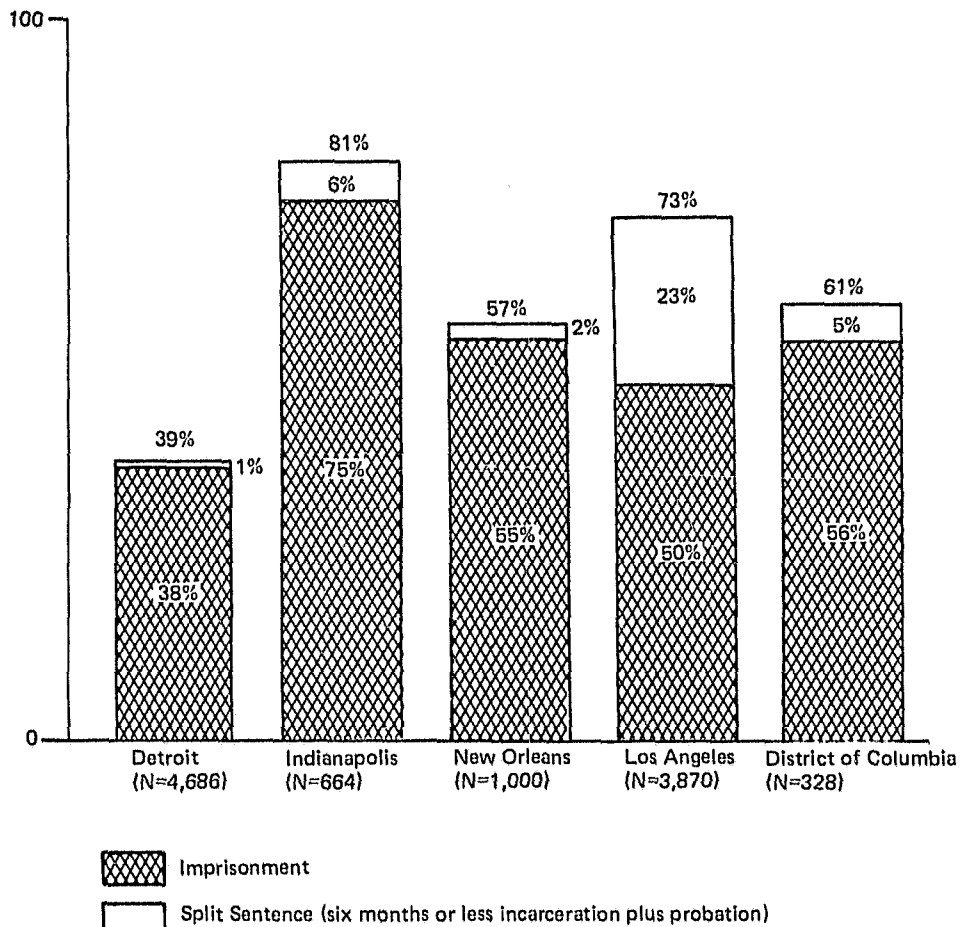
Of the jurisdictions shown, Indianapolis had the highest incarceration rate. It is also the only one that had some jury sentencing during January-June 1977. Los Angeles, which had the second highest incarceration rate, had the largest proportion of split sentences. Detroit was the only city in which fewer than half of the convictions resulted in any incarceration.

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1. National Advisory Commission on Criminal Justice Standards and Goals, *Courts*, Standard 5.1 (Washington, D.C.: Government Printing Office, 1973): 110; and American Bar Association, "Sentencing Alternatives and Procedures": Section 1.1 (approved draft, 1968).

2. American Bar Association, *ibid.*: Section 5.3(b).

3. Earl J. Silbert, address to the PROMIS Users Group meeting, Los Angeles, California, April 21, 1977 (transcript available from IN-SLAW).

Figure 22. SENTENCES OF INCARCERATION,  
FELONIES

Source: PROMIS data, January-June 1977, except District of Columbia (last quarter 1976).

Persons convicted in robbery cases were much more likely to be incarcerated than were persons convicted of other crimes. (See Appendix C.) In Indianapolis and New Orleans, 95 percent of those convicted in robbery cases were sentenced to incarceration. In Los Angeles, 78 percent were incarcerated; and in Detroit, 74 percent were incarcerated.

The length of incarceration is also important. The average felony sentence in New Orleans, where the straight incarceration rate is 55 percent, was three-to-nine years. That is substantially longer than the average felony sentence in Indianapolis (which had the highest incarceration rate)—one-year minimum, three-to-six years maximum. In Detroit the average sentence was two-to-six years. (Comparisons of sentence length for Los Angeles are not possible because California was employing indeterminate sentencing during the period of this study; California has since adopted determinate sentencing.)

In New Orleans, 16 percent of the felony sentences were for 10 years or more. In both Detroit and Indianapolis, 7 percent of the sentences were for 10 years or more.

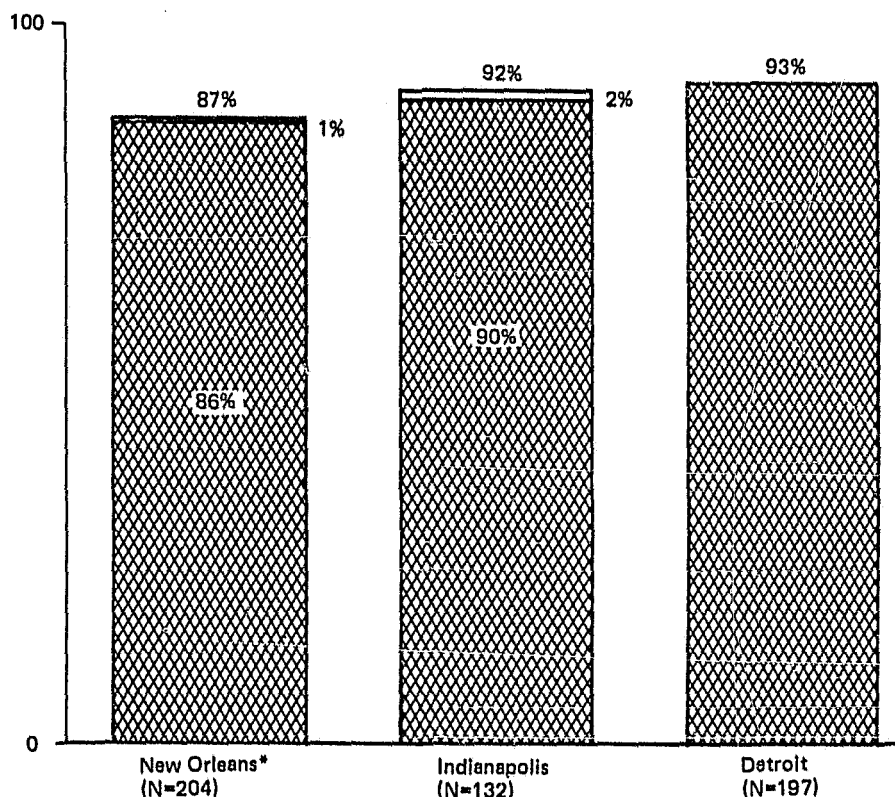
New Orleans has a multiple offender statute under which both the minimum and maximum sentences are increased for repeat offenders. This may explain, in part, the longer sentences in New Orleans.

The incarceration rates of defendants convicted under career criminal programs were quite different from those for all convicted felony arrestees. (Compare Figures 22 and 23; note that the Los Angeles career criminal program was not yet operational at the time this report was prepared.) In each city, almost all of the career criminal defendants who were convicted were incarcerated. The sentences imposed also tended to be longer. In



Detroit, where only 10 percent of the convicted felony arrestees were sentenced to five years or more, 66 percent of the career criminal defendants were so sentenced. In both New Orleans and Indianapolis, career criminal defendants were sentenced to five years or more incarceration at twice the rate for felonies in general. (Career criminal programs are discussed in more detail in Chapter 9.)

Figure 23. SENTENCES OF INCARCERATION,  
CAREER CRIMINAL CASES



Source: PROMIS data, January-June 1977.

\*New Orleans prosecutes some misdemeanors in the career criminal bureau.

## Statistics as a Tool for Judges

Most jurisdictions have no formal mechanism by which judges can learn about the sentences meted out by other judges in their jurisdiction. This lack of information may contribute to disparities in sentencing, since it is unlikely that judges, working independently, would sentence consistently. A judge of the D.C. Superior Court, for example, recently stated, "everyone has his own sentencing philosophy and every judge is an individual judge. I don't know what other judges are doing."<sup>4</sup> Courts in some cities, including the District of Columbia, have instituted sentencing councils in which judges can meet to discuss sentencing practices and problems. These council meetings, however, often have to compete for time on crowded judicial schedules.

4. Quoted in David Pike and Thomas Crosby, "Judging the Judges," *The Washington Star*, January 10, 1978.

Another mechanism is employed in Indianapolis. There, the prosecutor, using PROMIS, routinely compiles for each judge a list of the sentences he handed down during the period, as well as an aggregate profile of the sentences given by the entire bench. This information enables judges to see how their decisions compare with what other judges are doing.

A recent study of sentencing practices in the District of Columbia suggested a procedure by which judges could obtain feedback on sentences imposed by fellow judges.<sup>5</sup> The study proposed that a set of norms based on prior sentencing practices of the court be developed and made available to judges who conduct sentencing. Norms could be developed by crime type and by characteristics of the defendant (e.g., criminal record, age, family situation). Those guidelines would provide judges with additional information—the average sentence and the range of sentences given to similar offenders—to consider in making sentencing decisions. In jurisdictions with computer-based information systems, such norms could be readily developed, monitored, and updated over time. Similar practices have been instituted in several jurisdictions, under LEAA funding.<sup>6</sup>

Many factors are considered by judges in reaching a sentencing decision. The District of Columbia study found, for example, that the judges' in/out decisions (incarceration versus probation, suspended sentence, or fine) appeared to be most heavily influenced by the criminal record of the offender and the statutory maximum for the offense. Less important, but still making a contribution to the in/out decision, were the offense type, the pretrial release condition the defendant received, the defendant's age, the type of plea entered in the case (if any), and the number of charges. These variables, however, failed to explain fully the sentencing decisions made by the judges. The author inferred that the individual sentencing philosophy of judges may account for some of the unexplained sentencing variation, but that variable could not be measured in the study.

The length of the sentence given to those sentenced to incarceration was most influenced by the statutory maximum for the offense. In addition, defendants granted personal recognizance at their arraignment tended to receive shorter sentences than others. Those who were convicted at trial rather than by plea tended to receive longer sentences.

## Summary

In the cities surveyed, the incarceration rates of persons filed against as felons and convicted (either of a felony or a misdemeanor) varied substantially—from 39 to 81 percent. The average length of incarceration also varied a great deal from city to city. Some of that variation may be accounted for by differences in crime mix and statutory maximum sentences. It is doubtful, however, that such factors fully explain the variation. From the INSLAW study of sentencing practices in the District of Columbia, for example, we know that considerable sentence variation can exist within a jurisdiction.

Lack of information for judges may contribute to disparities in sentencing within a court system. Most jurisdictions have no formal method by which judges can learn the sentences given by other judges.

One way to provide that kind of feedback to judges would be to develop, based on the prior practices of the court, a set of sentencing norms by crime type and by characteristics of the defendants. Then judges would readily be able to see how their decisions in particular kinds of cases compare with the decisions of their colleagues. In PROMIS jurisdictions, such norms could be readily developed, monitored, and updated over time.

5. Terence Dungworth, *An Empirical Assessment of Sentencing Practices in the Superior Court of the District of Columbia*, PROMIS Research Publication no. 17 (INSLAW, forthcoming).

6. Leslie Wilkins and Don Gottfredson have broken important ground in this area in several jurisdictions. See, Leslie T. Wilkins, *et al.*, *Sentencing Guidelines, Structuring Judicial Discretion*, prepared for the Law Enforcement Assistance Administration by the Criminal Justice Research Center, Albany, New York (Washington, D.C.: Government Printing Office, 1978).

## 8. LENGTH OF TIME FOR CASE PROCESSING

Under the Sixth Amendment to the Constitution, defendants are guaranteed the right to a speedy trial and swift resolution of the charges against them. The Speedy Trial Act of 1974, passed by Congress in early 1975, provides for specific time standards to be applied to criminal cases in federal courts. The Act is an effort to "assist in reducing crime and the danger of recidivism by requiring speedy trials and by strengthening the supervision over persons released pending trial."<sup>1</sup>

In *Barker v. Wingo*,<sup>2</sup> the Supreme Court set forth four factors to be weighed in determining if a defendant has been denied his Sixth Amendment right:

- the length of the delay
- the reasons for the delay
- whether the defendant sufficiently asserted his right to a speedy trial
- whether delay prejudiced the case of the defendant.

The cross-city data enable us to look at the first two factors. The second two would have to be resolved on a case-by-case basis.

### Case-processing Times

The time from arrest to post-indictment (or higher court) disposition of cases filed as felonies varied substantially across the cities, as shown below.

New Orleans*	102 days
Los Angeles	132
Indianapolis**	187
District of Columbia	224
Detroit	230
Cobb County	246
Rhode Island***	725

\*Includes cases involving fugitives and persons detained for mental competency tests.

\*\*In Indianapolis only, the time period covers arrest to sentencing; the latter occurs about 30 days after conviction.

\*\*\*These data were collected before Rhode Island implemented a special program to clear its pending case load.

In general, time to disposition in homicide and rape cases was longer, and in robberies and burglaries it was shorter, than for felonies in general. (See Appendix C.)

New Orleans had the shortest elapsed time from arrest to higher court disposition.<sup>3</sup> In 1977 in New Orleans, three sections of the court had reached a zero docket, that is, they had no pending cases. The New Orleans

1. Public Law 93-619.

2. 407 U.S. 514, 521 (1972).

3. In fact, if fugitive cases and cases involving defendants held for mental observation are excluded, the elapsed time in New Orleans is even shorter. The prosecutor's manual records indicate that the other cases have an elapsed time of approximately 60 days. A sample of approximately 500 felony cases disposed in New Orleans in 1976 revealed the median total court disposition time to be 67 days. See, Thomas Church, Jr., *et al.*, *Justice Delayed, The Pace of Litigation in Urban Trial Courts*, National Center for State Courts (Williamsburg, Va., 1978): 14-15. In the 21 courts sampled for the study, median total court disposition time for felony cases ranged from 64 to 343 days. Twelve courts exceeded a median time of 100 days.

prosecutor believes that good screening and very little plea bargaining prevent dockets from becoming crowded. In the New Orleans office, the three oldest cases on the docket are reviewed each week. If the office has done all it can to move the cases, the judge is then asked to give the cases preferential treatment. (New Orleans does not have a speedy trial rule.)

Los Angeles, which also has a comparatively short time to disposition, has a speedy trial rule that requires that cases be dismissed, unless good cause to the contrary is shown, when a defendant is not brought to trial in a superior court within 60 days after indictment or filing of the information. The action is not dismissed if it is set for trial on a date beyond the 60-day period at the request of the defendant, with his consent, or because of his failure to appear.

Detroit, the District of Columbia, and Cobb County had similar elapsed times—224 to 246 days. Rhode Island had the longest elapsed time.

Data to measure time to the various dispositions (dismissal, plea, or nolle) were not available for this report.<sup>4</sup> A separate study of the District of Columbia, however, found that cases that resulted in trial were in the system longer than cases that resulted in pleas or dismissals.<sup>5</sup>

It is interesting to note that New Orleans, which had the shortest time to disposition, also had one of the highest trial rates (21 percent of filed cases). Indianapolis, which also tried 21 percent of the filed cases, also had a relatively short time to disposition. Los Angeles, on the other hand, had a relatively low trial rate (13 percent) and a relatively short elapsed time from arrest to disposition; and Rhode Island had the lowest trial rate (3 percent) and the longest time to disposition.

The trial rate is not the only factor related to case-processing time. The number of continuances in a case also has an effect on processing times. For felony cases in the jurisdictions studied, the average (mean) number of nonprocedural continuances (ones other than those between different types of events) was quite similar:

District of Columbia	1.6
Indianapolis	1.7
Detroit	1.9
New Orleans	2.0
Los Angeles	2.3

Interestingly, Los Angeles and New Orleans, which had the shortest times to disposition, had the largest average number of nonprocedural continuances. In all of the cities, homicides had more nonprocedural continuances than felonies in general, and burglaries, larcenies, and auto thefts had fewer. (See Appendix C.)

It is important to look at the reasons for continuances if an effort to reduce delay by minimizing the number of continuances is to be made. Table 8 displays the reasons for the nonprocedural continuances, as recorded by the prosecutor, in a number of jurisdictions.

Looking at the first row of Table 8, the defendant's failure to appear, which resulted in the issuance of a bench warrant, was a frequent reason for continuances. About one continuance in seven was attributed to the defendant's failure to appear.<sup>6</sup> For each such continuance, witnesses and victims are burdened by being required to appear again, if and when the defendant appears or is apprehended and a new trial date is set. In addition, court, prosecution, and police resources, which could have been applied to other cases, are wasted.

Defense counsel problems, possibly scheduling conflicts, also were responsible for many of the continuances. In Los Angeles, the only one of the jurisdictions that has a speedy trial rule, over half of the continuances were attributed to defense counsel problems. Defense-requested continuances stop the speedy trial clock. Since these figures were reviewed with the Los Angeles prosecutor and in turn with the Public Defender, the Public Defender's Office has instituted a vertical representation program. That change is estimated to have cut the number of continuances requested by public defenders in half.

In Indianapolis, 40 percent of the continuances were related to motions. The percentage for this reason category may be unusually high as a result of coding errors; at the same time, the number of motions made may well reflect stalling tactics on the part of the defense counsel.

4. Such data are available in PROMIS, but not from the Management Report Package.

5. *Curbing the Repeat Offender: A Strategy for Prosecutors*, PROMIS Research Publication no. 3 (INSLAW, 1977): 18.

6. Recall from Chapter 4 that many of those failures probably were not willful.

Over one-third of the continuance reasons in Rhode Island were for pending actions. Many of these were related to the pretrial conferences set up as part of the court's recent program to reduce its backlog (discussed below).

Table 8.  
REASONS FOR NONPROCEDURAL CONTINUANCES

Reason	District of Columbia	Indianapolis	Rhode Island	New Orleans	Los Angeles
Bench warrants	14%	17%	11%	14%	9%
Defendant problems (e.g., sick, unavailable)	2	3	18	13	9
Defense counsel problems (e.g., schedule conflict)	5	9	10	22	53
Motions continuances	1	40	7	6	3
Mental observations	5	5	—	6	1
Court unable to reach	10	3	—	7	1
Administrative reasons	2	9	2	12	2
Pending actions (e.g., pending interlocutory appeal, court takes under advisement)	1	12	36	11	—
Witness-related reasons	2	1	—	6	4
Unknown	56	1	—	2	14
No. Nonprocedural Continuances	1,940	1,515	3,087	3,021	10,222

Source: PROMIS data, January-June 1977.

Witness reasons did not account for a very large proportion of the continuances in any jurisdiction. That may be because cases for which crucial witnesses fail to appear are nolle or dismissed. Recall that in Chapter 3, witness-related reasons (including witness "no show") accounted for a very large proportion of nolle and dismissals. Some of the jurisdictions in this study use PROMIS to produce subpoenas and witness-notification forms to ensure witness appearance at trial. Some use on-call notification systems to reduce the inconvenience to witnesses. One example of such a system is the New York City Criminal Court's Appearance Control Project, the principal purpose of which is to improve witness cooperation and police department efficiency by reducing the number of unnecessary court appearances by both groups. This reduction is accomplished in two ways. First, the initial appearance of citizen witnesses at arraignment has been eliminated as unnecessary. Second, for appearance at trial in certain kinds of cases, all police and civilian witnesses who meet certain criteria (accessibility to telephones and to the court) are placed on an on-call status and are summoned to court only if, on the day of trial, the case is deemed ready for trial at the morning calendar call. If the defendant enters a plea, or the case is continued or dismissed at the calendar call, the witnesses are excused for the day and are prevented from making an unnecessary trip to court.

Thus, monitoring the reasons for continuances allows courts and prosecutors to examine the impact of their continuance policies and to identify needed changes.<sup>7</sup>

These data can also be used to support further study of delay and its causes. A study of case-processing time in the District of Columbia, for example, measured prosecution policies (as reflected by such indicators as the case acceptance rate and prosecution dismissal rate), court policies (including the continuance rate, judicial dismissal rate, and pretrial release rate), and environmental factors (that is, backlog, average age of cases in the backlog, arrest rate, resource levels) so that the relationship among them could be analyzed in conjunction with the more traditional case-related characteristics.<sup>8</sup> The study found that in both felony and misdemeanor cases,

7. In its report on pretrial delay, the National Center for State Courts recommended that courts "monitor and control the pretrial movement of criminal [and civil] cases . . . Continuance practices should create an expectation that trials will commence on the date scheduled except for good cause. Trial-setting procedures should be designed to nurture this expectation . . ." Church, *Justice Delayed*: 71.

8. Jack Hausner and Michael Seidel, *An Analysis of Case-processing Time in the District of Columbia Superior Court*, PROMIS Research Publication no. 15 (INSLAW, forthcoming).

court policy and work load factors were related to case-processing times. The work load of the court and prosecutor and their continuance policies were the major contributors to extended case-processing times. Attributes of the individual case, such as type of case, type of counsel, and the complexity or seriousness of the case, explained only a portion of the delay in felony cases and had virtually no effect in misdemeanor cases.

A major finding of the study is surprising: *delay did not seem to affect either the felony conviction rate at trial or the overall conviction rate.*

The study suggests that the entire issue of "speedy trial" needs to be examined in light of its implications for other aspects of court performance. For example, changes in prosecution policy that result in more cases requiring judicial attention may have an adverse impact on delay. Yet, the same policy may have an important and positive effect on crime control by increasing the rates of disposition and rates of conviction. Examination of the trade off appears especially important in view of the apparently limited impact of delay on felony case outcome. Systematically collected and routinely available transaction data would considerably enhance the ability of court policy makers to make enlightened decisions regarding these difficult issues.

The extension of this analysis to a larger number of jurisdictions would be extremely valuable. The policy variables analyzed, for example, may operate over a fairly narrow range within a single jurisdiction; other jurisdictions could provide policy data over a much broader range. Similarly, many more environmental variables could be included in a cross-jurisdictional analysis (for example, court structure, defense bar mix and structure, and judicial resource levels). A large number of jurisdictions have instituted special programs to reduce case-processing times through improved scheduling or case load diversion. The effectiveness of such delay-reduction strategies could be tested across jurisdictions while controlling for relevant policy, case mix, or environmental factors. Finally, the question of whether delay itself creates other problems can be more readily addressed through cross-jurisdictional comparisons in which the level of delay takes on a wider range of values than it does in a single jurisdiction.

## Court Scheduling

Recently, both Rhode Island and Detroit instituted special programs to deal with a buildup of pending cases. During 1977, the Rhode Island Superior Court (which had the longest time to disposition of the jurisdictions studied in this report) undertook an intensive program to deal with its case load. Prior to 1977, responsibility for criminal trial scheduling was vested in the Attorney General, the statewide felony prosecutor. In 1977, when the court took over scheduling responsibility, 6,233 felonies and misdemeanors were awaiting trial in Providence and Bristol Counties (75 percent of the court's statewide case load). The median age of those cases was 18 months. By the end of 1977, the backlog had been reduced by 21 percent (from 6,233 pending cases to 4,900). Most of the work that led to the success of the program took place during the last six weeks of 1977. During that period the court placed about one-third of the active backlog into an accelerated processing system. All single defendant, private attorney cases were scheduled for pretrial conferences to determine if the case was going to result in plea or trial and to schedule a definite time, date, and judge for that disposition. The court doubled the number of criminal trial judges in order to handle this program (only three of the eight judges handled the 1,546 backlog cases; however; the other five were assigned trials from a pool of about 200 more recent serious crimes).

During the last six weeks of 1977, 1,008 of the original 1,546 cases were disposed. Only 1 percent went to trial. The usual trial rate ranges from 7 to 10 percent. There was a significant increase over the usual number of cases dismissed on the prosecutor's motion because of the age and consequent deterioration of many cases.

Processing such a large number of cases during such a short time would not have been possible without an automated data processing system. The information system, PROMIS,<sup>9</sup> provided management statistics that showed, first, that extraordinary action was necessary. It also helped in the implementation of the program. The system provided the lists of cases that fit the court's criteria for action, produced notices to the attorneys that listed the time and date of the pretrial conference and the cases to be discussed at each conference, and prepared conference schedules for each of the judges and a completely updated inventory of all cases each day. At the conclusion of the program, the system provided both a means to analyze what the court had accomplished and a basis for planning a more effective case-processing system for the long term.

9. PROMIS formed the base on which Rhode Island's State Judicial Information System (SJIS) was developed.

Several commonly held beliefs about court scheduling were proven incorrect in Rhode Island:

- *The cause of the backlog was an increased number of filings:* The data revealed, however, that the backlog was increasing but the number of filings was decreasing.
- *The court needed more resources:* Conversely, it was demonstrated that the number of judges had increased, and the number of filings decreased, but the backlog had increased.
- *The most efficient way to reduce the backlog was to handle the oldest cases first:* That proved incorrect; the oldest were the hardest to dispose. They often broke down because, for example, witnesses were no longer available.
- *The defense bar was too small to avoid scheduling problems:* The court thought most of the cases would involve the same 15 to 20 attorneys; the data revealed that 280 attorneys were involved.

Detroit also initiated a special effort to reduce its backlog, and then developed a program to maintain a current docket. The mandatory pretrial conference, discussed in Chapter 5, is an integral part of that effort. Under the new program, the court and prosecution will share responsibility for docket management.

The plan is tied to the physical layout of the court. Judges' courtrooms are located on five floors. So long as a judge remains current, he manages his own case load. If he falls behind, his cases are reassigned by a presiding floor judge, selected by the judges on each floor. The prosecutor assigns an assistant to each floor to work with the presiding floor judge to achieve the optimum case disposition rate. The two schedule and reschedule major or difficult cases to mesh with the skills and experience of the other assistant prosecutors assigned to the floor.

Under funding from the National Science Foundation, INSLAW has developed an automated court scheduling system that takes advantage of information contained in PROMIS to avoid attorney scheduling conflicts and to use police resources more efficiently. Files are searched to find conflict-free dates for the participants; vacation dates provided by the participants are taken into account; and the appearances by individual police officers are scheduled for the same day, if possible.

In addition to such operational uses, the system also provides information for more efficient case management. It identifies all cases in various stages of processing and helps the court to match the case load to the existing resources. If the case load exceeds capacity, the system flags the report. It identifies cases that have exceeded guideline times, as well as those that might exceed such times if no special action is taken. Finally, the system provides reports about how scheduling has worked, i.e., whether the court has been underscheduling or overscheduling.

## Summary

This chapter has addressed the length of time for felony case processing, continuances and reasons for them, and other research about the effect of case characteristics on delay, as well as the effect of delay on case outcomes.

The average elapsed time from felony arrest to post-indictment (or higher court) disposition varied from 102 days to 725 days across the jurisdictions and the average number of nonprocedural continuances per felony case varied from 1.6 to 2.3. Bench warrants accounted for a substantial percentage of the nonprocedural continuances in each jurisdiction (from 9 to 17 percent). Defense counsel problems also were responsible for many of the continuances.

An INSLAW study of case-processing time in the District of Columbia found that delay did not seem to affect either the felony conviction rate at trial or the overall conviction rate. In light of that finding, examination of the trade off between "speedy trial" requirements and crime control seems especially important. Routinely collected transaction data would provide information necessary for evaluating that trade off.

## 9. CAREER CRIMINAL PROGRAMS AND RECIDIVISM

In a recent four and two-third year period, 7 percent of the defendants arrested in the District of Columbia accounted for 24 percent of the arrests.<sup>1</sup> Statistics such as these prompted LEAA in 1975 to establish its Career Criminal Program, which provides resources to local jurisdictions for intensive prosecution of habitual offenders.<sup>2</sup> Many states have enacted repeat offender statutes or habitual offender laws that permit judges to impose stiffer sentences for offenders with prior convictions. In addition, some jurists have advocated the development of methods to assist judges assess the relative seriousness of the offense and prior record of the defendant in connection with sentencing decisions.<sup>3</sup> Others, including Chief Justice Warren Burger, have suggested that the seriousness of the crime and the extent of the defendant's prior criminal record should be consistently included among those factors influencing case scheduling priorities.<sup>4</sup>

Scholars have also voiced concern about the habitual criminal. According to James Q. Wilson, for example: "Most serious crime is committed by repeaters. What we do with first offenders is probably far less important than what we do with habitual offenders."<sup>5</sup>

The 1975 White House "Message on Crime" made much the same point: "These relatively few persistent criminals who cause so much worry and fear are the core of the problem. The rest of the American people have a right to protection from their violence."<sup>6</sup>

In fact, as early as 1922, the problem of how the system deals with the repeat offender was addressed by Felix Frankfurter and Roscoe Pound:

A system under which, in ten years, the same person can be before the courts from 10 to 18 times, largely on charges of robbery, burglary, and larceny, which make it clear that he is a habitual or professional offender, and can escape at least half of the time by discharge on preliminary examination, no bill, nolle, plea to lesser offense, or suspended sentence, with no records showing who is responsible, is nothing short of an inducement to professional crime.<sup>7</sup>

### Extent of the Problem

One measure of a jurisdiction's recidivism problem is the percentage of defendants arrested while on conditional release. Table 9 shows the percentage of defendants arrested and filed against for felonies who were on conditional release (i.e., bail, probation, or parole) for prior unrelated crimes at the time of arrest.

1. Kristen M. Williams, *The Scope and Prediction of Recidivism*, PROMIS Research Publication no. 10 (INSLAW, forthcoming).

2. National Legal Data Center, *Career Criminal Program, An Overview*, prepared for the National College of District Attorneys (San Diego, Calif., 1976).

3. Marvin E. Frankel, *Criminal Sentences: Law Without Order* (New York: Hill and Wang, 1973).

4. Warren E. Burger, "The Image of Justice," remarks delivered to the Second Judicial Conference, Manchester, Vermont, September 10, 1977. See also National Advisory Commission on Criminal Justice Standards and Goals, *Courts*: "Priority scheduling recognized habitual offenders, violent offenders, and professional criminals as major contributors to the crime problem. Differential treatment of these few offenders for scheduling purposes will be a positive contribution to reducing crime and assuring safer streets." (Washington, D.C.: Government Printing Office, 1973): 95.

5. James Q. Wilson, *Thinking About Crime* (New York: Basic Books, 1975): 199.

6. President Gerald R. Ford, "Message on Crime to the Congress of the United States," June 19, 1975.

7. Felix Frankfurter and Roscoe Pound, *Criminal Justice in Cleveland* (Ohio: Cleveland Foundation, 1922, reprint ed., Montclair, N.J.: Patterson Smith, 1968): 625.



Table 9.  
DEFENDANTS ON CONDITIONAL RELEASE AT ARREST

Jurisdiction	Rate	Number
New Orleans	10%	1,450
Indianapolis	17	1,060
Los Angeles	19	9,322
District of Columbia	21	2,357

Source: PROMIS data, January-June, 1977.

The recidivism rates for defendants arrested for robbery and burglary were higher in each location than the rates for felonies in general.<sup>8</sup> The recidivism rate among assault arrestees, on the other hand, was lower than the rate for all felony arrestees in each city. The pattern for homicide arrestees was mixed; in two cities (Indianapolis and New Orleans) the recidivism rate among homicide arrestees was lower than the rate for all felonies, and in two cities (District of Columbia and Los Angeles) it was higher.

These differences in the proportion of arrestees on conditional release may be related to differences in bail practices or laws. Recall that the District of Columbia had the highest rate of pretrial release on nonfinancial conditions. It also had the highest rate of recidivism measured this way.

Given the disproportionately large share of crime committed by repeat offenders, prosecutors seem justified in structuring their discretion so that an appropriate percentage of time and staff is focused on recidivists, even though this might mean that other cases with as much or more evidence and involving less frequent offenders would have to be rejected or pursued with less than normal intensity.

An analysis of 6,000 felony cases brought to the United States Attorney's Office, District of Columbia Superior Court Division, in calendar year 1973 (before a career criminal program was instituted there) attempted to infer statistically what in fact does influence prosecutive decisions to carry some cases forward longer than others.<sup>9</sup> What the study found was that the fact that a person was a repeat offender did not *of and by itself* cause his case to be given extra prosecutive attention. If a case against a defendant is supported by strong evidence, it will receive extra attention by virtue of the evidence, but if the case is supported by marginal evidence, it will not receive extra attention. By contrast, however, the study found that the prosecutor would devote extra attention to cases involving marginal evidence *if* those cases also involve serious crimes.

What is meant by marginal evidence is that statistically one can infer from factors in the case known to influence the probability of conviction (for example, the number of lay witnesses, the recovery of physical evidence, the victim being an institution or business, the elapsed time between the crime and the arrest, and the relationship between the defendant and the victim) that the case has a reasonable prospect for conviction but not an overwhelming likelihood of conviction.

Statistical analysis indicated that in 1973 the likelihood of conviction or strength of the evidence exerted the most influence on the prosecutor's priorities.<sup>10</sup> It was, in fact, about ten times stronger than the next most important influence: the seriousness of the crime. (This means that a given percentage increase in the strength of the evidence in a case appeared to have ten times the impact on the amount of time the prosecutor carries forward the case than did the same percentage increase in the seriousness of the crime.)

Prosecutors obviously cannot ignore the strength of the evidence against a defendant. It would both be unethical and impractical to do so. But the statistics indicate that prosecutors will take their chances on a case

8. An INSLAW study of 4,700 robbery and burglary arrestees in the District of Columbia found that "by whatever measure is used, defendants arrested at least once for robbery or burglary have more serious criminal histories than do other defendants." See Kristen M. Williams, *Robbery and Burglary: A Study of the Characteristics of the Persons Arrested and the Handling of Their Cases in Court*, PROMIS Research Publication no. 6 (INSLAW, forthcoming): 3-11.

9. *Curbing the Repeat Offender: A Strategy for Prosecutors*, PROMIS Research Publication no. 3 (INSLAW, 1977).

10. *Ibid.*

with marginal evidence if it is also a case with a serious crime. (The recidivism statistics suggest that prosecutors should also take chances on cases with marginal evidence *if* they are also cases involving serious defendants, i.e., repeat, habitual offenders.)

Most of the jurisdictions discussed in this report have career criminal programs as well as PROMIS: the District of Columbia, Detroit, New Orleans, Indianapolis, Rhode Island (statewide), Salt Lake, Milwaukee, Kalamazoo, and Louisville. (Los Angeles is just beginning such a program.) With the exception of the program in the District of Columbia, the career criminal programs discussed here use vertical prosecution, whereby one prosecutor handles all proceedings in a case.<sup>11</sup>

## Criteria for Selection and Organization of Programs

The District of Columbia's career criminal program, Operation Doorstop, focuses on defendants who are:

- arrested for a crime of violence while on probation or parole for a felony;
- arrested for a felony while on probation or parole for a crime of violence; or
- arrested for a crime of violence and possibly subject to pretrial detention.

Not all defendants who meet the criteria are selected for career criminal prosecution, however. The selection is made after initial case screening has been completed.

Four prosecutors are assigned to Operation Doorstop, and six police officers are available for further investigation of the cases selected. One of the four Operation Doorstop prosecutors is responsible for each case from screening through grand jury indictment. After indictment, the case is handled by a prosecutor from the felony trial section.

The New Orleans program, on the other hand, identifies career criminal defendants at the time of arrest. All defendants who meet the criterion of five prior felony arrests (stemming from separate incidents) or two prior felony convictions are included in the program. The type of crime is not a factor. Police officers in New Orleans can identify career criminals at the scene of the arrest by requesting local criminal history information (by an on-line request to a computer) on an individual's prior arrests, if any. They then contact the prosecutor's office, where a career criminal prosecutor is available at all times. In about one-quarter of the cases, the prosecutor then goes to the arrest scene. One of the thirteen prosecutors assigned to the program handles a career criminal case from acceptance to disposition.

Salt Lake County also processes as career criminals all defendants who meet any of their criteria. Crime type is not a factor. In New Orleans and Salt Lake, persons charged with serious misdemeanors may be included in the career criminal program. The criteria in Salt Lake are:

- two or more pending felony cases;
- two or more felony convictions for serious offenses;
- more than two convictions for any felony;
- five or more arrests for felonies; or
- felony conviction in the past five years and on parole.

The Detroit program, PROB (Prosecutor's Repeat Offender Bureau), has a combination of criminal history and crime type in its selection criteria. All defendants who meet either of the following conditions are selected for PROB:

- a charge of murder, rape, robbery, burglary, or major assault and three prior felony convictions; or
- a combination of three prior convictions and three pending cases.

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11. Horizontal prosecution is the norm for case processing in urban prosecution agencies. A different prosecutor handles each stage of case processing and then passes the case and his notes to the prosecutor handling the next stage. In career criminal cases in the District of Columbia, one prosecutor is responsible for a case until indictment, then another prosecutor takes over.

Nine prosecutors are assigned to the repeat offender bureau; as in New Orleans, one prosecutor handles a case from beginning to end.

Indianapolis uses a point system to select cases for its career criminal program. Points are assigned for previous target (violent crimes and burglary) felony convictions, any felony convictions, felony arrests, and pending target felony cases. Cases are selected for inclusion in the program based on the points and the severity of the current offense. Narcotics offenses are not included, except those that are incident to target crimes. Ten prosecutors are assigned to this program, two of whom do all the case screening. After screening, only one prosecutor handles each case.

Milwaukee County also uses a point system to choose defendants for its career criminal program. Points are assigned if the defendant has prior convictions, a current charge involving injury or weapons, or a current release status of bail, probation, or parole. Cases that qualify under that point system are prosecuted by the career criminal, sex, or organized crime sections of the prosecutor's office. One of the three prosecutors assigned to the Milwaukee program handles a case from beginning to end.

The Rhode Island program targets on specific crimes (robbery, burglary, rape, aggravated assault, arson, weapons). Defendants who are charged with one of those crimes and who have two prior felony convictions or five prior felony arrests (at least one of which is for a target offense) are handled by the career criminal unit. Defendants on conditional release at the time of their arrest and persons charged with "atrocious crimes" may also be sent to the career criminal unit. Most cases that meet one or more of these criteria are accepted for vertical prosecution by one of the two prosecutors assigned to the program.

A recent study<sup>12</sup> of recidivism in the District of Columbia found several factors about the defendant and the offense to be positively related to future recidivism:

- current case burglary or robbery;
- criminal history factors, such as arrest in the past five years, use of an alias, and number and frequency of previous arrests (however, recent misdemeanor drug arrests appeared to have a negative impact on recidivism);
- unemployment, drug use, and age (teenagers and adults in their early 20s were more likely to be rearrested than others).

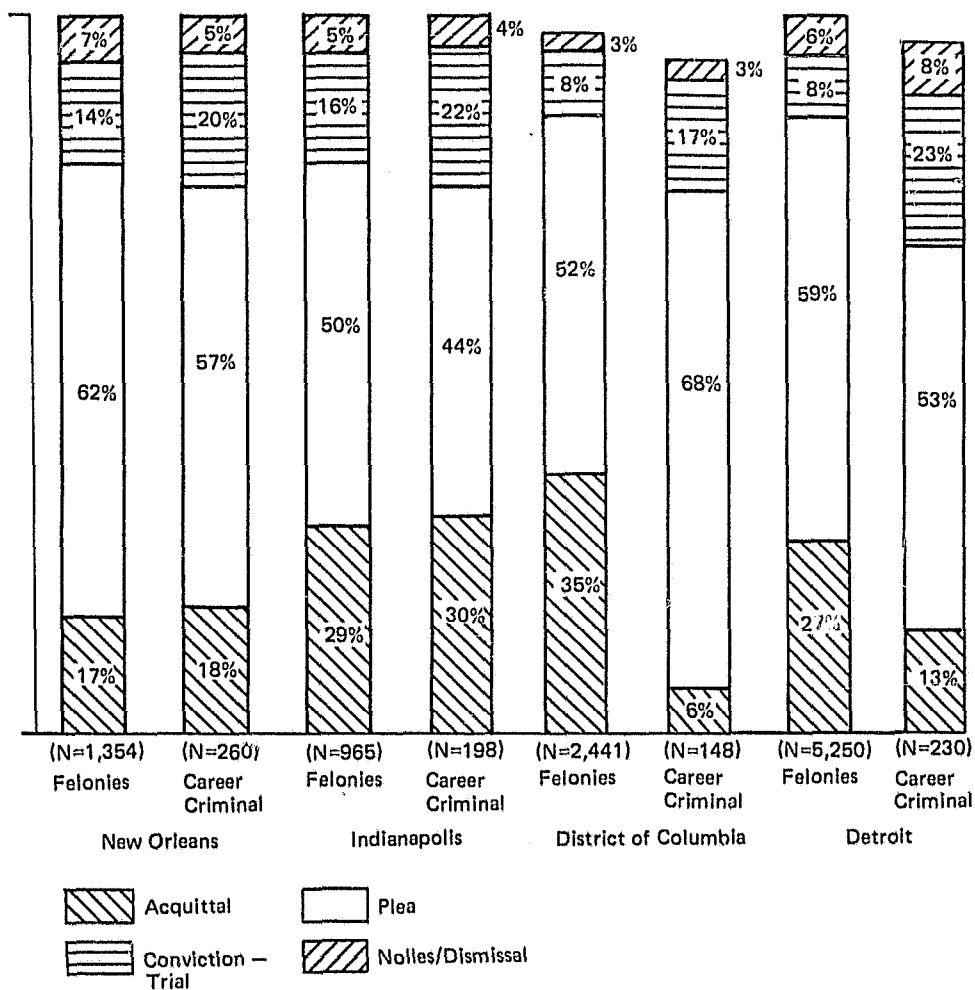
Not all of the factors are equally important; the relative weights of each of them were developed through the use of a statistical technique, multiple regression analysis. The study also found that more than 75 percent of those arrested for robbery, burglary, larceny, and assault who recidivated switched crimes at least once. Among persons arrested for felonies, 29 percent had a later arrest for a felony and 22 percent had a later arrest for a misdemeanor; among persons arrested for misdemeanors 22 percent had a later arrest for a felony and 28 percent had a later arrest for a misdemeanor. The results of those analyses of factors related to recidivism are being used to develop a recidivism-prediction score for defendants. The mechanism for computing that score will be incorporated into PROMIS and displayed on terminal screens for use by prosecutors in selecting defendants who appear to have high potential for recidivism. (Recall that Figure 13 displays such scores.) Since recidivists frequently switch among various types of violent and property crimes and between felonies and misdemeanors, the use of such a score can help prosecutors target on the defendants who are most likely to be rearrested.

In addition to differing in selection criteria, career criminal programs vary in size. New Orleans and Indianapolis each process about 20 percent of their felony cases in their career criminal units. Detroit and the District of Columbia handle a much smaller proportion of their felony case loads as career criminal cases—5 percent and 6 percent, respectively.

Since both the criteria for selection into career criminal programs and the scope of the programs differ among the jurisdictions, it is not surprising that the disposition rates also vary. Figure 24 compares the disposition rates for career criminal programs with the rates for all felonies in each city.

12. Williams, *The Scope and Prediction of Recidivism*.

Figure 24. DISPOSITIONS OF CAREER CRIMINAL CASES COMPARED WITH FELONY DISPOSITIONS



Source: PROMIS data, January-June 1977.

Note: Totals do not always add to 100; open cases and administrative and "other" dispositions are not included.

In New Orleans and Indianapolis, where crime type is not an important determinant of selection for career criminal processing and where approximately 20 percent of the felonies are career criminal cases, disposition rates for felonies in general and for career criminal cases differ little, after filing:

	New Orleans		Indianapolis	
	Career Criminal Program	Other Felonies	Career Criminal Program	Other Felonies
Dropped	18%	17%	30%	29%
Guilty (pleas and trials)	77	76	66	66
Acquitted	5	7	4	5

(New Orleans, the only city that identifies career criminal cases before screening, rejects a smaller proportion of career criminal cases than other cases.) In both cities, pleas are less common and the conviction rate at trial is higher in career criminal cases; however, the combined guilty rate is similar for career criminal and other cases. Fewer pleas may be taken because both jurisdictions require pleas to the top charge in career criminal cases.

Detroit and the District of Columbia, which we noted process a much smaller proportion of their cases in career criminal programs, drop a much smaller percentage of career criminal cases after filing. As in Indianapolis and New Orleans, a much higher percentage of career criminal cases are convicted at trial.

Figure 25 identifies the reasons for post-filing dismissals and nolle prosequis in career criminal cases. Plea bargains accounted for a higher proportion of the nolle prosequis and dismissals in career criminal cases than in other cases. Those bargains would include pleas to one case against a defendant for a dismissal of another case against him.

In general, career criminal cases moved through the system faster than others. The exception was Detroit, which was engaged in a "crash" program to clear the docket at the time these data were collected. Table 10 shows case-processing times for cases that reached the higher court stage.

Table 10.

AVERAGE TIME FROM ARREST TO  
HIGHER COURT DISPOSITION

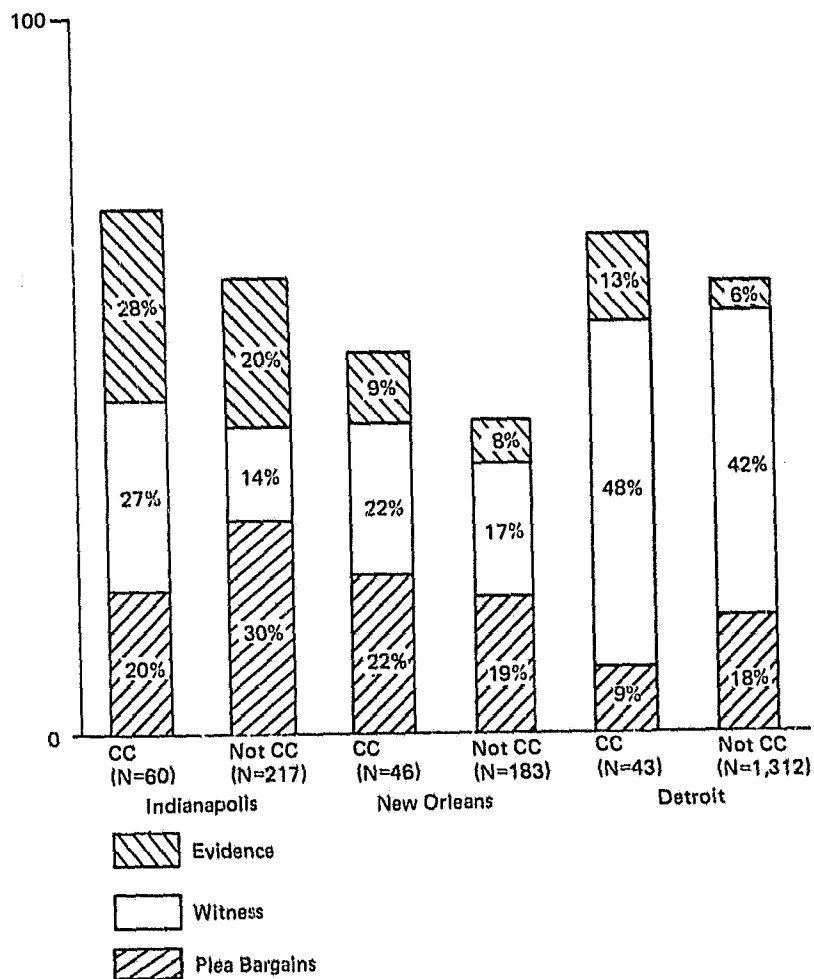
Jurisdiction	Career Criminal	Other Felonies
New Orleans	89 days	195 days
District of Columbia	113	235
Indianapolis*	160	195
Detroit	206	161

Source: PROMIS data, January-June 1977.

\*Includes time to sentencing, which usually occurs 30 days after conviction.

Career criminal cases in the District of Columbia are completed in half the time required for other felonies. One explanation may be that defendants who qualify for the District's program also often qualify for preventive detention. The preventive detention statute requires that a defendant be brought to trial within 60 days of his detention.

Figure 25. REASONS FOR POST-FILING DISMISSALS AND NOLLES  
CAREER CRIMINAL VS NON CAREER CRIMINAL



Source: PROMIS data, January-June 1977.

Nearly all convicted defendants in career criminal programs were sentenced to incarceration. For example, the incarceration rate in Detroit was 93 percent; in Indianapolis, 92 percent; and in New Orleans, 87 percent (some of the incarcerations were for misdemeanor offenses).

The sentences imposed also tended to be longer than those of other felons. Sixty-six percent of career criminal sentences in Detroit were for five years or more compared with 10 percent for the other felony sentences. In both New Orleans and Indianapolis, career criminal defendants were sentenced to five years or more incarceration at twice the rate for felonies in general.

One indication of the overall success of career criminal programs is the fact that in 30 months, 5,000 repeat offenders (in the jurisdictions that received LEAA funding for career criminal programs) were sentenced to incarceration for terms averaging 14 years.<sup>13</sup>

The logical next step in evaluating the effectiveness of career criminal programs would seem to be an analysis of how well the programs do at convicting and incarcerating defendants relative to non career criminal prosecutions of *similar* cases. To evaluate the deterrent effect of career criminal programs, part of that analysis should follow the criminal activities of those convicted in career criminal programs and similar convicted defendants.

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13. "Stopping Crime as a Career," *Time*, January 30, 1978: 62.

## ***10. SUMMARY FINDINGS, IMPLICATIONS, AND FUTURE DIRECTIONS***

### **Summary of the Report**

Using transaction data from PROMIS, this report has traced the flow of felony cases from arrest through sentencing in 13 criminal justice systems across the country.<sup>1</sup> The jurisdictions represented vary in population from roughly 200,000 to 7 million and include major urban centers, like Los Angeles and Detroit, and residential communities, like Cobb County (Ga.) and Golden (Colo.). Despite marked differences in their demographic characteristics, these jurisdictions are strikingly similar in the way they dispose felony cases. Most cases were dropped after arrest but before adjudication on the merits. Next to rejections at screening and nolle prosequi and dismissals, the most common disposition was a plea of guilt. Very few cases went to trial. Of those that did, about 75 percent resulted in conviction. In general, over half of those convicted were sentenced to some period of incarceration.

While most arrests resulted in dismissals, the stage at which cases were dropped from the system varied substantially. In Los Angeles and New Orleans, for example, more than 80 percent of the attrition occurred at initial case screening. In the District of Columbia, Salt Lake, and Milwaukee, that percentage dropped to about 45 percent.

Not all arrests can, or even should, lead to conviction. Some cases were dismissed because they lacked prosecutive merit (e.g., trivial or inadvertent offense, insignificant amount of property damage) or because the defendant successfully completed a diversion program. Dismissals for those reasons may be desirable and even therapeutic for the offender, for society, and for the criminal justice system. However, the overriding causes of case attrition were evidence-related insufficiencies and witness problems—problems that in large part can be avoided. Much of that kind of attrition might have been avoided by improved communications among police, prosecutor, victims, and witnesses and by better training and feedback of information for police officers.

Contrary to conventional wisdom, due process violations accounted for very little of the case attrition. The few cases that were dropped for due process reasons (mainly search and seizure problems) were largely drug cases, as might be expected, since many drug cases involve possessory crimes.

Bail decisions at arraignment varied a great deal from jurisdiction to jurisdiction. The INSLAW study of bail in the District of Columbia (see Chapter 4) found that the factors that influenced the bail decision were not at all the same as those that predicted either failure to appear or crime on bail. Lack of feedback to judges about failures to appear and crime on bail by the defendants for whom they set bail is one explanation of that finding. Statistical tools are available to provide that kind of information to judges.

While dismissal was the most common disposition of arrests, pleas were the most common disposition of the cases filed with the court. Pleas not only make up the majority of dispositions of filed cases, they account for almost all of the convictions. Pleas may not necessarily be bargains for the defendant, however. A number of jurisdictions in this report have strict anti-plea-bargaining policies, and many of the pleas entered were to the top charge in the case. In the jurisdictions where data were available for this study, for example, the majority of robbery and burglary pleas at the higher court stage were to the top charge in the case.

The INSLAW study of plea bargaining in the District of Columbia (see Chapter 5) found that contrary to conventional wisdom, defendants who pled guilty (even to reduced charges) did not appear to be receiving a bargain in terms of sentence. For larceny, burglary, and assault, virtually no concessions were apparent. In robbery cases, there were sentencing concessions, but there did not appear to be a significant increase in risk to the public by way of recidivism of the defendants who pled.

<sup>1</sup>. Data were not available at all points in the system for all jurisdictions.



Over half of the persons initially charged with felonies and eventually convicted by plea or at trial were sentenced to some period of incarceration. Incarceration rates were noticeably higher for robbery defendants and for those prosecuted in career criminal programs.

Much of the work load of these criminal court systems involved recidivists. In several of the cities studied, as many as one of five arrestees was on conditional release (bail, probation, or parole) for an unrelated offense at the time of arrest. A number of jurisdictions have career criminal programs that target extra investigative and prosecutive effort on cases involving defendants identified as habitual offenders. Nearly all of the defendants who were convicted through one of those programs were sentenced to incarceration.

The elapsed time between arrest and higher court stage (or post-indictment) disposition varied from 102 to 725 days. Bench warrants accounted for a substantial percentage of the nonprocedural continuances in each jurisdiction (from 9 to 17 percent). Defense counsel problems also were responsible for many of the continuances.

Recently, Rhode Island and Detroit have begun major programs to aid in reducing case-processing time. Both of those programs involve pretrial conferences among the parties to discuss dispositions and facilitate scheduling.

An INSLAW study of case-processing time in the District of Columbia (see Chapter 8) found that delay did not seem to affect the felony conviction rate at trial or the overall conviction rate. In light of that finding, examination of the trade off between "speedy trial" requirements and crime control seems especially important. Routinely collected transaction data would provide information necessary for evaluating that trade off.

## Suggestions for Future Descriptive and Multivariate Research

The statistics presented in this report provide only a snapshot of the criminal justice system between arrest and sentencing. We have begun to gain some insights into how the system functions in a number of jurisdictions, but a great deal remains to be learned about the nerve center of the criminal justice system: prosecution and courts. Further research could investigate the following areas.

*Determinants of the decision to drop a case.* This report has shown that in urban court systems most arrests result either in a rejection at screening or a nolle or dismissal later. Most of the recorded reasons for those terminations are related to lack of cooperation by witnesses and insufficient evidence. Multivariate analyses of many factors in a case (such as whether the arrest was made at the scene, whether tangible evidence was recovered, whether the victim was a business, whether a gun or other weapon was used, the relationship between the victim and the defendant, the criminal history of the defendant, and the number of lay witnesses) would provide more insights into why those problems occur.

*Factors related to the bail decision and the relationship of the bail decision to flight or rearrest.* Statistics in this report demonstrate that the type of initial pretrial release conditions granted to defendants in Detroit, Salt Lake, and the District of Columbia are quite different. At the initial appearance in the District of Columbia, 49 percent of the felony defendants were released without financial conditions; only 22 and 29 percent of those in Salt Lake and Detroit, respectively, were so released. Those figures represent only the initial decision on bail in each city. How are those conditions changed, and which defendants are able to meet the financial conditions imposed?<sup>2</sup>

The data on which these statistics are based have been analyzed in greater depth in the District of Columbia. That study found that the factors that influenced the bail decision appeared to have little relevance to either of the traditional purposes of bail—to prevent failure to appear or to minimize danger to the community. It also found that the Superior Court could decrease the number incarcerated by at least 20 percent with no expected increase in either the rate of nonappearance or the rate of pretrial rearrest.<sup>3</sup> Such a study could be replicated in other jurisdictions in order to determine if new factors need to be considered in bail decisions. The results of such analyses could provide a framework for bail reform where needed.

The report cites lack of feedback as one reason for the lack of a relationship between factors predicting bail conditions and those predicting flight or rearrest. Since the judge at initial appearance rarely learns whether

2. The Management Report Package could be modified to provide reports of changes in bail conditions as well as the current release status of defendants. The reports could provide prosecutors and courts with the answers to those questions and, thereby, give them a much better description of pretrial release.

3. These percentages are based on the sample used for the study; the author cautions that those percentages might not be so high for another sample.

defendants he releases actually appear for trial or commit crimes on bail, he has no way to evaluate his effectiveness in setting release conditions. The result is an excessively costly pretrial release system and excessive jail populations; these achieve the objectives of neither crime control nor bail reform.<sup>4</sup>

*Determinants of plea and level of plea.* This report has shown that the most common post-filing disposition is a plea of guilt and that many pleas at the higher court stage (post-indictment) are to the top charge in the case. Are pleas at earlier stages to the top charge as well? Do sentences imposed vary by whether the conviction was by plea or trial?

Future cross-jurisdictional research could investigate what factors are related to disposition by plea and level of plea (as was done in the District of Columbia study). Such factors might include work load of the prosecutor, number of witnesses and codefendants in the case, whether tangible evidence was recovered, the criminal history of the defendant, and the seriousness of the offense. The findings of such a study would make it possible for prosecutors who are considering a change in their plea policy to see the effects of such policy changes in similar cities.

*Sentencing patterns and sentencing disparities.* The percentage of convicted defendants who are sentenced to some period of incarceration varies substantially across the cities studied in this report. Future research could focus on what factors are related to incarceration and length of sentence in a number of cities and why such rates differ.

A recent study of PROMIS data in the District of Columbia disclosed that incarceration rates also vary substantially depending on the judge who metes out the sentence. Whether this is true in other cities could be examined. One reason why such variations may exist seems to be that judges seldom know how their colleagues sentence. Periodic reports for judges of the range of sentences given for particular crimes in their jurisdiction would provide information that could reduce sentencing variations.

*The extent and prediction of recidivism.* An analysis of recidivism in the District of Columbia revealed that 7 percent of the defendants arrested in just under five years were responsible for 24 percent of the arrests in that period. That analysis could be repeated for other cities to determine if that level of recidivism is typical. Research could also determine if recidivism patterns vary by crime type or by disposition of prior arrests.

Many of the cities studied in this report have career criminal programs that target on repeat offenders. The criteria used to select defendants for those programs vary from city to city. One factor that might be added to those selection criteria is a recidivism probability estimate that arises from a multivariate analysis of factors related to recidivism in each jurisdiction, perhaps following the lines of the analysis in the District of Columbia. For each defendant, an estimate indicating his relative likelihood of recidivism can be computed. (With automated systems, that estimate could be displayed for prosecutors on the terminal screens.)

## Federal Uses for Transaction Statistics

Attorney General Bell recently submitted a bill to Congress that includes, as one feature, the establishment of a federal Bureau of Criminal Statistics, with the objective of collecting and disseminating data that will give us a systemwide picture of criminal justice operations. The new bureau will confront a major vacuum in the existing statistical activities of the Department of Justice. Through the FBI's *Uniform Crime Reports*, we have considerable data about the numbers of crimes known to the police and the number cleared by arrest, and through LEAA's *National Prisoner Statistics* we know about the operations and populations of the prisons. But no comparable national statistics are available about the intervening steps in the process—about what happens between arrest and incarceration. We have seen in this report that few persons arrested are prosecuted, convicted, and sent to prison. The absence of information on the steps between arrest and conviction deprives us of information about the criminal justice system's response to the major portion of its work load.

Jurisdictions that implement PROMIS or other information systems could readily provide the Bureau of Criminal Statistics with data on their operations to begin to fill that void. Such data could provide information necessary for federal decision making on criminal justice policies and priorities. Those statistics could be reported periodically (as are the UCR statistics) to show, for the first time, what is happening to the majority of arrests and, based on the reason information, why it is happening. The reports could also provide a basis for informing the public about realities of law enforcement and criminal justice. Such information could also galvanize public and legislative support for reforms where needed.

4. INSLAW is now developing a statistical system to provide feedback for judges. It will give them the frequency with which certain types of decisions were made in the past as well as the flight and pretrial crime potential of the defendant.

In the recent past, the availability of PROMIS data has focused attention on two problem areas and successful LEAA programs have been implemented in an effort to remedy those problems. LEAA developed the Career Criminal Program in response to data that revealed that a large share of the prosecution and court work load involves recidivists. Similarly, research that showed that problems with citizen witnesses accounted for a large share of case attrition led to LEAA's Victim Witness Assistance Program, which provides funds to local jurisdictions for improved support of victims and witnesses to ensure that they know when and where to report, what is expected of them, and that they are not inconvenienced too much.

A Department of Justice Study Group recommended that LEAA integrate its research, development, national demonstration, and technical assistance and training programs. Descriptive, systemwide statistics could provide the first step in such a process. These statistics could focus attention on problem areas. Then, through the use of appropriate statistical techniques an effort could be made to learn from the data the factors that contribute to the problems. New programs could be developed based on those findings.

Just as federal money was made available to state and local jurisdictions through the Career Criminal Program and the Victim Witness Assistance Program, mechanisms could be established to help jurisdictions target on other criminal justice problem areas. The data presented in this report and related findings from other studies suggest the need for a number of remedial programs:

1. *Better feedback and training for police officers about the types and amounts of evidence required to proceed from arrest to disposition on the merits.* Often police officers are not informed of the dispositions of arrests or the reasons for those dispositions. Mechanisms for providing that kind of feedback from prosecutor to police could be established (as is being done in the District of Columbia and Los Angeles).

The data suggest that evidence problems are more pronounced for certain crime types and that the amount of evidence required also varies by crime type. More fully understanding those relationships might help to improve evidence collection. INSLAW research has found, for example, that certain police officers are very successful in collecting the necessary evidence. Their techniques and experience regarding evidence collection could be distilled and presented at both pre-service and in-service seminars for police officers.

2. *Improved collection of addresses and phone numbers of victims and witnesses to permit better notification procedures.* Witness-related problems also accounted for a significant amount of case attrition. A number of jurisdictions have already established victim-witness assistance programs. Those that have not, need to be made aware of the contribution such programs can make to efficient case processing and, in particular, the benefits that can be realized from attention to such routine matters as verifying the correctness of witnesses' names, addresses, and telephone numbers. In the District of Columbia, Chicago, and New York, for example, it was found that bad addresses precluded notification of significant numbers of witnesses and, therefore, the cases in which they were involved had to be dropped.<sup>5</sup>

3. *Improved notification of defendants about court events.* The data show that sizable numbers of continuances in every jurisdiction are caused by the defendant's failure to appear as scheduled. Other research has shown that a large proportion of those failures do not appear to be willful. Better notification procedures for defendants might reduce the number of those nonwillful failures and, thereby, facilitate court scheduling.

5. See Chicago Crime Commission, *Dismissed for Want of Prosecution* (March 13, 1974): 1-2; Louis P. Benson, "An Invitation to a Challenge," draft report submitted in conjunction with LEAA-aided Crime Victims Consultation Project, under a grant from the New York City Criminal Justice Coordinating Council; and Frank J. Cannavale, Jr., and William D. Falcon (ed.), *Witness Cooperation*, INSLAW (Lexington, Mass.: Lexington Books, 1976).

4. *Pretrial conferences to aid in calendar management and compliance with speedy trial requirements.* Rhode Island and Detroit are engaged in major efforts to reduce court backlog and delay. Both jurisdictions have established pretrial conferences at which the parties discuss the possible disposition of the case. Often at those conferences, plea agreements are reached and, therefore, cases are not unnecessarily scheduled for trial.

PROMIS jurisdictions are ideal sites for testing new programs. First, PROMIS provides a built-in capability for evaluating the effects of new programs; the data accumulated as a by-product of day-to-day operations can be used to monitor fluctuations in important indices of case processing (e.g., time between events, dismissal rates and reasons, plea bargaining rates, trial results, and sentencing practices). Second, the environmental differences among jurisdictions provide an important basis for testing and evaluating new ideas since legal or ethical considerations may bar experiments within a single jurisdiction if those experiments require the deliberate varying of treatment in essentially similar cases. The diversity of the prosecution and court environments in jurisdictions across the country can provide a natural substitute for the kinds of controlled experiments that might not be feasible within a single jurisdiction.

## **APPENDIXES**

## *A*

# ***THE PROMIS MANAGEMENT REPORT PACKAGE***

The PROMIS data reported in this study were obtained by asking each participating jurisdiction to produce an identical set of pre-programmed management reports from its local computerized data base. For this purpose, each jurisdiction applied, on its own, one of the regular tools of PROMIS: The Management Report Package.

The Management Report Package enables court and prosecution managers to retrieve statistical data about their operations from a large variety of perspectives. The package enables managers to look, in the aggregate, at what kinds of decisions prosecutors and judges are making in various types of cases, and, very importantly, why they are making those decisions.

For example, the package makes it possible to look at the rate at which burglaries are declined prosecution, plea bargained, or dismissed. The reasons cited by prosecutors for each of these case decisions are aggregated so that managers can see at a glance the magnitude of various problems, such as insufficient evidence collection by the police, inadequate communications with or support from witnesses, delays in laboratory analyses, or Fourth Amendment violations.

Similarly, judges can use the package to review patterns of bail and sentencing decisions by type of crime and type of defendant, as well as to review the incidence and reasons for continuances and judicial dismissals.

In choosing crimes to look at, officials can focus narrowly on the statutory offense or on broader classifications—such as all crimes of violence, all felonies, all misdemeanors.

After choosing the crimes of interest, officials can specify that the reports provide comparative data for as many as four different time periods (such as months, quarters, or years) each time the package is run. In addition, the user can specify whether the reports should be based on a “tracking” or a “work load” perspective. Tracking reports show the decisions regarding cases initiated during the chosen time periods, even decisions that have taken place since the close of those time periods. Work load reports, on the other hand, show all activity during the chosen time periods, whether or not the cases were initiated during those time periods.

Finally, the user of the Management Report Package can further limit inquiries to cases that meet as a criterion any other factor recorded in PROMIS. For example, the user might wish to look at robberies assigned to the career criminal prosecution unit, burglaries above a certain dollar value, or felonies involving a particular prosecutor, judge, defense counsel, or police officer.

Thirteen different types of tables are available through the Management Report Package. Officials can choose to see all or any subset of these tables when running the package. The tables are as follows:

1. Case Intake Statistics
2. Declination Reasons Summary
3. Release and Bail Decisions
4. Felony Preindictment Actions and Grand Jury Dispositions
5. Grand Jury Dismissals by Prosecutor
6. Felony Trial and Misdemeanor Dispositions
7. Dismissals by Court
8. Dismissals by Prosecutor
9. Speedy Trial and Time Delay Statistics

10. Pending Case Status
11. Nonprocedural Continuance Summary
12. Sentencing Summary
13. Crime and Defendant Rating Summary

Samples of Tables 1, 2, 6, and 12 are included. The statistics shown, while contrived for the purpose of illustration, present a reasonable picture of actual operations in typical urban court systems.

Type: Workload  
 Branch: All Divisions  
 Period: 10/10/76 Thru 12/31/76

MANAGEMENT REPORT PACKAGE  
 CASE INTAKE (TABLE 1)

	Homicide		Rape		Robbery		Burglary		Agg. Assault		Totals	
Cases Referred by Police												
1. POLICE INITIATED CHARGE*	5	0.5%	3	0.3%	33	3.4%	148	15.4%	50	5.2%	239	24.8%
2. CASE ACCEPTED**	3	60.0%	2	66.7%	26	78.8%	119	80.4%	29	58.0%	179	74.9%
3. POLICE CHARGE ACCEPTED	3	100.0%	2	100.0%	26	100.0%	119	100.0%	29	100.0%	179	100.0%
4. POLICE CHARGE REJECTED	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%
5. CASE DECLINED (TABLE 2)	2	40.0%	1	33.3%	7	21.2%	29	19.6%	21	42.0%	60	25.1%
Cases Filed by Prosecutor												
6. CASE FILED WITH COURT***	4	0.5%	2	0.3%	28	3.6%	124	16.0%	31	4.0%	189	24.3%
7. ORIGINAL POLICE CHARGE	3	75.0%	2	100.0%	26	92.9%	119	96.0%	29	93.5%	179	94.7%
8. PROSECUTOR CHARGE ADDED	1	25.0%	0	0.0%	2	7.1%	5	4.0%	2	6.5%	10	5.3%

\*Percentage indicates the proportion of referred cases involving this charge.

\*\*Includes all cases in which the prosecutor filed a charge, even if the filed charge is different from the police initiated charge.

\*\*\*Percentage indicates the proportion of filed cases involving this charge.



Type: Workload  
 Branch: Superior Court Division  
 Period: 10/01/76 Thru 12/31/76

Management Report Package  
 Declination Reasons (Page 1 of Table 2)

Declination Reasons	Homicide		Rape		Robbery		Burglary		Agg. Assault		Totals	
Evidence	0	0.0%	1	9.1%	25	50.0%	7	33.3%	18	16.8%	51	26.7%
Scientific Evidence	0		0		0		0		0		0	
Analysis Rpt Unavail	0		0		0		0		0		0	
Analyt Result Insuff	0		0		0		0		0		0	
Physical Evidence	0		0		3		2		6		11	
Phys Evid Unavail	0		0		0		0		0		0	
Physical Evid Insuff	0		0		3		2		6		11	
Testimonial Evidence	0		1		19		4		10		34	
No Corroboration	0		0		1		0		0		1	
Testimony/Circ Insuff	0		1		17		4		7		29	
Insuff Nexus Def/CRM	0		0		1		0		3		4	
No ID at Line-Up	0		0		0		0		0		0	
Other Evidence	0		0		3		1		2		6	
Other Evid Problems	0		0		3		1		2		6	
Witness Problems	0.0%		4	36.4%	18	36.0%	6	28.6%	46	43.0%	74	38.7%
Appearance/Attitude	0		2		9		5		43		59	
CW Signs Off	0		1		8		4		31		44	
CW No Show or Unfit	0		1		1		0		8		10	
CW Unavailable	0		0		0		0		0		0	
Unable to Locate CW	0		0		0		0		2		2	
EW No Show or Unfit	0		0		0		0		0		0	
EW Unavail/Reluct	0		0		0		1		1		2	
Unable to Locate EW	0		0		0		0		0		0	
Police Off No Show	0		0		0		0		0		0	
Oth Witness No Show	0		0		0		0		0		0	
Witness Privilege	0		0		0		0		1		1	
Testimony	0		2		9		1		3		15	
Wit Story-Confused	0		2		7		0		0		9	
Wit Story-Inconsist	0		0		2		1		1		4	
Wit Credibility	0		0		0		0		2		2	
Unable Qualify Wit	0		0		0		0		0		0	

**CONTINUED**

**1 OF 3**

Type: Workload  
 Branch: All Divisions  
 Period: 01/01/77 Thru 03/31/77

Management Report Package  
 Felony Trial and Misdemeanor Dispositions (Table 6)

	Previous Total		Larceny		Auto Theft		Narcotics		Other Felonies		Totals	
1. Pending Start of Period	2206		147		324		682		2300		5659	
2. Pending End of Period (Table 10)	2256		161		321		769		2279		5786	
3. Fugitives	595	26.4%	42	26.1%	91	28.3%	213	27.7%	775	34.0%	1716	29.7%
4. Dispositions	209		7		28		35		145		424	
5. Guilty	177	84.7%	5	71.4%	21	75.0%	30	85.7%	93	64.1%	326	76.9%
6. Pled Guilty	147	83.1%	5	100.0%	18	85.7%	30	100.0%	79	84.9%	279	85.6%
6A. This Charge	127		4		18		26		0		175	
6B. Other Charge	4		0		0		2		0		6	
6C. Lesser Charge	16		1		0		2		0		19	
7. Guilty Verdict	30	16.9%	0	0.0%	3	14.3%	0	0.0%	14	15.1%	47	14.4%
8. Jury Trials	11	36.7%	0	0.0%	0	0.0%	0	0.0%	4	28.6%	15	31.9%
8A. This Charge	9		0		0		0		0		9	
8B. Other Charge	2		0		0		0		0		2	
8C. Lesser Charge	0		0		0		0		0		0	
9. Bench Trials	19	63.3%	0	0.0%	3	100.0%	0	0.0%	10	71.4%	32	68.1%
9A. This Charge	19		0		3		0		0		22	
9B. Other Charge	0		0		0		0		0		0	
9C. Lesser Charge	0		0		0		0		0		0	
10. Not Guilty	7	3.3%	0	0.0%	0	0.0%	0	0.0%	1	0.7%	8	1.9%
11. Jury Verdict	4	57.1%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	4	50.0%
12. Court Verdict	3	42.9%	0	0.0%	0	0.0%	0	0.0%	1	100.0%	4	50.0%
13. Not Guilty Insanity	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%
14. MJOA	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%
15. Other Not Guilty	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%
16. Dismissed by Court (Table 7)	8	3.8%	1	14.3%	1	3.6%	1	2.9%	10	6.9%	21	5.0%
17. Dismissed by Pros (Table 8)	17	8.1%	1	14.3%	6	21.4%	4	11.4%	40	27.6%	68	16.0%
18. Other Disposition	0	0.0%	0	0.0%	0	0.0%	0	0.0%	1	0.7%	1	0.2%

Type: Workload  
 Branch: All Divisions  
 Period: 10/01/76 Thru 12/31/76

Management Report Package  
 Sentencing Summary (Page 1 of Table 12)

	Previous Total		Larceny		Auto Theft		Drugs		Other Felonies		Totals	
1. Defendants Sentenced	182		59		16		57		12		314	
2. Imprisonment*	146	80.2	41	69.5	13	81.3	26	45.6	12	100.0	226	72.0
3. Misdemeanor Cases	0		0		0		0		0		0	
0-3 Months	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%
3-6 Months	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%
6-9 Months	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%
9-12 Months	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%
Greater Than 12 Months	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%
4. Felony Cases	146		41		13		26		12		226	
5. Less Than 1 Year Minimum	33	22.6%	13	31.7%	4	30.8%	4	15.4%	2	16.7%	54	23.9%
6. One Year Minimum	47	32.2%	19	46.3%	9	69.2%	2	7.7%	1	8.3%	77	34.1%
3 Year Maximum	14	29.8%	7	36.8%	6	66.7%	2	100.0%	1	100.0%	29	37.7%
3-6	16	34.0%	4	21.1%	0	0.0%	0	0.0%	0	0.0%	20	26.0%
6-9	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%
Over 9	17	36.2%	8	42.1%	3	33.3%	0	0.0%	0	0.0%	28	36.4%
7. Two Year Minimum	24	16.4%	6	14.6%	0	0.0%	9	34.6%	8	66.7%	39	17.3%
6 Year Maximum	17	70.8%	1	16.7%	0	0.0%	9	100.0%	4	50.0%	27	69.2%
6-9	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%
9-12	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%
Over 12	7	29.2%	5	83.3%	0	0.0%	0	0.0%	4	50.0%	12	30.8%
8. Three Year Minimum	2	1.4%	1	2.4%	0	0.0%	2	7.7%	0	0.0%	5	2.2%
9 Year Maximum	2	100.0%	1	100.0%	0	0.0%	2	100.0%	0	0.0%	5	100.0%
9-12	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%
12-15	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%
Over 15	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%
9. Four Year Minimum	0	0.0%	0	0.0%	0	0.0%	2	7.7%	0	0.0%	2	0.9%
12 Year Maximum	0	0.0%	0	0.0%	0	0.0%	2	100.0%	0	0.0%	2	100.0%
Over 12	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%
10. Five Year Minimum	1	0.7%	1	2.4%	0	0.0%	6	23.1%	1	8.3%	8	3.5%
15 Year Maximum	1	100.0%	1	100.0%	0	0.0%	6	100.0%	1	100.0%	8	100.0%
Over 15	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%
11. Six Year Minimum	1	0.7%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	1	0.4%
12. 7-10 Year Minimum	23	15.8%	1	2.4%	0	0.0%	1	3.8%	0	0.0%	25	11.1%
13. Over 10 Year Minimum	15	10.3%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	15	6.6%
14. Life Sentence	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%

\*Total consecutive time for all guilty charges in a case.

***B***  
***SOCIAL, COURT, AND PROSECUTION***  
***CHARACTERISTICS***

This appendix describes the social, court, and prosecution characteristics of each jurisdiction in this study. Population, age, race, sex, education, employment, and income data were derived from U.S. Census reports. Tables from which the social characteristics are derived are included at the end of this appendix.

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

## COBB COUNTY

### Social Characteristics

One of the smallest of the 13 jurisdictions studied, Cobb County consistently increased in population from 1970 to 1976. In 1976, its nearly 200,000 residents were younger than those in most of the other areas. Over 37 percent were under 18, and less than 6 percent were 62 years or older. The median age was 25.4 years. Few blacks, 4 percent of the population, live in Cobb County. Residents of Cobb County had about the average amount of formal education for the 13 locations. Males had completed 12.1 years of school, and females 11.8 in 1970. A prosperous community, Cobb County had less unemployment than any of the other areas except Colorado, and the highest mean income, \$11,011. There was also a smaller proportion below the poverty level than in most other locations.

### Prosecution Characteristics

Cobb County's District Attorney has jurisdiction over felonies only; other cases are referred to the solicitor. The seven prosecutors handle cases from over 30 law enforcement agencies.

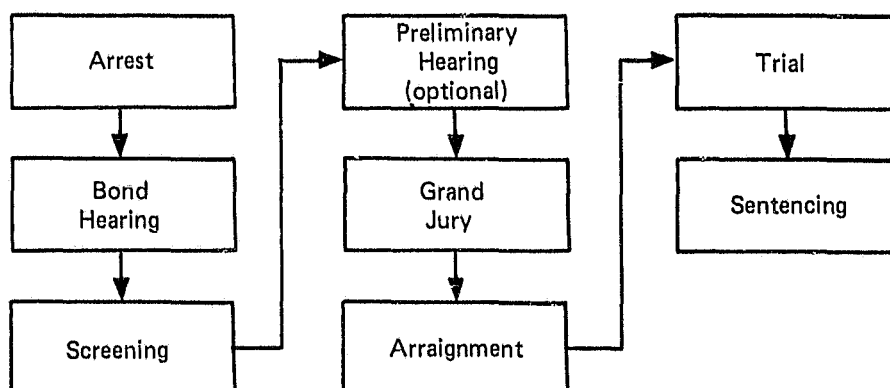
The PROMIS system in Cobb County, implemented in January 1975, is used to record only adult felonies. Court involvement is limited to production of disposition lists and subpoenas. Cases handled by the solicitor will be recorded in the near future in PROMIS. This use by the solicitor will be a separate PROMIS implementation, using the same computer. PROMIS is on-line in Cobb County and receives 17,000 inquiries per year. The system produces subpoenas, as well as the following operational reports:

- Master File Summary
- Trial Calendar
- Management Report Package
- Preliminary Hearing Calendar
- Cases Awaiting Grand Jury Action
- Generalized Inquiry Package

Figure B.1. STEPS IN THE PROCESS—COBB COUNTY  
(MARIETTA), GEORGIA

#### FELONIES

#### SUPERIOR COURT



## **COLORADO FIRST JUDICIAL DISTRICT (GOLDEN)**

### **Social Characteristics**

This jurisdiction, consisting of Gilpin and Jefferson Counties, was one of the smallest studied. Its population has grown since 1970 and was estimated at 326,300 in 1976. While it had the largest (except for Salt Lake) proportion of persons under 18 years old in 1970, over 38 percent, it also had one of the smallest proportions of persons 62 years old or older, less than 7 percent. At the same time, the median age of residents there was 30.1 years, higher than in any other location. There were fewer blacks there, less than 0.2 percent, than in any of the jurisdictions.

The people in this area are relatively well educated, having completed an average 12.5 years of school in 1970. They also experienced the least unemployment, 3.3 percent, of any of the jurisdictions. Income, however, was lower than in most of the other areas. The median income of all persons 18 years or older in 1970 was \$7,654; the mean, \$9,102. This Colorado area also had fewer of its residents living below the poverty level than did most of the other locations. Just over 8 percent of families and 42 percent of unrelated individuals were below the poverty level in 1970.

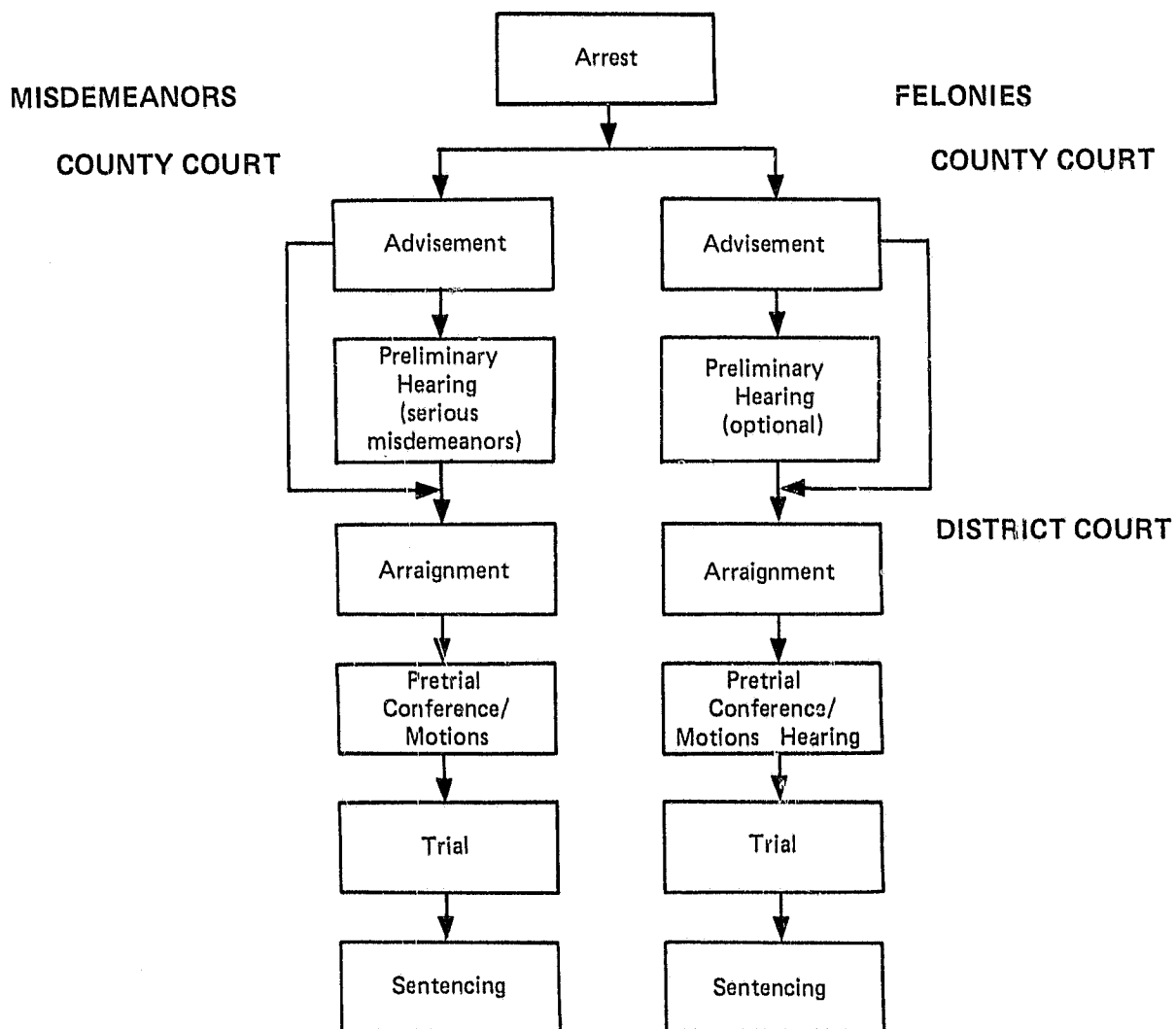
### **Prosecution Characteristics**

The District Attorney for the First Judicial District has jurisdiction over felonies, misdemeanors, and petty offenses. Seven of the 30 prosecutors are assigned to felonies, 4 to serious misdemeanors. Ten law enforcement agencies bring cases to this office.

All felonies and serious misdemeanors involving adults are recorded in PROMIS in this jurisdiction. The system was implemented in July 1977. There is no court involvement with the system. There is on-line data collection and batched update. Operational reports produced are:

- Generalized Inquiry Package
- Dockets and Calendars
- Management Report Package

Figure B.2. STEPS IN THE PROCESS—FIRST JUDICIAL DISTRICT, COLORADO





## **DETROIT (WAYNE COUNTY)**

### **Social Characteristics**

The second largest of the 13 locations, Wayne County had a declining population from 1970 to 1976.<sup>1</sup> In 1976, there were close to 2.5 million residents. The median age of residents in 1970 was 28.1 years. The proportion of blacks, 27 percent, was among the highest.

The formal education of Wayne County residents was at about the average for the 13 locations. Males 25 years or older had completed 11.5 years of school, females, 11.8. Unemployment in 1970 was greater in Wayne County than in any of the other areas, except Los Angeles. Over 5 percent of the male and nearly 7 percent of the female civilian labor force were unemployed. Although the median income (\$9,465) and mean income (\$10,493) in Wayne County were second only to those in Cobb County, Georgia, the area had more people below the poverty level than most of the other areas. Over 8 percent of families and 33 percent of unrelated individuals were below the poverty level.

### **Prosecution Characteristics**

The Wayne County Prosecuting Attorney handles felonies and misdemeanors. Other types of cases are referred to Municipal Court. Cases are brought by 43 law enforcement agencies to 135 prosecutors.

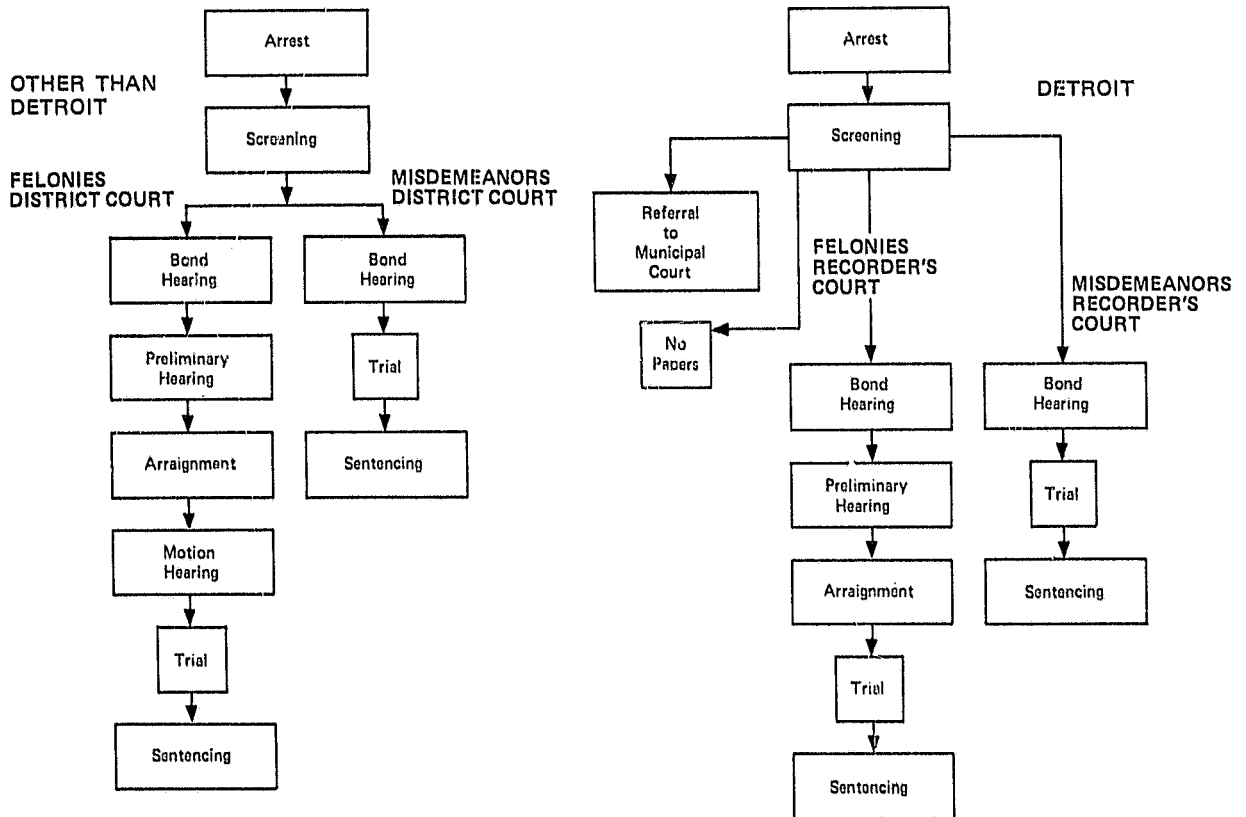
Since its implementation in November 1975, PROMIS has been used to record only adult felonies. There is no involvement of the court, which has its own system. PROMIS in Wayne County is strictly a batch system. Plans are under way to implement the minicomputer version of PROMIS. Operational reports produced are:

- Management Report Package
- Specially Assigned Cases
- Screening Report
- Fugitive Lists
- Special Monthly Reports
- Generalized Inquiry Package

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1. All figures stated here are for Wayne County.

Figure B.3. STEPS IN THE PROCESS—DETROIT  
(WAYNE COUNTY), MICHIGAN



## FLORIDA SECOND CIRCUIT

### Social Characteristics

The total population of the six counties of this jurisdiction was estimated at just under 200,000 persons in 1976. This was the smallest population of any of the areas studied.

The median age of Floridians in this area was 27.2 years, which places it among the younger populations. About one-third of the residents were under 18 years of age, a somewhat smaller proportion than in most of the other locations. Only about 10 percent of the residents were 62 years or older, fewer than in most of the other areas. Over one-third of the residents of this area in 1970 were black, among the higher proportions of the areas studied.

The educational level, as reflected by the number of years of school completed by persons 25 years old or older, was the lowest of the 13 areas: a median 9.2 years of school. The area had less unemployment, only 3.4 percent of males and 3.9 percent of females 16 years old or older in 1970, than elsewhere except Cobb County and the two Colorado counties. Income was the lowest of all the locations: median \$4,493, mean \$5,774 for all persons 18 years old or older. This area also had the largest proportion of its population below the poverty level: 27.6 percent of families and 59.6 percent of unrelated individuals.

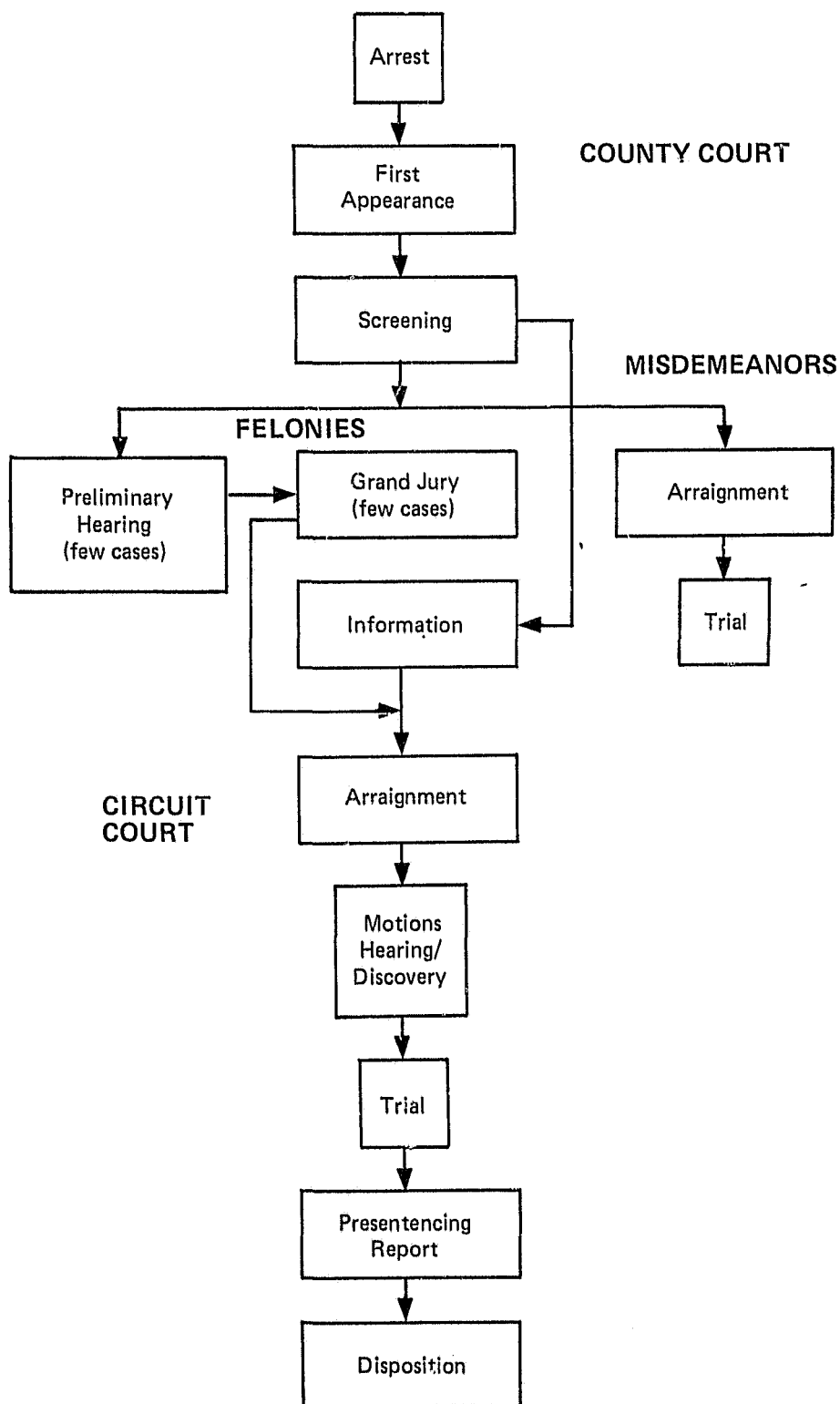
### Prosecution Characteristics

The State Attorney for the Second Judicial Circuit of Florida is the only prosecutor in that jurisdiction. Of the 14 full-time and 3 part-time assistant prosecutors, about 9 handle felonies and 3 handle misdemeanors. Cases are brought to the office by 27 law enforcement agencies.

Implemented in February 1977, PROMIS is used to record all felonies, misdemeanors, and ordinance violations other than traffic. The system produces reports for the county Clerk of Courts and the county circuit, and state court administrators, the public defender, law enforcement agencies, and the State Attorneys. After the jurisdiction installs its own computer later this year, its PROMIS system will be basically on-line, with some batch processing. About 70,000 inquiries are entered per year. Operational reports produced include:

- Calendars
- Disposition Reports
- Sentencing Reports
- State Attorney Evaluation Reports
- Listing of Statutes
- Case Listings
- Reference Code Book
- Case Load Reports
- Statistical Reports for Individual Agencies
- Pending Case Listings for Individual Agencies

Figure B.4. STEPS IN THE PROCESS—FLORIDA SECOND CIRCUIT



## INDIANAPOLIS (MARION COUNTY)

### Social Characteristics

Marion County, with an estimated population of 775,300 in 1976, was of near average population size for the 13 areas studied. As in several of the other jurisdictions, its population declined from 1970 to 1976. Marion County is among the younger populations studied here; over 35 percent of the residents were under 18 in 1970 and less than 11 percent were 62 years or older. The median age of its residents was 27.1 years. Seventeen percent of the residents were black, ranking Marion County fifth of the 13 areas studied in the percentage of its citizens who are black. Males in Marion County had completed an average 12.2 years of school in 1970; females, 12.1. The county was slightly below the average of the 13 locations in employment and poverty status. Of the total civilian labor force, 3.6 percent of the males and 5.0 percent of the females were unemployed. The median income in 1970 was \$8,962; the mean, \$10,323. Below the poverty level were 6.8 percent of the families and 29 percent of the unrelated individuals.

### Prosecution Characteristics

The Marion County Prosecuting Attorney has jurisdiction over felonies and misdemeanors. The office prosecutes misdemeanors in Municipal Court, but those cases are not in PROMIS. A staff of 74 receives cases from 24 law enforcement agencies.

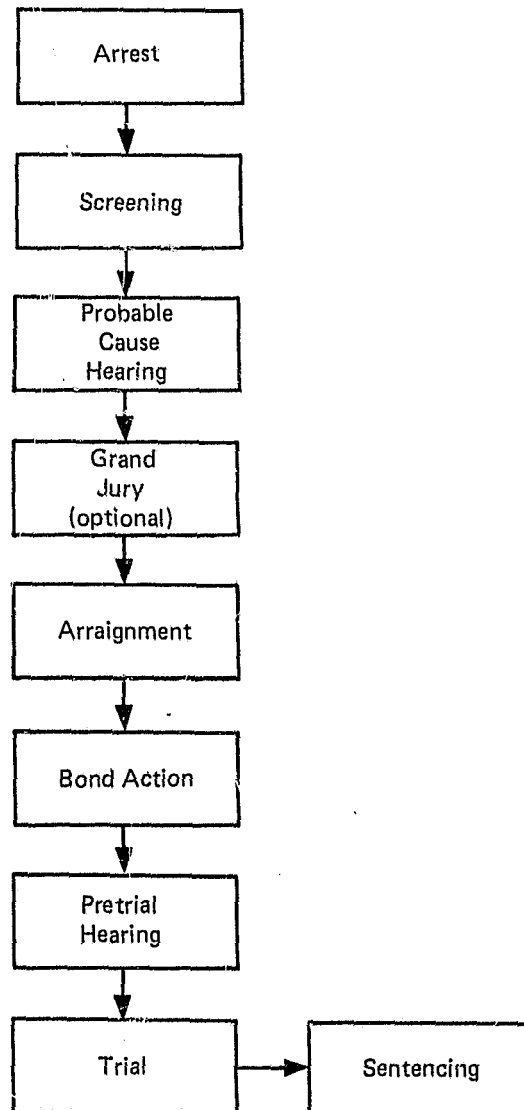
Implemented in September 1975, PROMIS records only adult felonies. There is some interaction with other criminal justice agencies. PROMIS data are shared with the pretrial release agency. The courts supply data for use by PROMIS and are sometimes supplied statistical reports from PROMIS. The system produces subpoenas of witnesses for the prosecution. This batch system with on-line inquiry receives 13,500 inquiries per year. It produces the following operational reports:

- Management Report Package
- Calendars
- Master File Summary
- Generalized Inquiry Package
- Attorney Case Load
- Disposition Report
- Disposition Letters

Figure B.5. STEPS IN THE PROCESS—INDIANAPOLIS  
(MARION COUNTY), INDIANA

**FELONIES**

**CRIMINAL COURT**



## **KALAMAZOO COUNTY**

### **Social Characteristics**

This western Michigan county had a very small increase in population from 1970 to 1976, when its inhabitants numbered 202,200. Relatively fewer people were under age 18, 34.0 percent, or 62 years or older, 9.7 percent, but the median age of the total population, 34.5 years, was lower than in most of the areas studied. There was a smaller proportion of blacks, 4.8 percent, than in most of the other locations.

Kalamazoo has a relatively well-educated population: males and females 25 years old or older had completed an average 12.3 years of school in 1970. The unemployment rate, 4.9 percent, was high and income was low in 1970. The median income was \$7,974, the mean, \$9,250, for all persons 18 years or older. Kalamazoo had fewer people living below the poverty level in 1970 than did any of the jurisdictions included in this study. Less than 6 percent of families and just over 39 percent of unrelated individuals were below the poverty line.

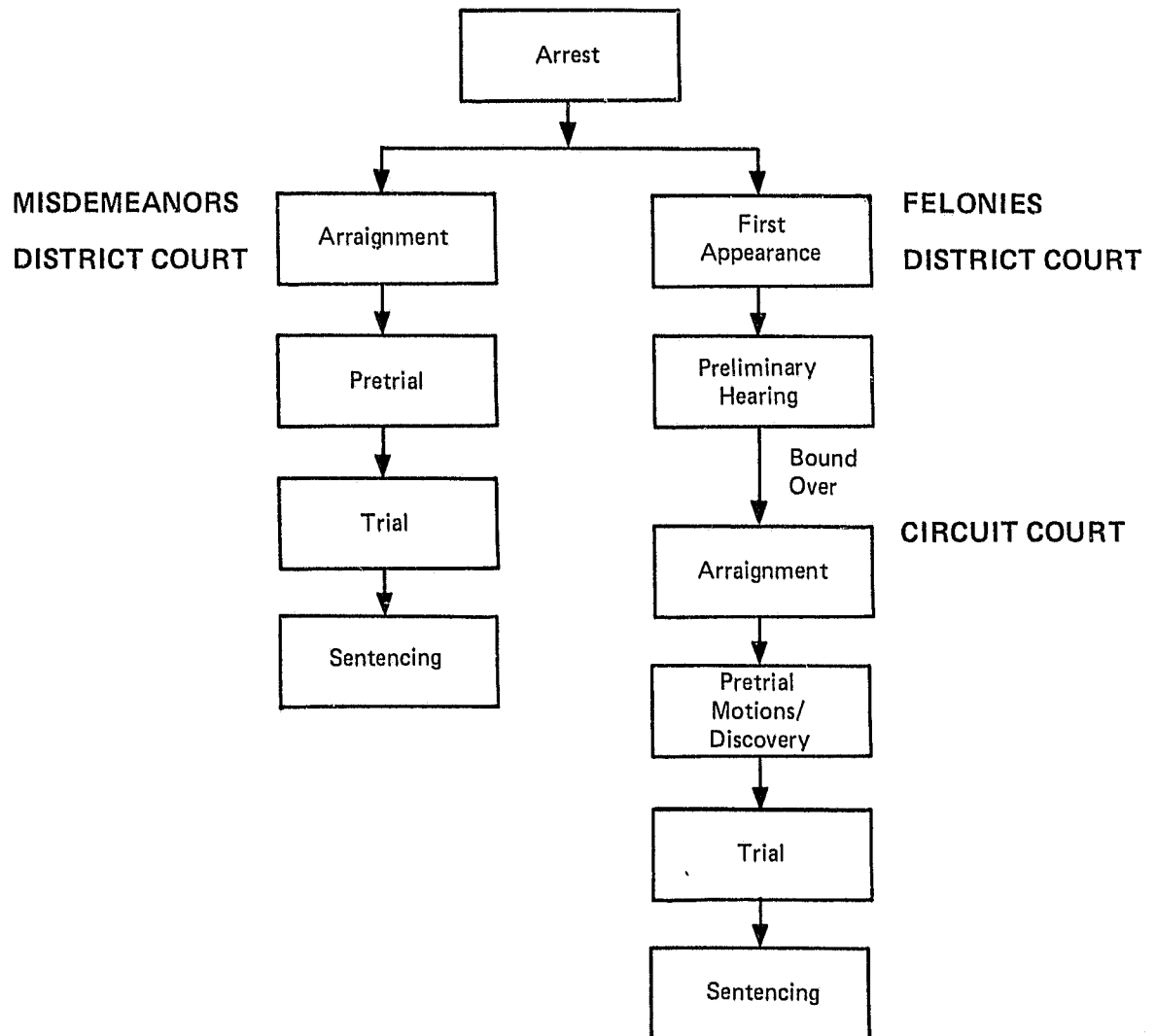
### **Prosecution Characteristics**

The Prosecuting Attorney for Kalamazoo County has jurisdiction over all felonies and serious misdemeanors. The staff includes 16 attorneys, 9 of whom handle adult criminal misdemeanors and felonies. Cases are brought to the prosecutor's office by 16 law enforcement agencies.

PROMIS became operational in January 1978 and records only adult felony cases. Operational reports produced for the prosecutor include:

- Bench Warrant List
- Pending Case List
- Generalized Inquiry Package
- Management Report Package
- Calendars

Figure B.6. STEPS IN THE PROCESS—KALAMAZOO, MICHIGAN





## LOS ANGELES COUNTY

### Social Characteristics

The largest area studied (7.4 million residents in 1976), Los Angeles had the population with the second oldest median age, 29.2. The area was 11 percent black and 14 percent Hispanic in 1970. Level of education was at about the average of the jurisdictions studied; a median of 12.4 years of school were completed by persons 25 years or older. Despite the highest unemployment rate of the 13 areas, Los Angeles' median income was about average. It had one of the smallest proportions of persons below the poverty level. In 1970, 6 percent of the male civilian labor force and slightly more of the female force were unemployed. The median income was \$8,462; the mean, \$10,290. Over 8 percent of families and nearly 25 percent of unrelated individuals were below the poverty level.

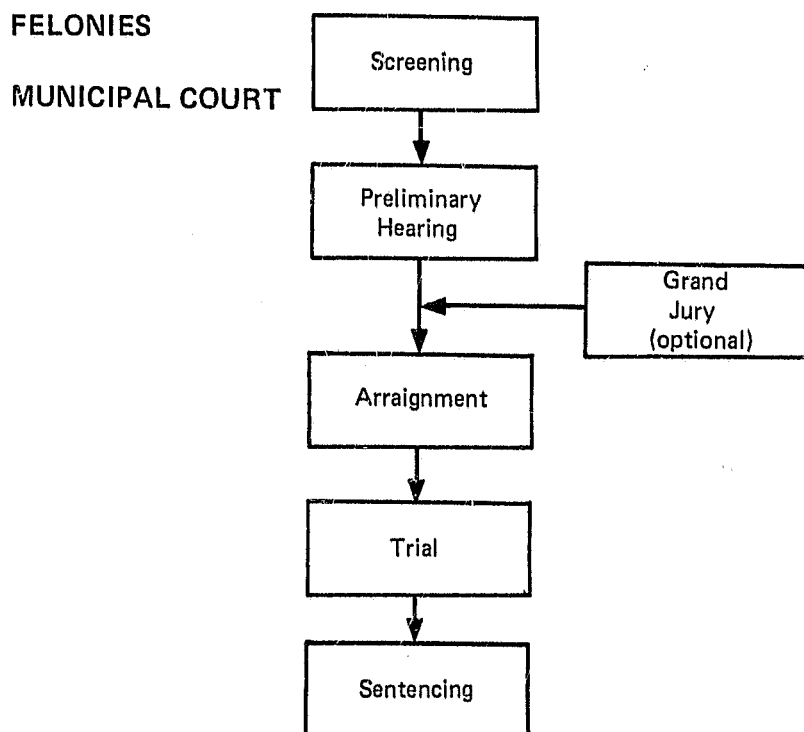
### Prosecution Characteristics

This large office of 553 deputy district attorneys prosecutes felonies, and in areas of the county without a local prosecutor, misdemeanors. Cases not accepted for felony prosecution are referred as misdemeanors to Municipal Court. Cases are brought by over 57 law enforcement agencies to 80 offices throughout the county, close to 50 of which are concerned with criminal matters, including juveniles.

PROMIS was implemented in several branches in 1975; complete implementation in all branches and central headquarters took place by 1977. Only adult felonies, both those rejected and accepted, are recorded. There is presently no court involvement with this on-line system, which receives 148,600 inquiries per year. Operational reports produced are:

- Pre-information Felony Fugitive List
- Superior Court Felony Fugitive List
- Master Case File Summary
- Purged Cases Summary Report
- Monthly Statistical Report
- Subpoena and Master Witness List
- Management Report Package
- Generalized Report Package

Figure B.7. STEPS IN THE PROCESS—LOS ANGELES



## LOUISVILLE (JEFFERSON) COUNTY

### Social Characteristics

This area of just under 700,000 inhabitants showed a slight increase in population from 1970 to 1975, and then an estimated decline in 1976 to below the 1970 level. A somewhat smaller proportion of the residents were under 18 years of age in 1970 than in other jurisdictions. Similarly, a smaller proportion were 62 years old or over than in many of the other areas in this study. On the other hand, the median age, 27.4 years, was younger than that in many of the areas. The less than 14 percent of the population who are black represent a smaller proportion than in many of the locations.

The average 11.6 years of school completed by Jefferson County residents 25 years old or older was slightly below average for the areas studied. The 4.2 percent unemployment rate in 1970 was typical of that of the other areas. Median income for persons 18 years old or older, \$8,309, and mean income, \$9,611, were slightly lower than in the other jurisdictions. The number of persons living below the poverty level, however, was lower than in any other location, except Kalamazoo, Michigan. Less than 9 percent of families and just under 37 percent of unrelated individuals were below the poverty level in 1970.

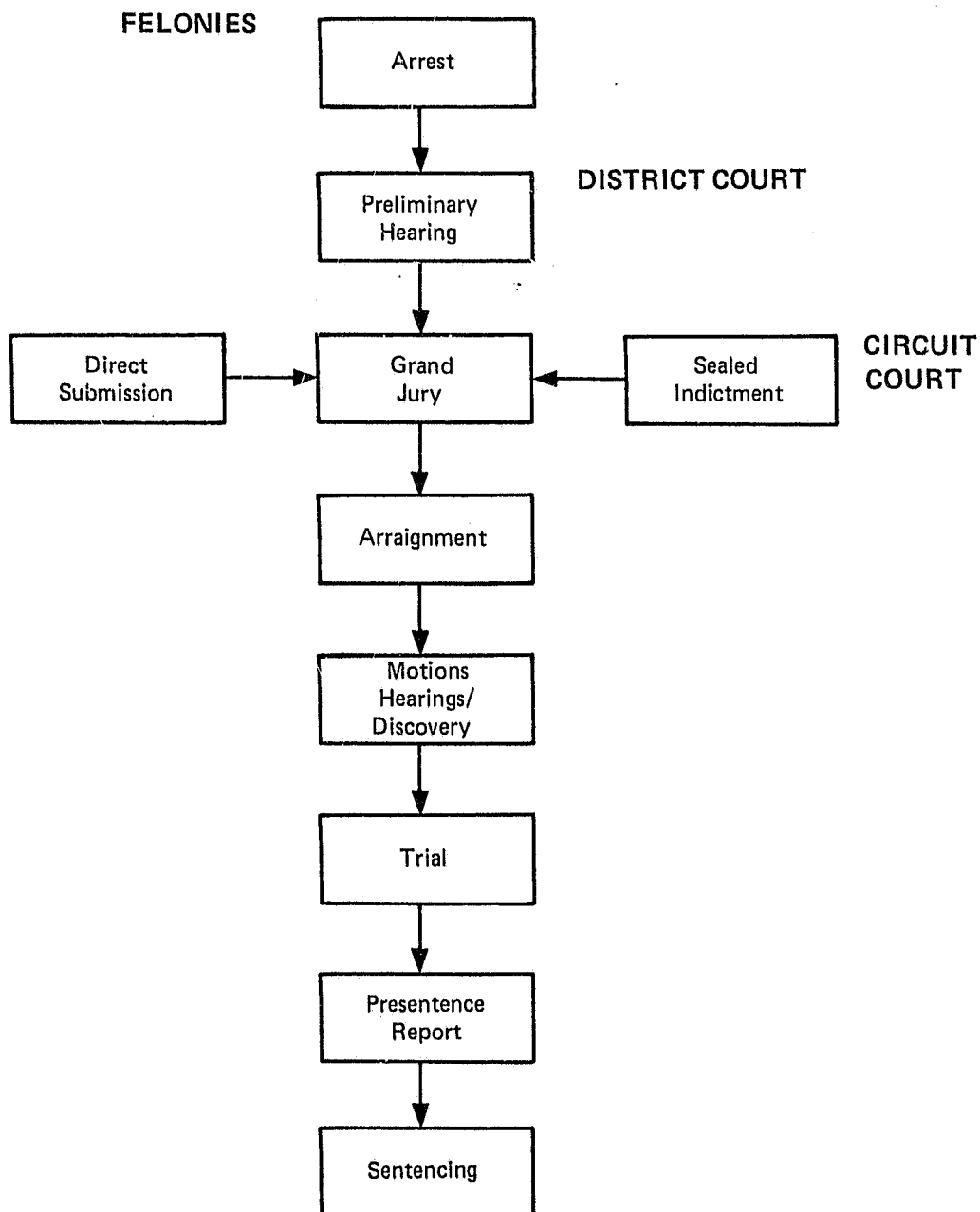
### Prosecution Characteristics

The Commonwealth Attorney for Jefferson County has jurisdiction over all felonies. Serious misdemeanors that are appealed from the lower (district) court are also handled by the office. Twenty-five prosecutors handle cases brought by 66 law enforcement agencies. Nearly 95 percent of the cases are brought by the Jefferson County and Louisville police departments.

Implemented in October 1977, PROMIS records adult felonies only. Though no court involvement now exists, plans call for PROMIS to provide dockets for the county courts and a tie-in for law enforcement. This interactive on-line system is expected to handle 27,000 inquiries per year. Operational reports produced include:

- Management Report Package
- Court Calendars
- Master File Summary
- Specially Assigned Cases
- Pending Cases
- Generalized Inquiry Package

Figure B.8. STEPS IN THE PROCESS—LOUISVILLE  
(JEFFERSON), KENTUCKY



## MILWAUKEE COUNTY

### Social Characteristics

One of the largest population areas of the 13 jurisdictions, Milwaukee County had just over 1 million residents in 1976. With a median age of 28.4 years, its residents in 1970 were among the oldest. There were somewhat fewer persons under 18 years old and slightly more people 62 years and older than in the other locations. Ten percent of the population was black, slightly less than the national average, and a smaller proportion than in most of the other areas studied. The educational level of the population was typical of the areas studied. The median school years completed for the total population was 12.1 years.

A relatively prosperous area, Milwaukee County had fewer unemployed residents than most of the locations. Mean (\$9,958) and median (\$9,028) incomes were high, and the proportion of those below the poverty level was relatively low.

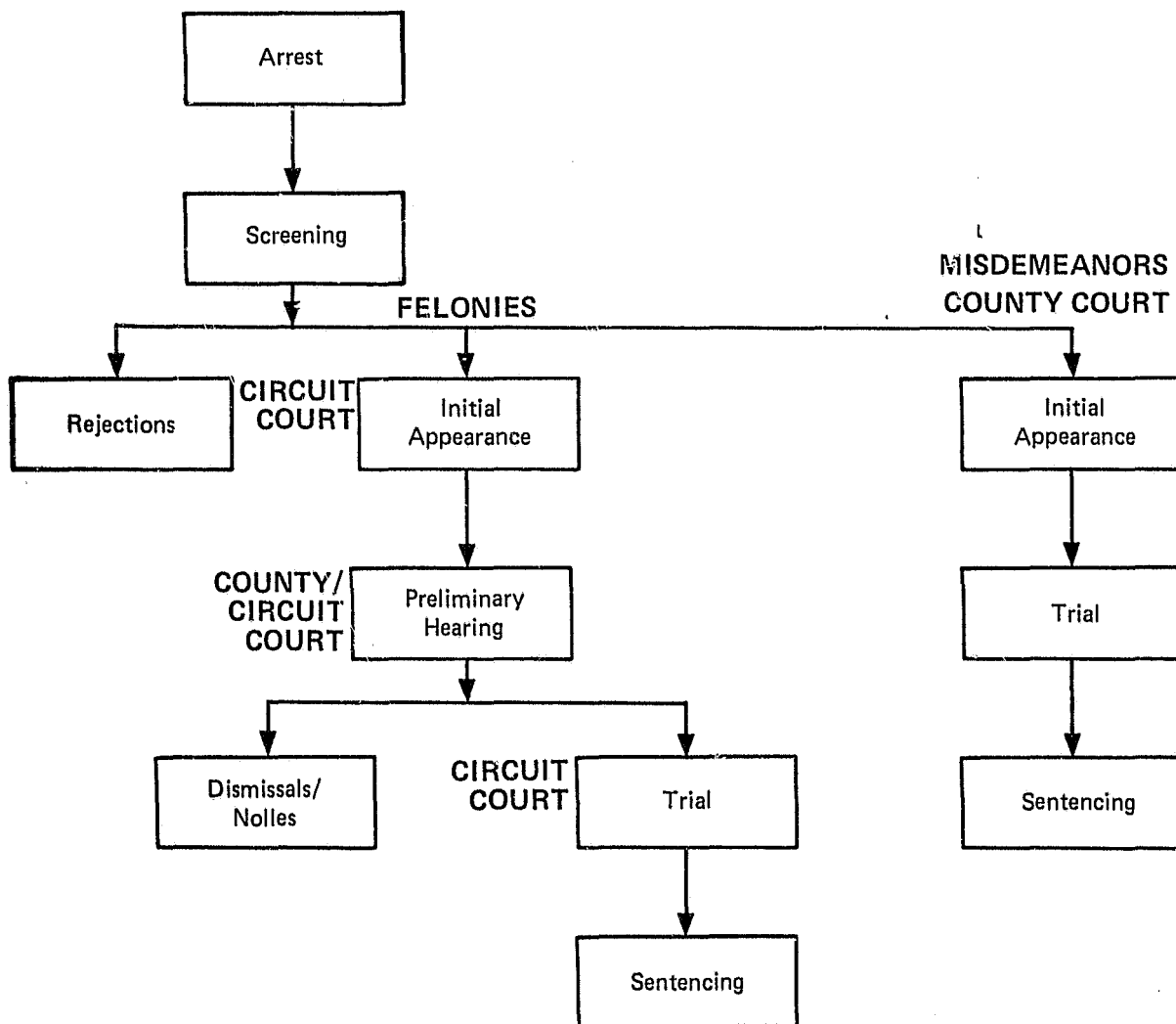
### Prosecution Characteristics

This county office of 54 prosecutors has jurisdiction over both felonies and misdemeanors. Cases are brought to the District Attorney by 23 law enforcement agencies.

Implemented in October 1976, this PROMIS system is used to record both adult misdemeanors and felonies. PROMIS in Milwaukee, called JUSTIS (Justice Information System), serves the courts, Clerk of Courts, and Sheriff's Department, as well as the District Attorney's Office. This on-line system receives 264,000 inquiries per year. The operational reports produced are:

- New Case List
- County Court Calendar
- Felony Case Pull List
- Bench Warrant List Statistical Report
- Felony Specially Assigned Cases
- Attorney Felony Pending Cases
- Master File Summary
- Cross Reference List
- Management Report Package
- Generalized Inquiry Package

Figure B.9. STEPS IN THE PROCESS—MILWAUKEE, WISCONSIN



## ORLEANS PARISH

### Social Characteristics

An area whose population declined and then grew from 1970 to 1976, Orleans Parish had 562,000 residents in 1976. Over 39 percent, about the average, were under age 18 in 1970. More persons were 62 or over, 13.5 percent, than in all of the other jurisdictions, except Rhode Island. Orleans Parish was second to Washington, D.C., in the proportion of blacks, with 45 percent.

The educational level of area residents was near the lowest of the 13 locations. Both males and females 25 years and older had completed a median of 10.8 years of school. The unemployment rate in Orleans Parish was slightly higher than average for the 13 jurisdictions. Of the civilian labor force, 5.5 percent of the males and 6.1 percent of the females were unemployed. Median income was second lowest here and the poverty level almost the highest. The median income of all persons 18 years and older was only \$5,572; the mean, \$7,702. Over 24 percent of families and 42 percent of unrelated individuals were below the poverty level.

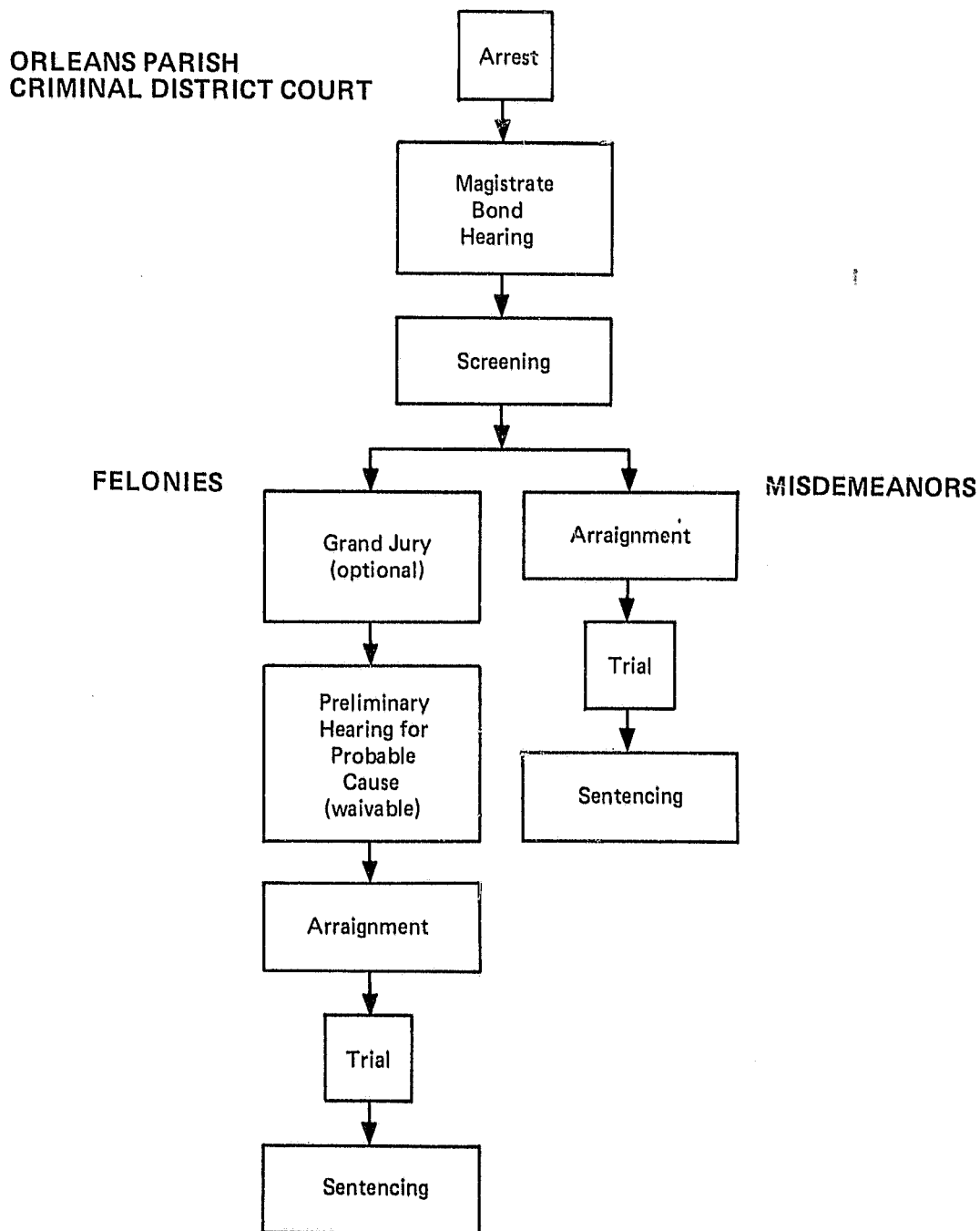
### Prosecution Characteristics

The parish prosecution staff of 55 handles all felonies and misdemeanors brought by six law enforcement agencies.

PROMIS, called DARTS (District Attorney Record Tracking System) in Orleans Parish, was implemented in January 1976 and is used to record adult misdemeanors and felonies. There is no court involvement with the system at the present time. The system is on-line, with batch update, and 45,000 inquiries are made per year. The office plans to upgrade its system using the minicomputer PROMIS. The following operational reports are produced:

- Daily Docket (calendar)
- Management Report Package
- Specific crimes (misdemeanors, felonies), by assistant
- Monthly Parole Leave Report
- Statistical reports: continuances, nolle, dispositions, refusals by judge, crime
- Fugitive Report (at large)
- Roster of Inmates for Sheriff
- Screening Report—including number accepted and refused
- Jail List, by section of court
- Generalized Inquiry Package

Figure B.10. STEPS IN THE PROCESS—ORLEANS PARISH, LOUISIANA





## **RHODE ISLAND**

### **Social Characteristics**

The only state among the locations studied, Rhode Island experienced a decrease in population from 1970 to 1976, when it was 927,000. Fourth largest of the areas reported on, its population was, like that of Los Angeles, the oldest of those studied. Black residents numbered only 3 percent of the total population in 1970. This percentage was among the smallest of all the areas. The residents of Rhode Island completed fewer years of school than did persons in most of the other locations. Males 25 years and older completed a median 11.5 years of school; females, 11.6 years.

Unemployment in Rhode Island was relatively low. In 1970, 3.6 percent of males 16 years and over and 4.8 percent of females were unemployed. Income was also lower than in most of the 13 locations. The median income of all persons 18 years old or older was \$7,509; the mean, \$8,729. A larger segment of the population was below the poverty level here than in any of the other locations, except the Florida counties and Orleans Parish: over 8 percent of families and nearly 41 percent of unrelated individuals.

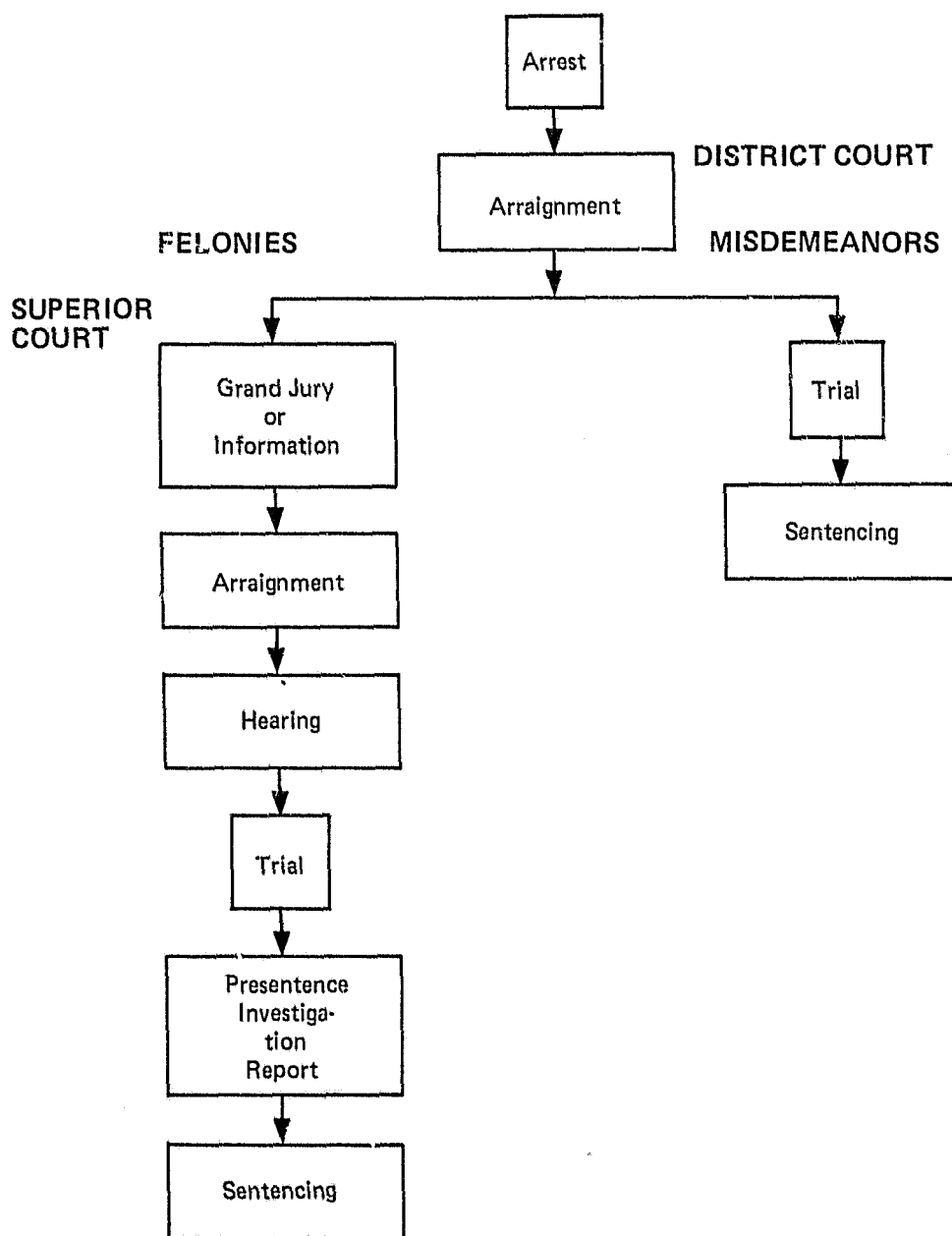
### **Prosecution Characteristics**

The Attorney General's office has jurisdiction over all felonies and some serious misdemeanors. This office of about 20 prosecutors rarely, if ever, prosecutes the misdemeanors, which are referred to city solicitors. Approximately 44 law enforcement agencies bring cases to the office.

Implemented in December 1975, PROMIS is used to record adult felonies and serious misdemeanors. PROMIS in Rhode Island is a court system, which is also used by the Attorney General, public defender, and probation and parole agencies. Currently a batch system, PROMIS will include an on-line inquiry capability in the future. The following operational reports are produced for the prosecutor and court:

- Management Report Package
- Generalized Inquiry Package
- Calendars (trial, daily, sentencing)
- Specially Assigned List for Prosecutor and Public Defender
- Notice List for Scheduling Information/Indictment Report
- Sentencing Register
- Pending Case List

Figure B.11. STEPS IN THE PROCESS—RHODE ISLAND



## SALT LAKE COUNTY

### Social Characteristics

One of the smaller locations studied, Salt Lake County had a population of 524,700 in 1976; its population has steadily increased since 1970. It had the youngest population of the areas studied. Over 39 percent of its residents were under 18 years of age and less than 10 percent were over age 62 in 1970. Fewer blacks live in Salt Lake County (0.3 percent) than in any other area reported on, with the exception of the Colorado counties.

The second highest educational level was found in Salt Lake County. Males had completed a median 12.6 years of school; females, 12.4. Salt Lake's unemployment rate in 1970 was higher than the average for the locations reported on; 4.1 percent of males and 5.4 percent of females 16 years and older were unemployed.

Salt Lake County residents had incomes somewhat lower than the average of the 13 locations. The median income of all persons 18 years and older was \$8,261; the mean, \$9,453. There was also a greater proportion of residents below the poverty level than in most of the other areas. Over 8 percent of families and 37 percent of unrelated individuals were below the poverty level in 1970.

### Prosecution Characteristics

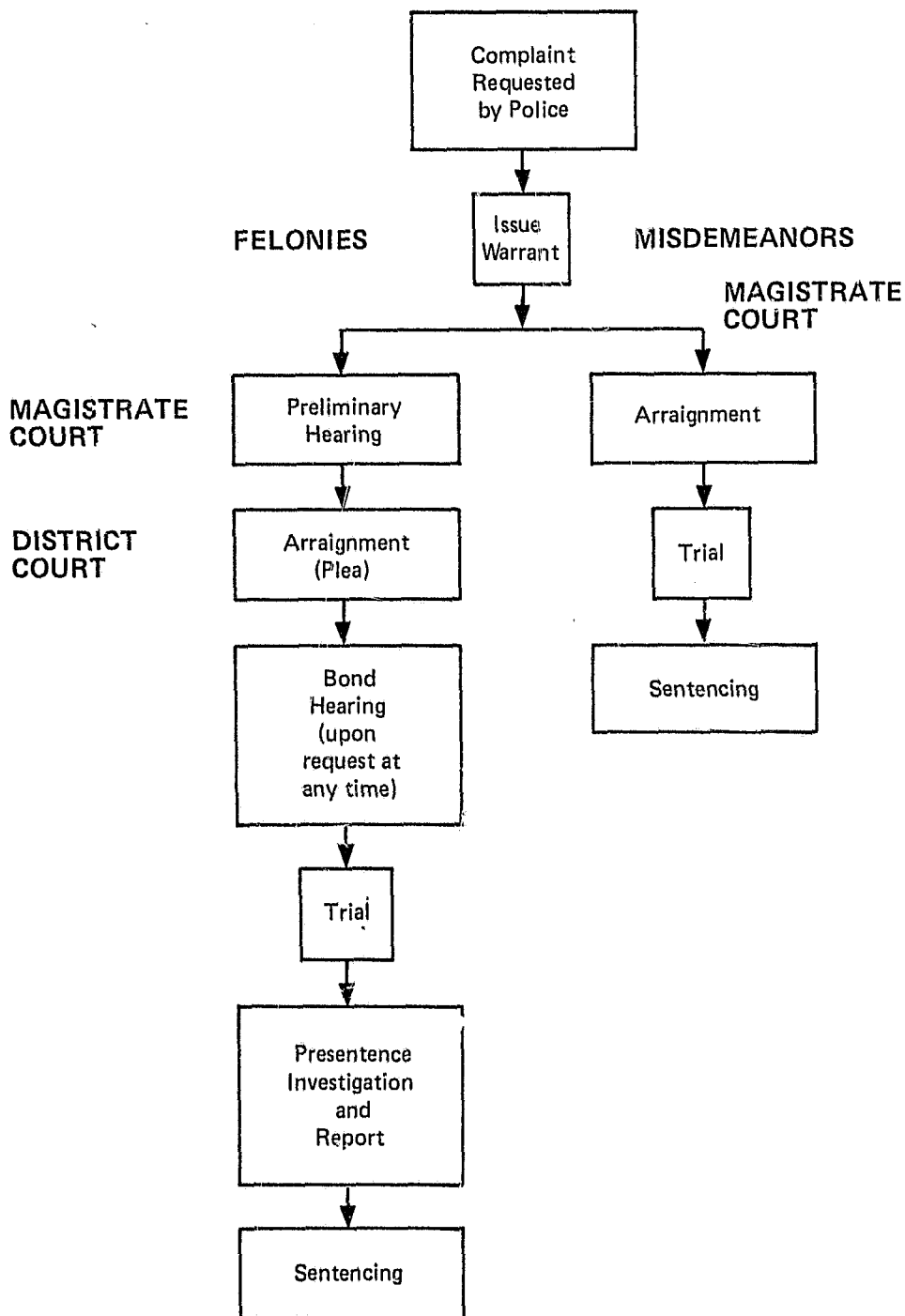
The County Attorney has jurisdiction over all felonies and all county misdemeanors. Violations of city ordinances are referred to the city prosecutor. The County Attorney has a staff of 23 assistants; 8 handle misdemeanors and juvenile cases, and 15 are assigned to felonies. Nine law enforcement agencies bring cases to the prosecutor.

PROMIS was implemented in September 1976 in Salt Lake County. All felonies and all misdemeanors, except juvenile cases, are recorded in PROMIS. Juvenile cases are recorded on a separate automated system. Currently there is no court involvement with PROMIS, but it is planned. The Salt Lake system is on-line with batched update.

Operational reports produced are:

- Statistical Reports
- Generalized Inquiry Package
- Calendars
- Management Report Package

Figure B.12. STEPS IN THE PROCESS—SALT LAKE COUNTY, UTAH



## WASHINGTON, D.C.

### Social Characteristics

Washington, D.C., with a 1976 population of 702,000, is near the median in size of the jurisdictions reported on here. Its population decreased from 1970 to 1976.

The median age of Washington, D.C., residents was 28.4, among the highest of the jurisdictions. Washington also had the highest percentage of black residents (71 percent) of any of the jurisdictions. Its residents had more formal education than the residents of most of the other areas. Males and females 25 years and older had completed a median of 12.2 years of school.

Although Washington residents had a low unemployment rate (3.9 percent of males 16 years and older, 3.6 percent of females in 1970), average income was lower than in many of the jurisdictions studied. Median income of all persons 18 years and older in 1970 was \$6,785; mean income, \$8,917. The number of persons below the poverty level was at the average for the locations studied: 15.0 percent of families and 24.4 percent of unrelated individuals.

### Prosecution Characteristics

The Office of the United States Attorney for the District of Columbia has jurisdiction over misdemeanors and felonies, local and federal. Cases considered in this report, however, are those that are local in nature and are disposed of in the Superior Court for the District of Columbia. These cases are assigned to 80 of the 150 prosecutors in the office. Juvenile matters and other misdemeanor cases are included in the cases prosecuted by the Corporation Counsel. Nine law enforcement agencies bring cases to the Superior Court Division of the Office of the U.S. Attorney.

The site of the original PROMIS installation, Washington, D.C., implemented its system in January 1971. Adult felonies and serious misdemeanors, including rejected cases, are recorded. PROMIS is used primarily by the prosecutor, though the court does seek periodic special reports from the system. Inquiries can be made on-line, but updating is done by batch. Thus, information may be sought at any time by terminal inquiry, but the response received will reflect information entered up to 24 hours earlier. Over 73,000 inquiries are made per year. The following operational reports are produced:

- Preliminary Hearing Calendar
- Felony Trial Calendar
- Misdemeanor Trial Calendar
- Sentencing Calendar
- Attorney Case Load
- Generalized Inquiry Package
- Management Report Package
- Master File Summary
- Cross Reference List
- New Case List
- Disposed Case Report for Police

Figure B.13. STEPS IN THE PROCESS—DISTRICT OF COLUMBIA

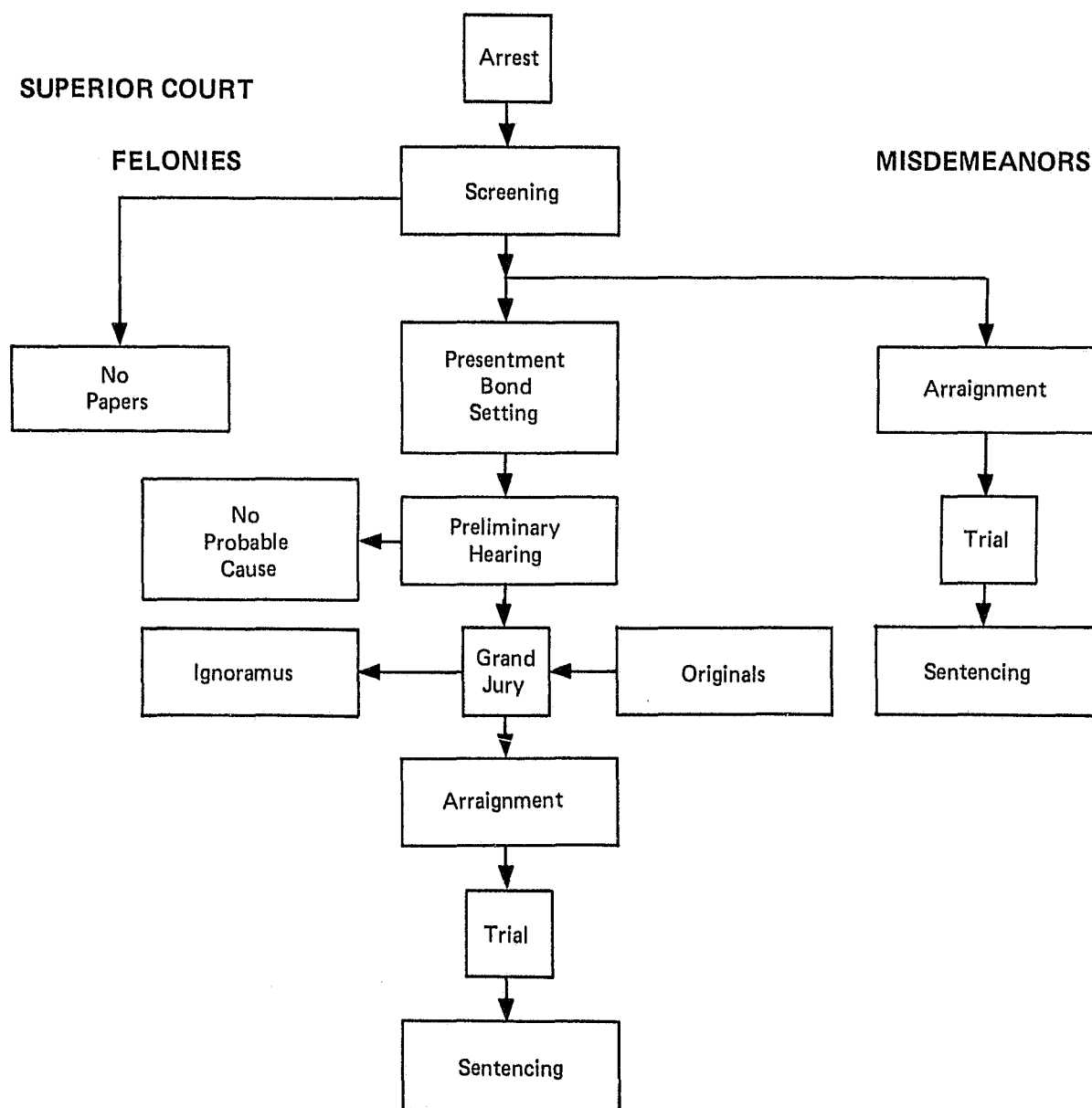


Table B.1.  
CROSS-CITY COMPARISONS: POPULATION

Jurisdiction	1970 (Actual)	1975 (Est.)	1976 (Est.)
Cobb County	196,793	239,832	248,000
Colorado First Judicial District	234,303	313,600	326,300
Detroit (Wayne County)	2,666,751	2,517,726	2,477,900
Florida Second Circuit	167,761	191,800	195,700
Indianapolis (Marion County)	792,299	782,139	775,300
Kalamazoo County	201,550	201,500	202,200
Los Angeles County	7,032,075	6,986,898	7,400,400
Louisville (Jefferson County)	695,055	696,300	689,100
Milwaukee County	1,054,063	1,012,335	1,500,100
Orleans Parish	593,471	559,770	562,000
Rhode Island	946,725	931,208	927,000
Salt Lake County	458,607	512,900	524,700
Washington, D.C.	756,510	712,000	702,000
U.S.A.	203,211,926		214,649,000

Source: Derived from U.S. Census Bureau data.

Table B.2.  
CROSS-CITY COMPARISONS: AGE OF POPULATION, 1970

Jurisdiction	Total	Under 18	%	18-61	%	62 and Over	%	Median Age
Cobb County	196,793	74,056	37.6%	111,243	56.5%	11,494	5.8%	25.4
Colorado First Judicial District	234,303	90,534	38.6	127,769	54.5	16,000	6.8	30.1
Detroit (Wayne County)	2,666,751	930,078	34.9	1,424,160	53.4	312,513	11.7	28.1
Florida Second Circuit	167,761	56,929	33.9	93,901	56.0	16,931	10.1	27.2
Indianapolis (Marion County)	792,299	283,546	35.8	422,607	53.3	86,146	10.9	27.1
Kalamazoo County	201,550	68,463	34.0	113,548	56.3	19,539	9.7	24.5
Los Angeles County	7,032,075	2,260,018	32.1	3,959,589	56.3	812,468	11.6	29.2
Louisville (Jefferson County)	695,055	247,297	35.6	369,045	53.1	78,713	11.3	27.4
Milwaukee County	1,054,063	352,405	33.4	562,771	53.4	138,887	13.2	28.6
Orleans Parish	593,471	202,291	34.1	311,356	52.5	79,824	13.5	27.9
Rhode Island	946,725	300,029	31.7	517,992	54.7	128,704	13.6	29.2
Salt Lake County	458,607	180,845	39.4	233,909	51.0	48,853	9.6	23.9
Washington, D.C.	765,510	224,106	29.6	442,659	58.5	89,745	11.9	28.4
U.S.A.	203,211,926	69,930,512	34.4%	113,179,540*	55.7%	20,101,874†	9.9%	28.1

Source: Derived from U.S. Census data.

\*18-64 years

†65 years and older



Table B.3.  
CROSS-CITY COMPARISONS: RACE AND SEX, 1970

Jurisdiction	Population	Black		White		Black		Black, % of Total	White		White, % of Total
		Male	Female	Male	Female	Male	Female		Male	Female	
Cobb County	196,793	3,970	4,210	93,409	94,751	2.0%	2.1%	4.1%	47.5%	48.2%	95.7%
Colorado First Judicial District	234,303	253	155	114,770	117,573	.18	.11	.07	49.0	50.2	99.2
Detroit (Wayne County) <sup>1</sup>	2,666,751	345,440	375,632	937,791	990,709	13.0	14.10	27.1	35.2	37.2	72.4
Florida Second Circuit	167,761	27,012	30,482	53,469	56,244	34.27	16.10	18.17	31.9	33.5	65.4
Indianapolis (Marion County)	792,299	63,284	71,202	315,206	340,077	8.0	9.0	17.0	39.8	42.9	82.7
Kalamazoo County	201,550	4,667	4,912	92,460	98,465	4.75	2.32	2.44	45.9	48.9	94.8
Los Angeles County	7,032,075	362,477	400,367	2,907,632	3,098,867	5.2	5.7	10.9	41.4	44.1	85.5
Louisville (Jefferson County)	695,055	44,376	51,212	287,059	310,850	13.75	6.38	7.37	41.3	44.7	86.0
Milwaukee County	1,054,063	50,582	55,451	450,620	489,369	4.8	5.3	10.1	42.8	46.4	89.2
Orleans Parish	593,471	123,401	143,907	151,134	172,286	20.8	24.3	45.1	25.5	29.0	54.5
Rhode Island	946,725	12,825	12,513	447,892	466,865	1.4	1.3	2.7	47.3	49.3	96.6
Salt Lake County	458,607	1,283	1,190	219,244	230,537	.3	.3	.6	47.8	50.3	98.1
Washington, D.C.	756,510	252,602	285,110	94,088	115,184	33.4	37.7	71.1	12.4	15.2	27.6
U.S.A.	203,211,926	10,728,182	11,821,633	86,891,708	91,215,482	5.3%	5.8%	11.1%	42.8%	44.9%	87.7%

Source: Derived from U.S. Census Bureau data.

Table B.4.  
CROSS-CITY COMPARISONS: EDUCATION  
(persons 25 years and older, 1970)

Jurisdiction	Total	Median School Years Completed
Cobb County		
Male	49,240	12.1
Female	50,818	11.8
Colorado First Judicial District		
Male	59,378	12.6
Female	63,290	12.5
Detroit (Wayne County)		
Male	683,903	11.5
Female	759,019	11.8
Florida Second Circuit		
Male	37,724	9.2
Female	43,139	10.1
Indianapolis (Marion County)		
Male	195,484	12.2
Female	224,090	12.1
Kalamazoo County		
Male	46,818	12.3
Female	51,973	12.3
Los Angeles County		
Male	1,870,718	12.5
Female	2,090,026	12.3
Louisville (Jefferson County)		
Male	170,650	11.6
Female	199,754	11.6
Milwaukee County		
Male	270,489	12.1
Female	308,011	12.1
Orleans Parish		
Male	141,125	10.8
Female	177,747	10.8
Rhode Island		
Male	243,827	11.5
Female	280,255	11.6
Salt Lake County		
Male	105,644	12.6
Female	115,203	12.4
Washington, D.C.		
Male	191,198	12.2
Female	231,853	12.2
U.S.A.		
Total Male	51,869,770	12.1
Total Female	58,029,589	12.1

Source: Derived from U.S. Census Bureau data.

Table B.5.  
CROSS-CITY COMPARISONS: EMPLOYMENT STATUS  
(persons 16 years and older, 1970)

Jurisdiction	Total		Employed		Unemployed				Not in Labor Force	
	Civilian Labor Force				Number		Percent			
	Male	Female	Male	Female	Male	Female	Male	Female	Male	Female
Cobb County	53,913	31,381	52,583	30,064	1,330	1,317	2.5%	4.2%	8,184	35,226
Colorado First Judicial District	62,661	35,615	60,963	34,426	1,698	1,189	4.9	1.7	11,706	43,198
Detroit (Wayne County)	668,731	393,254	631,844	366,360	36,887	26,894	5.5	6.8	201,430	573,907
Florida Second Circuit	37,124	29,548	36,141	28,492	983	1,056	3.4	3.9	17,718	32,403
Indianapolis (Marion County)	200,089	134,643	143,752	99,748	7,121	6,762	3.6	5.0	46,728	152,647
Kalamazoo County	50,597	32,400	48,437	30,661	2,160	1,739	4.3	5.4	15,893	41,718
Los Angeles County	1,838,326	1,175,790	1,727,254	1,099,311	111,072	76,479	6.0	6.5	504,754	1,462,655
Louisville (Jefferson County)	172,655	107,008	167,277	101,358	5,378	5,650	3.1	5.3	46,164	147,440
Milwaukee County	271,461	182,624	262,038	175,169	9,423	7,455	3.5	4.1	73,129	210,462
Orleans Parish	130,213	91,319	123,068	85,719	7,145	5,600	5.5	6.1	53,299	136,911
Rhode Island	229,011	158,881	220,876	151,428	8,135	7,563	3.6	4.8	68,859	192,658
Salt Lake County	112,710	67,307	108,039	63,642	4,671	3,665	4.1	5.4	24,391	88,086
Washington, D.C.	178,376	169,737	171,337	163,639	7,039	6,098	3.9	3.6	64,557	134,060
U.S.A.	49,549,239	30,501,807	47,623,754	28,929,845	1,620,333	1,274,217	3.9%	5.2%	15,733,396	43,305,093

Source: Derived from U.S. Census Bureau data.

Table B.6  
CROSS-CITY COMPARISONS: INCOME, 1970

Jurisdiction	All Persons 18 years +		Families		Unrelated Individuals		Total		Below Poverty Level			
	Median	Mean	Median	Mean	Median	Mean	Families	U.I.*	Number		% of Total	
									Families	U.I.*	Families	U.I.*
Cobb County	\$10,378	\$11,011	\$11,247	\$11,989	\$4,181	\$5,426	52,214	9,135	3,045	2,464	5.8%	28.2%
Colorado First Judicial District	7,654	9,102	9,826	11,038	2,806	3,969	60,443	12,233	2,501	3,313	8.4	42.3
Detroit (Wayne County)	9,465	10,493	11,351	12,443	3,501	4,804	661,032	226,559	53,748	71,956	8.1	32.1
Florida Second Circuit	4,493	5,774	6,021	7,125	1,391	2,131	38,052	21,793	7,603	7,770	27.6	59.6
Indianapolis (Marion County)	8,962	10,323	10,819	12,264	3,635	4,700	200,163	69,173	13,636	18,919	6.8	29.0
Kalamazoo County	7,974	9,250	11,037	12,558	1,926	3,214	47,427	25,997	2,768	7,401	5.8	39.3
Los Angeles County	8,462	10,290	10,972	12,783	3,817	5,257	1,769,331	876,214	144,580	205,728	8.2	24.7
Louisville (Jefferson County)	8,309	9,611	9,819	11,282	2,822	4,096	177,015	53,629	15,770	19,178	8.9	36.7
Milwaukee County	9,028	9,958	10,980	12,144	3,414	4,522	262,544	105,539	16,855	29,471	6.2	29.1
Orleans Parish	5,572	7,702	7,445	9,536	2,211	3,682	143,699	65,323	30,996	25,718	21.6	42.3
Rhode Island	7,509	8,729	9,736	11,041	2,321	3,477	236,667	72,325	20,041	29,418	8.5	40.7
Salt Lake County	8,261	9,453	9,771	11,210	2,629	3,731	109,953	33,764	8,893	11,853	8.1	37.0
Washington, D.C.	6,785	8,917	9,583	12,189	4,465	5,589	580,546	143,760	87,356	35,069	15.0	24.4
U.S.A. 1970	7,699	9,097	9,590	10,999	2,489	3,889	51,168,599	16,052,380	5,462,216	5,944,956	10.7%	37.0
1976	10,051	11,766	14,958	16,870	5,375	7,236	56,710,000	21,459,000	5,311,000	5,344,000	9.3%	30.0%

Source: Derived from U.S. Census Bureau data.

\*U.I. — Unrelated Individuals

**C**  
***DESCRIPTIVE DATA ON THE  
PROSECUTION OF SPECIFIC CRIMES***

Filings, dispositions, reasons for terminated cases, case-processing time, pretrial release decisions, recidivism, and incarceration rates are among the descriptive data presented in this appendix for the following crimes in the jurisdictions studied: homicide, rape, robbery, burglary, assault, larceny, auto theft, and drugs. Unless otherwise noted, the data are for the period January-June 1977. One caution: the data reflect work load—not tracking—statistics. That is, actions and dispositions that occurred during the first six months of 1977 are counted. This is not the same as tracking to their completion cases that came into the system during those months. Also, in some figures, percentages may not total 100 because of rounding. Finally, crime-specific data for a few localities—and for certain crimes in some of the other jurisdictions studied—are not presented because the information was either unavailable or insufficient to draw comparisons.

## HOMICIDE

### Prosecutions in Detroit, District of Columbia, Los Angeles, and New Orleans

#### Filings and Filing Rates

Of the four jurisdictions compared in Figure C.1, the District of Columbia filed the most homicide cases relative to population; Los Angeles filed the fewest, and New Orleans and Detroit were approximately midway between the extremes.

#### Disposition Rates

Prosecutors rejected at screening up to 34 percent of homicide arrests, as shown below.

District of Columbia	(n = 90)	8%
Los Angeles	(n = 413)	30
New Orleans	(n = 68)	34

Of post-filing dispositions, 11 to 18 percent were nolles and dismissals and from 68 to 82 percent were guilty pleas and trial convictions.

Sixty-five percent of the post-indictment pleas—the major post-filing disposition—in Los Angeles and New Orleans were to the top charge; this compares with 19 and 33 percent of the pleas in the District of Columbia and Detroit, respectively. Trial convictions—which constitute the least frequent disposition—were to the top charge 61 percent of the time in Detroit, 59 percent in the District of Columbia, 81 percent in Los Angeles, and 64 percent in New Orleans.

#### Reasons for Terminated Cases

As indicated by Figure C.3, the dominant reason cited by prosecutors for terminating homicide cases was insufficient evidence.<sup>1</sup> In Los Angeles, "lack of prosecutive merit" was also a major factor explaining nolles and dismissals. It, plus "affirmative (self-) defense," almost the entire "other" category shown in Figure C.3, accounted for 29 percent of the rejections at screening in Los Angeles. Prosecution of other cases against a defendant was the second most frequently cited reason for case rejections in New Orleans.

#### Case-processing Time and Continuances

In the few instances in which the data depicted in Figure C.4 permit comparisons, the extreme variations in processing times are apparent. However, the mean number of nonprocedural continuances in homicide cases varied little among most of the jurisdictions: Detroit, 2.3; District of Columbia, 1.8; Los Angeles, 2.6; and New Orleans, 2.4.

#### Pretrial Release Decisions

Figure C.5 underscores widely divergent judicial practices regarding pretrial release at arraignment, particularly the heavy reliance in Detroit on detaining homicide defendants.

1. For nolles and dismissals in Los Angeles, "evidence" includes three reason categories: evidence, case returned to officer for more evidence, and inadequate identification.

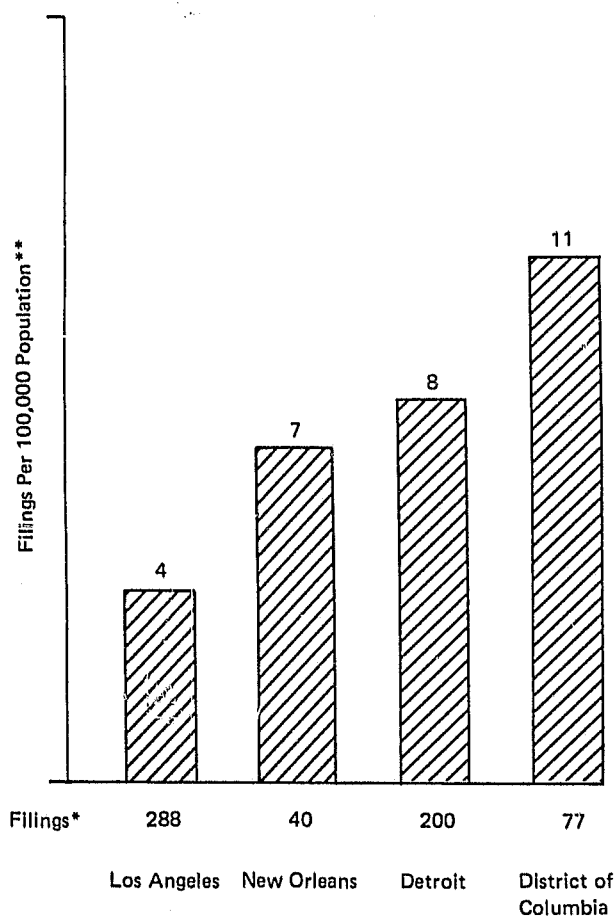
### **Recidivism—Defendants Arrested While on Conditional Release**

As is evident from Figure C.6, relatively large numbers of homicide defendants in Los Angeles and the District of Columbia were arrested while on conditional release in connection with another crime.

### **Incarceration Rates and Length of Sentences**

Seventy-five percent or more of the defendants convicted of homicide were incarcerated in the three jurisdictions shown in Figure C.7. In Detroit and New Orleans, the vast majority of those incarcerated were sentenced to terms of five years or more.

Figure C.1. HOMICIDE FILINGS PER 100,000 POPULATION

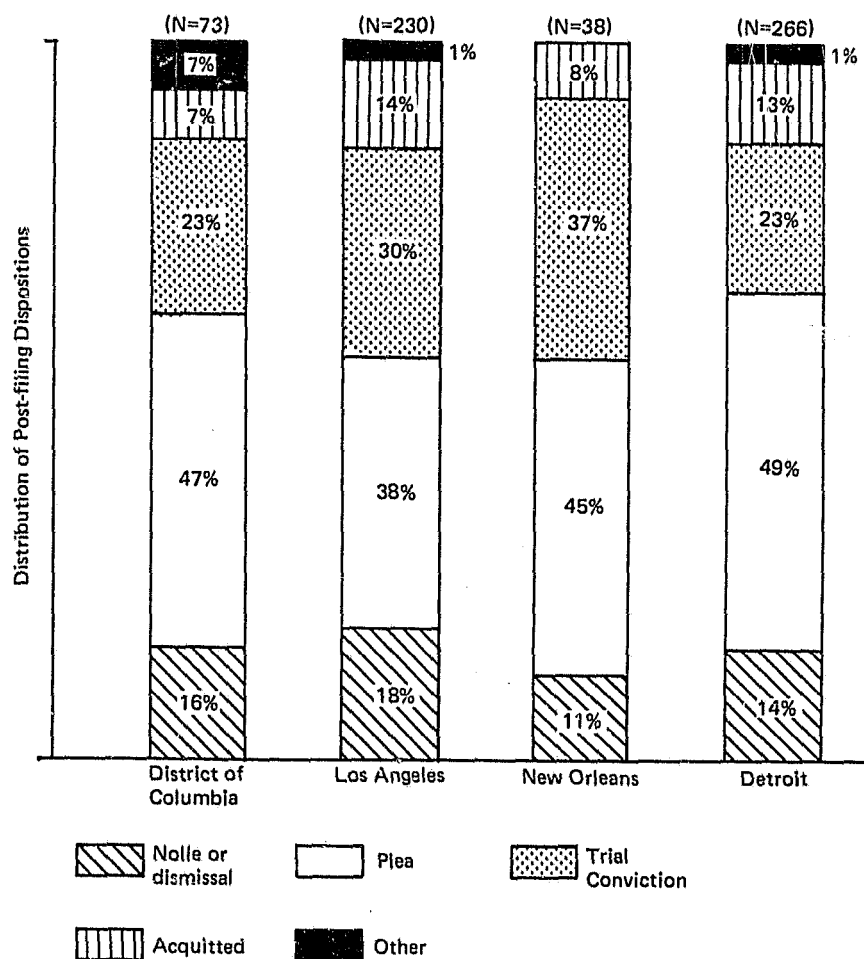


\*PROMIS data, January-June 1977.

\*\*Based on U.S. Census Bureau estimates for 1976.

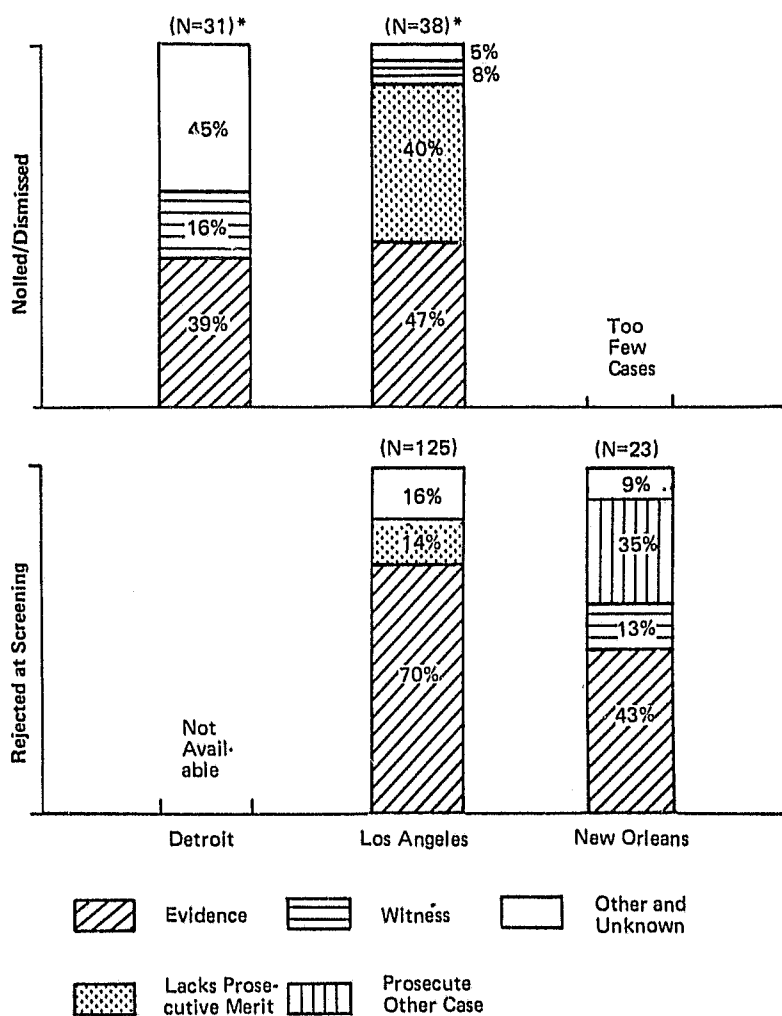


Figure C.2. HOMICIDE DISPOSITIONS FROM ARREST THROUGH TRIAL



Source: PROMIS data, January-June 1977.

Figure C.3. TERMINATED HOMICIDE CASES—THE REASONS



Source: PROMIS data, January—June 1977.

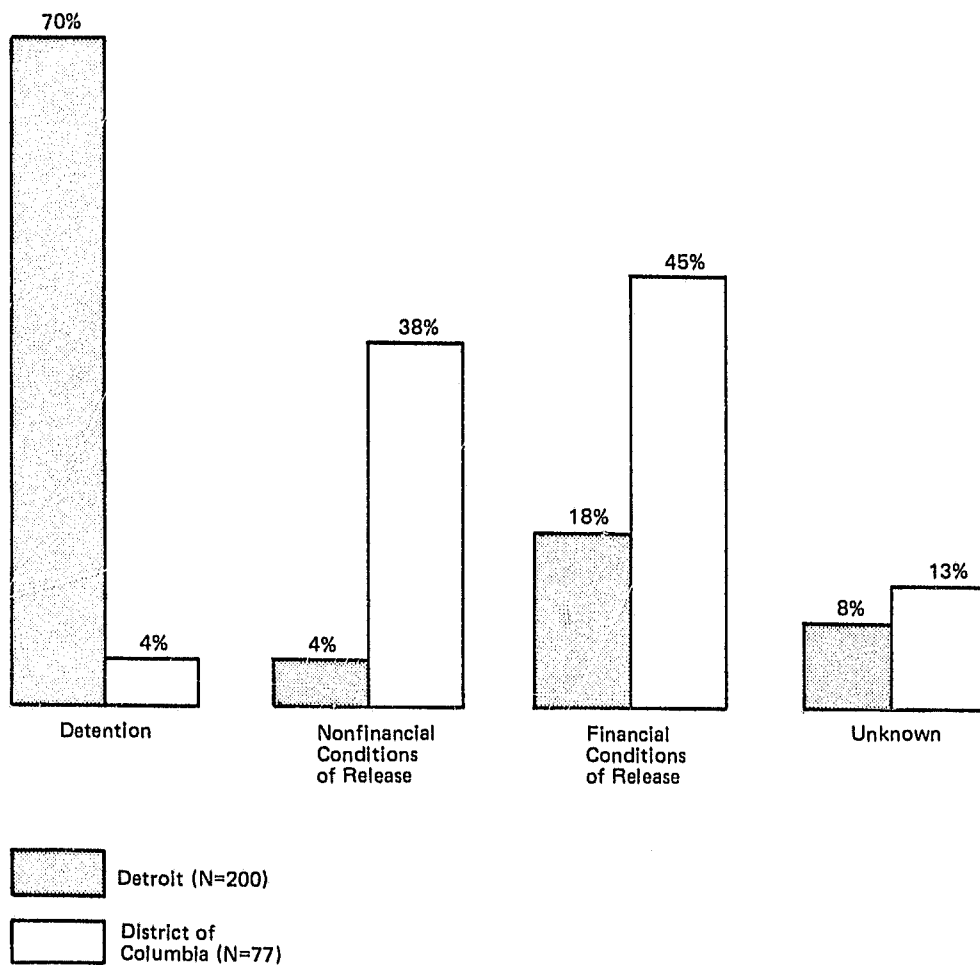
\*Excludes nolles/dismissals for which reasons were not recorded.

Figure C.4. MEAN PROCESSING TIME FOR HOMICIDE CASES

Jurisdiction	N	Processing Stages and Time					
		Arrest	Screening	Preliminary Examination	Indictment	Postindictment Disposition	Sentencing
District of Columbia	61	17 days					
	73	93					
	52					271	
	52	339					
Los Angeles	199	34					
	150	192					
	93	223					
Detroit	188	44					
	311	218					
New Orleans	36	192					

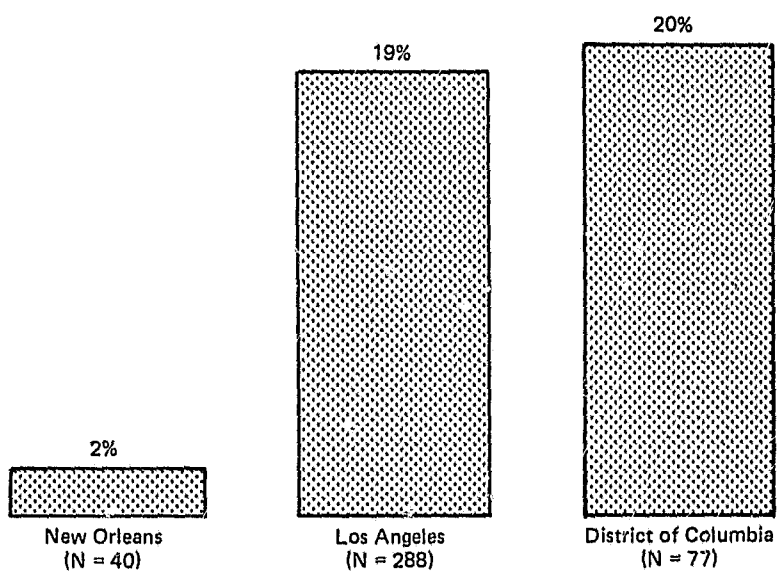
Source: PROMIS data, January-June 1977.

Figure C.5. DISTRIBUTION OF PRETRIAL RELEASE DECISIONS  
AT ARRAIGNMENT IN HOMICIDE CASES



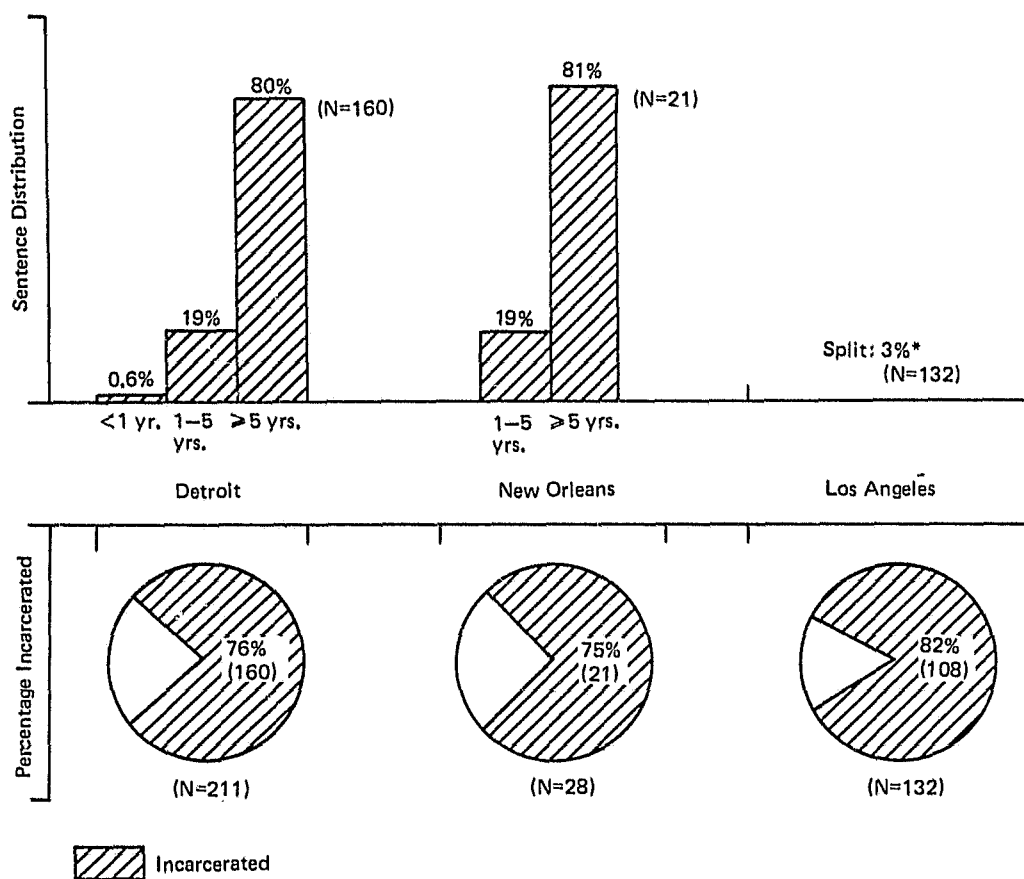
Source: PROMIS data, January–June, 1977.

Figure C.6. PERCENTAGE OF HOMICIDE DEFENDANTS ARRESTED  
WHILE ON CONDITIONAL RELEASE



PROMIS data, January—June 1977.

Figure C.7. PERCENTAGE OF CONVICTED HOMICIDE DEFENDANTS INCARCERATED AND LENGTH OF SENTENCE



Source: PROMIS data, January-June 1977.

\* Data not available for other terms.

## RAPE

### Prosecutions in Detroit, District of Columbia, Indianapolis, Los Angeles, and New Orleans

#### Filings and Filing Rates

Of the five jurisdictions compared in Figure C.8, Detroit filed the most rape cases both in absolute terms and in relation to population. Los Angeles recorded the second highest number of rape cases, but the fewest relative to population.

#### Disposition Rates

Prosecutors rejected at screening 36 percent of the rape arrests in the District of Columbia ( $n = 98$ ), 60 percent in New Orleans ( $n = 63$ ) and 67 percent in Los Angeles ( $n = 491$ ). Many rejections in New Orleans (47 percent) and Los Angeles (6 percent) were attributed to referral of cases to other agencies for prosecution and to decisions to go forward with other cases against the defendant.

Of post-filing dispositions, the most frequent ones were pleas, followed by nolle and dismissals. Trial convictions ranged from 14 percent to 33 percent of total post-filing rape dispositions.

In Detroit, the District of Columbia, and Indianapolis, the majority of post-indictment pleas were to the top charge (67, 60, and 61 percent, respectively); in Los Angeles 44 percent of the pleas were to the top charge. Trial convictions in Detroit, the District of Columbia, and Los Angeles were to the top charge 74, 76, and 85 percent of the time, respectively.

#### Reasons for Terminated Cases

As indicated in Figure C.10, evidence and witness reasons seem to account for the majority of rape case terminations. Lack of prosecutive merit and prosecution of other cases also were reasons for a substantial number of terminations in Los Angeles and New Orleans, respectively.

#### Case-processing Time and Continuances

In those instances in which the data displayed in Figure C.11 permit comparisons, wide variation in case-processing times among jurisdictions seems to be the rule. The mean number of nonprocedural continuances ranged from 1.6 in Washington, D.C., to 3 in Los Angeles; nonetheless, Los Angeles required 91 fewer days to reach post-indictment dispositions in rape cases than did the District of Columbia. The mean continuance figures for Indianapolis, Detroit, and New Orleans were, respectively, 1.7, 1.8, and 2.5.

#### Pretrial Release Decisions

As with homicides, Detroit imposed significantly more stringent pretrial release decisions on rape defendants than did the District of Columbia (Figure C.12).

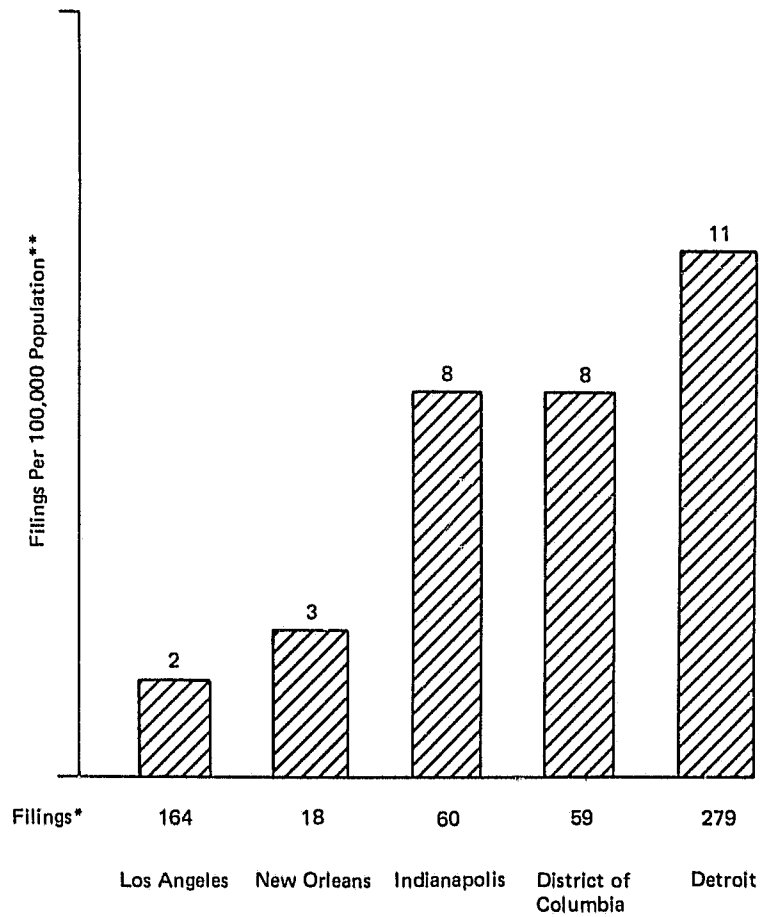
#### Recidivism—Defendants Arrested While on Conditional Release

As shown by Figure C.13, compared with Indianapolis and the District of Columbia, Los Angeles recorded a relatively high percentage of rape defendants who were arrested while on conditional release for another crime.

#### Incarceration Rates and Length of Sentences

The majority of convicted rape defendants were incarcerated in the three jurisdictions compared in Figure C.14. Although it incarcerated relatively fewer defendants than did Indianapolis, Detroit sentenced them to longer terms, on average.

Figure C.8. RAPE FILINGS PER 100,000 POPULATION

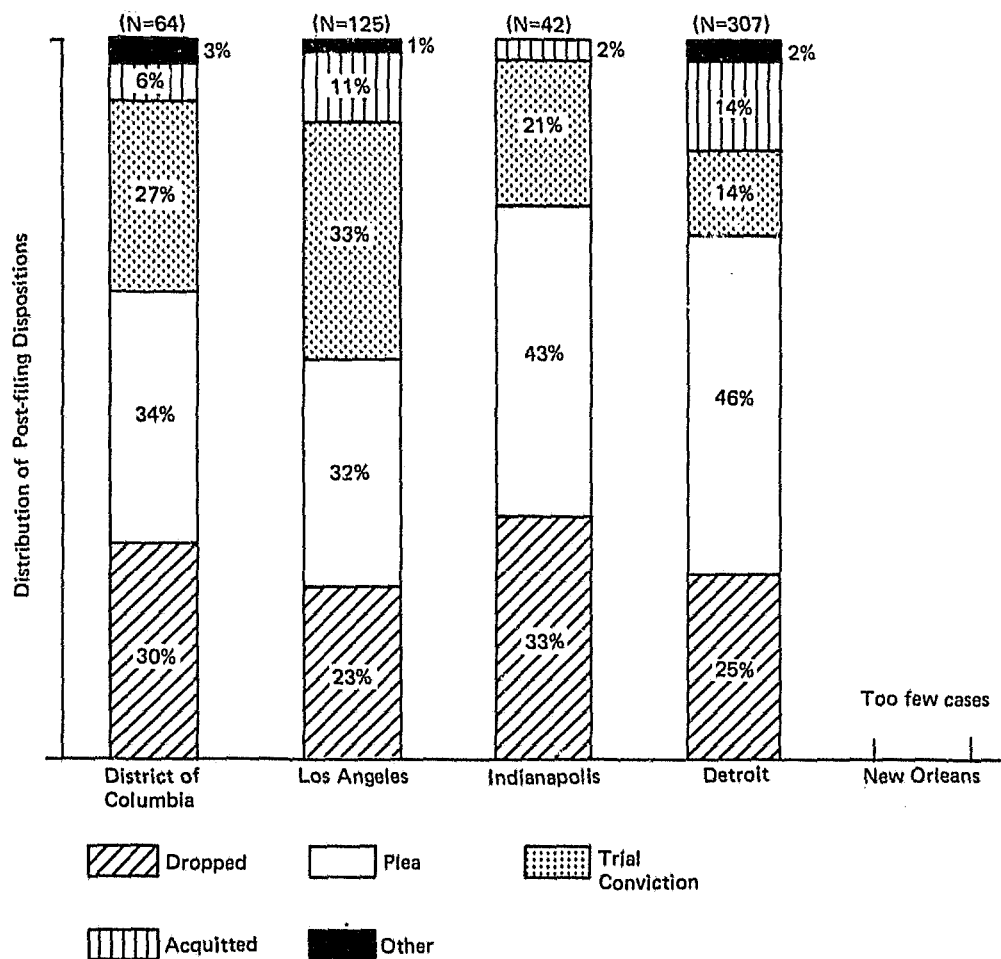


\*PROMIS data, January—June 1977.

\*\*Based on U.S. Census Bureau estimates for 1976.

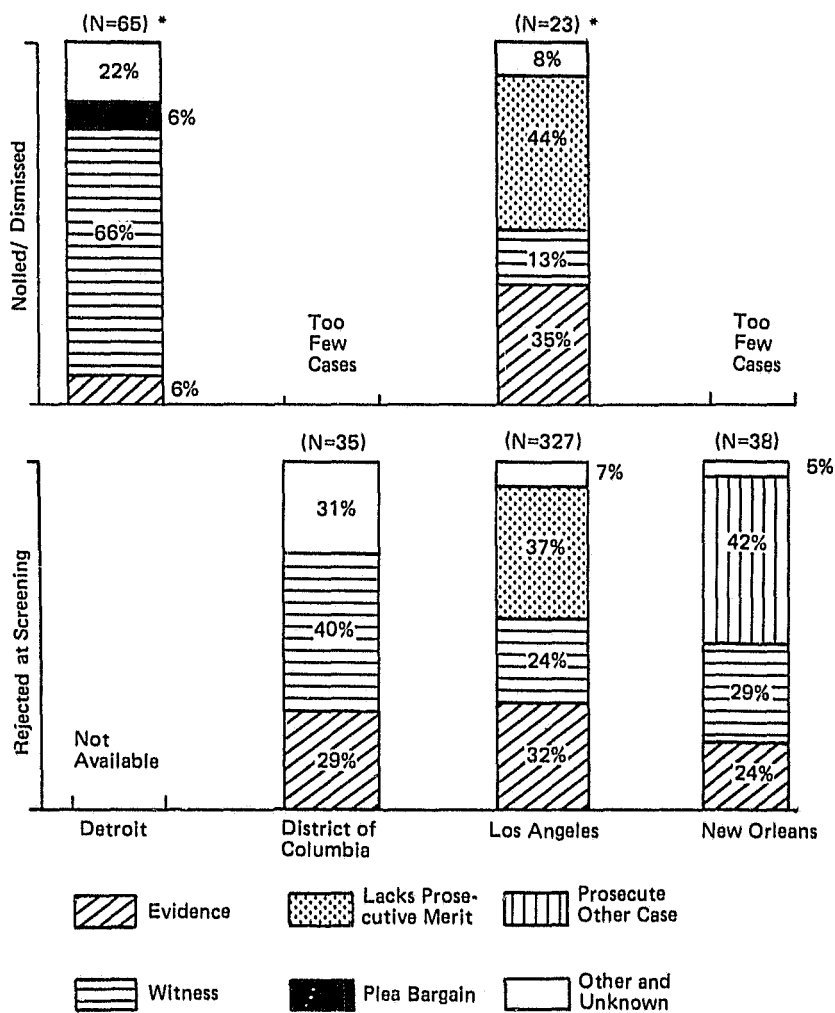


Figure C.9. RAPE DISPOSITIONS FROM ARREST THROUGH TRIAL



Source: PROMIS data, January--June 1977.

Figure C.10. TERMINATED RAPE CASES—THE REASONS



Source: PROMIS data, January—June 1977.

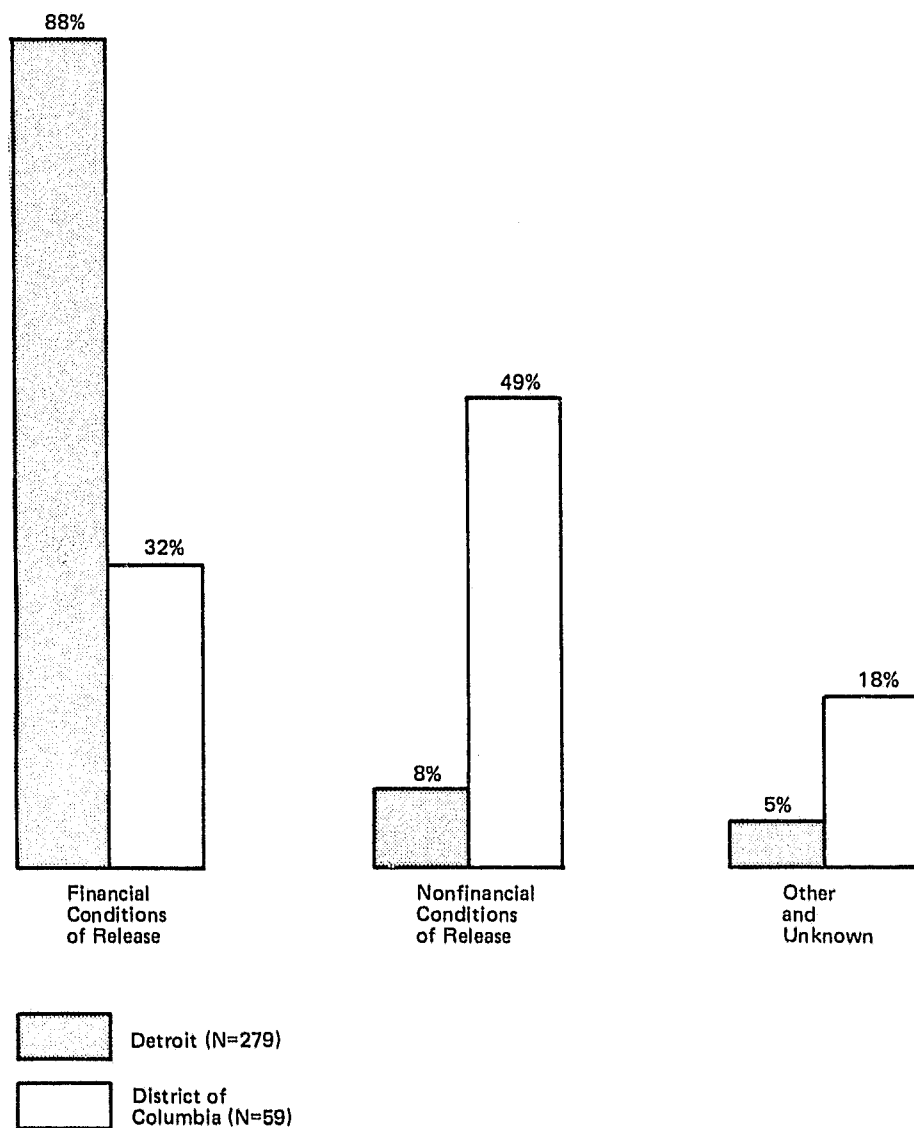
\*Excludes nolle/prosecutions for which reasons were not recorded.

Figure C.11. MEAN PROCESSING TIME FOR RAPE CASES

Jurisdiction	N	Processing Stages and Time					
		Arrest	Screening	Preliminary Examination	Indictment	Postindictment Disposition	Sentencing
District of Columbia	44	12 days					
	35	56					
	45					211	
	45	265					
Los Angeles	116	31					
	88	174					
	59	197					
Indianapolis	30	22					
	40					166	
	33	198					
Detroit	263	14					
	284	157					

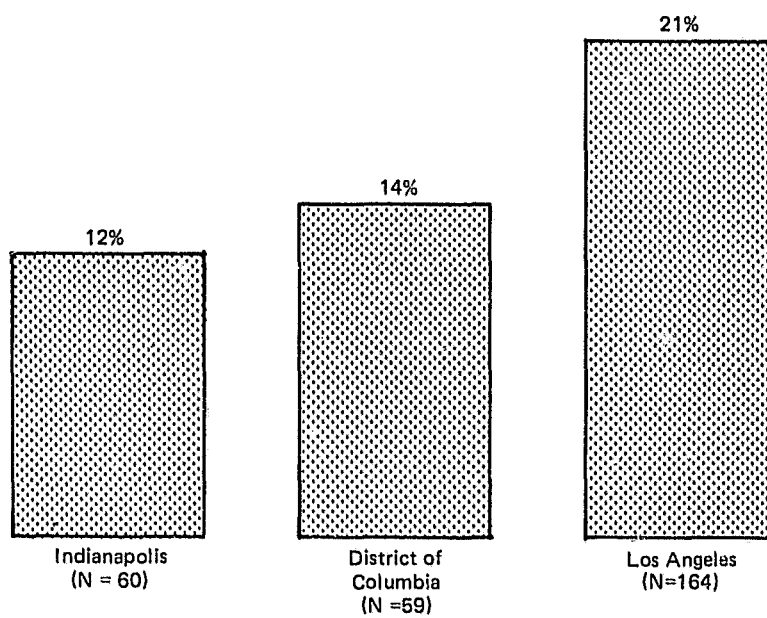
Source: PROMIS data, January–June 1977.

Figure C.12. DISTRIBUTION OF PRETRIAL RELEASE DECISIONS  
AT ARRAIGNMENT IN RAPE CASES



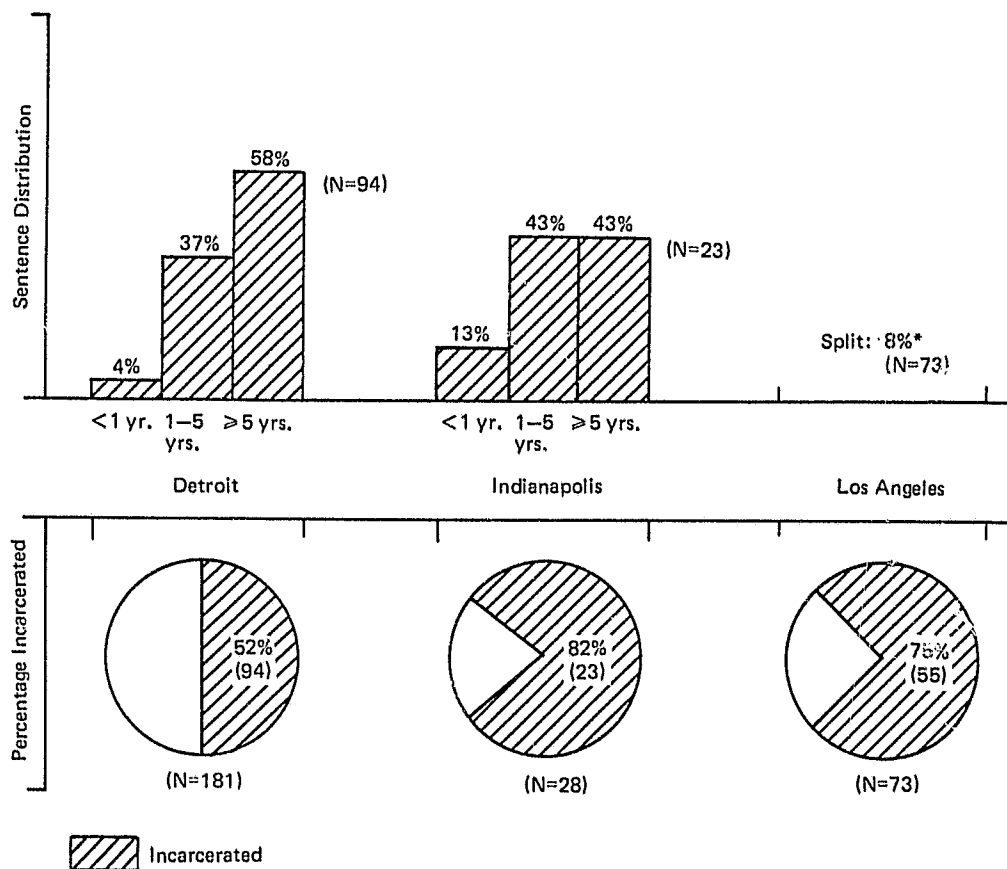
Source: PROMIS data, January–June 1977.

Figure C.13. PERCENTAGE OF RAPE DEFENDANTS ARRESTED  
WHILE ON CONDITIONAL RELEASE



Source: PROMIS data, January—June 1977.

Figure C.14. PERCENTAGE OF CONVICTED RAPE DEFENDANTS INCARCERATED AND LENGTH OF SENTENCE



Source: PROMIS data, January—June 1977.

\*Data not available for other terms.

## ROBBERY

### Prosecutions in Cobb County, Detroit, District of Columbia, Indianapolis, Los Angeles, New Orleans, and Salt Lake County

#### Filings and Filing Rates

Filings relative to population among the seven jurisdictions compared in Figure C.15 ranged from a low in Salt Lake of 14 per 100,000 population to a high of 101 in the District of Columbia. Rates for the other jurisdictions varied from 16 to 27.

#### Disposition Rates

Prosecutors rejected at screening up to 56 percent of robbery cases. The rates were as follows:

Cobb County	(n = 41)	0%
District of Columbia	(n = 881)	15
Salt Lake	(n = 99)	25
Los Angeles	(n = 2,037)	42
New Orleans	(n = 446)	56

Los Angeles, New Orleans, and Salt Lake referred a number of arrests to other agencies for prosecution or prosecuted other cases against the defendant—7 percent, 12 percent, and 16 percent, respectively.

Of post-filing dispositions, 10 to 39 percent were nolle and dismissals and 43 to 70 percent, pleas. Trial convictions accounted for 2 to 21 percent of post-filing dispositions, and acquittals ranged from 3 to 10 percent.

Post-indictment pleas—the most frequent post-filing disposition—were to the top charge from 48 percent of the time in the District of Columbia to 95 percent of the time in Detroit. Trial convictions were generally more likely than pleas to involve the top charge (from 70 to 92 percent of the time).

#### Reasons for Terminated Cases

As indicated by Figure C.17, witness and evidence reasons accounted for the majority of robbery case terminations.

#### Case-processing Time and Continuances

In those instances in which the data depicted by Figure C.18 permit comparisons, wide variations in case-processing time again seem to be the rule. The mean number of nonprocedural continuances ranged from 1.7 in the District of Columbia to 2.3 in New Orleans and Los Angeles. Detroit and Indianapolis recorded 1.8 each.

#### Pretrial Release Decisions

Most robbery defendants in Detroit were released on financial conditions pending trial, while most were detained in Salt Lake and most released on nonfinancial conditions in the District of Columbia (Figure C.19).

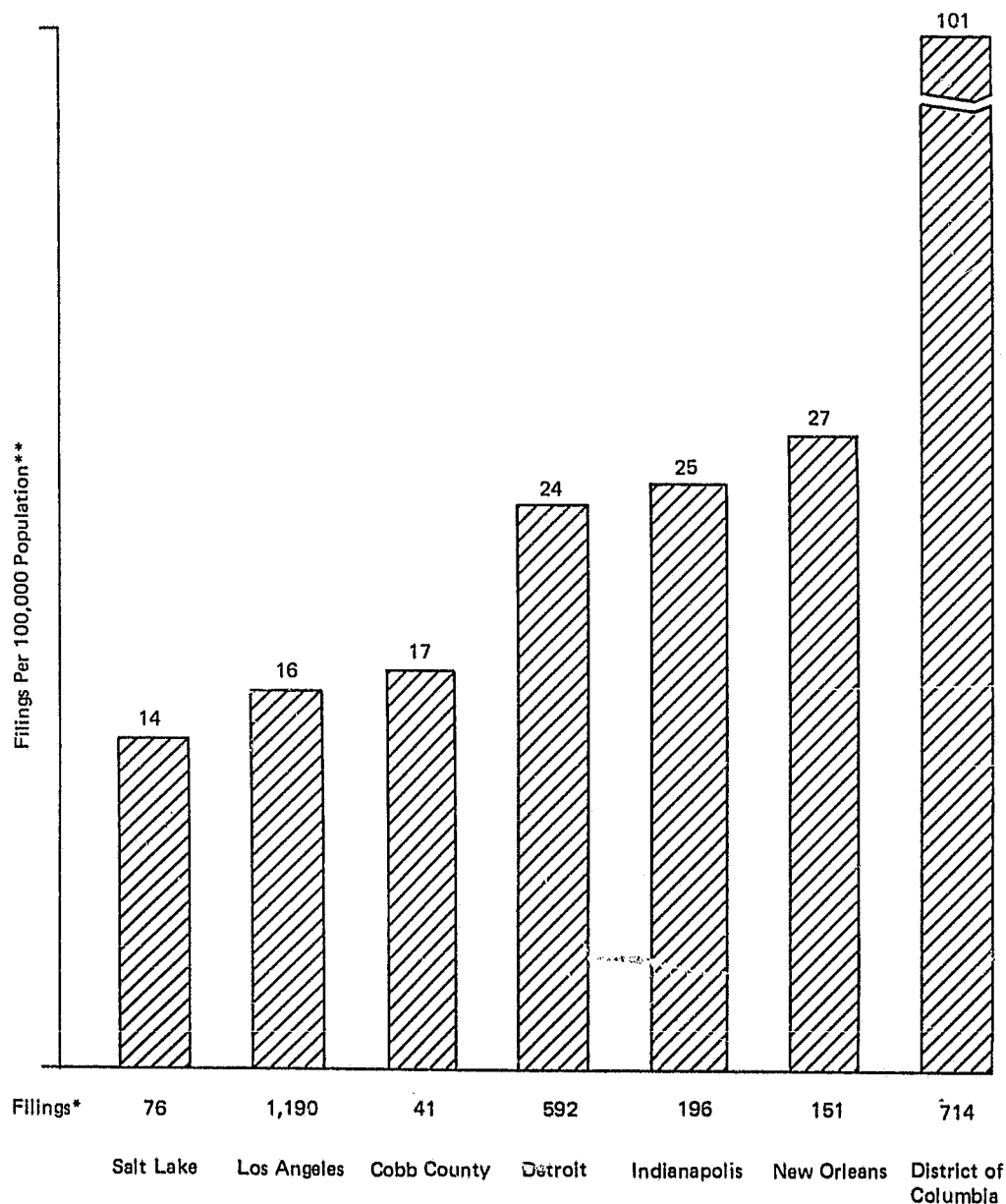
#### Recidivism—Defendants Arrested While on Conditional Release

As noted by Figure C.20, a significantly smaller proportion of robbery defendants in New Orleans than in Indianapolis, Los Angeles, and the District of Columbia were arrested while on conditional release in connection with another crime.

## Incarceration Rates and Length of Sentences

All four jurisdictions compared in Figure C.21 incarcerated the majority of convicted robbery defendants. Incarceration was particularly pronounced in Indianapolis and New Orleans (91 percent of sentenced robbery defendants); New Orleans gave greater emphasis to sentences of five years or longer in comparison with Indianapolis and Detroit.

Figure C.15. ROBBERY FILINGS PER 100,000 POPULATION

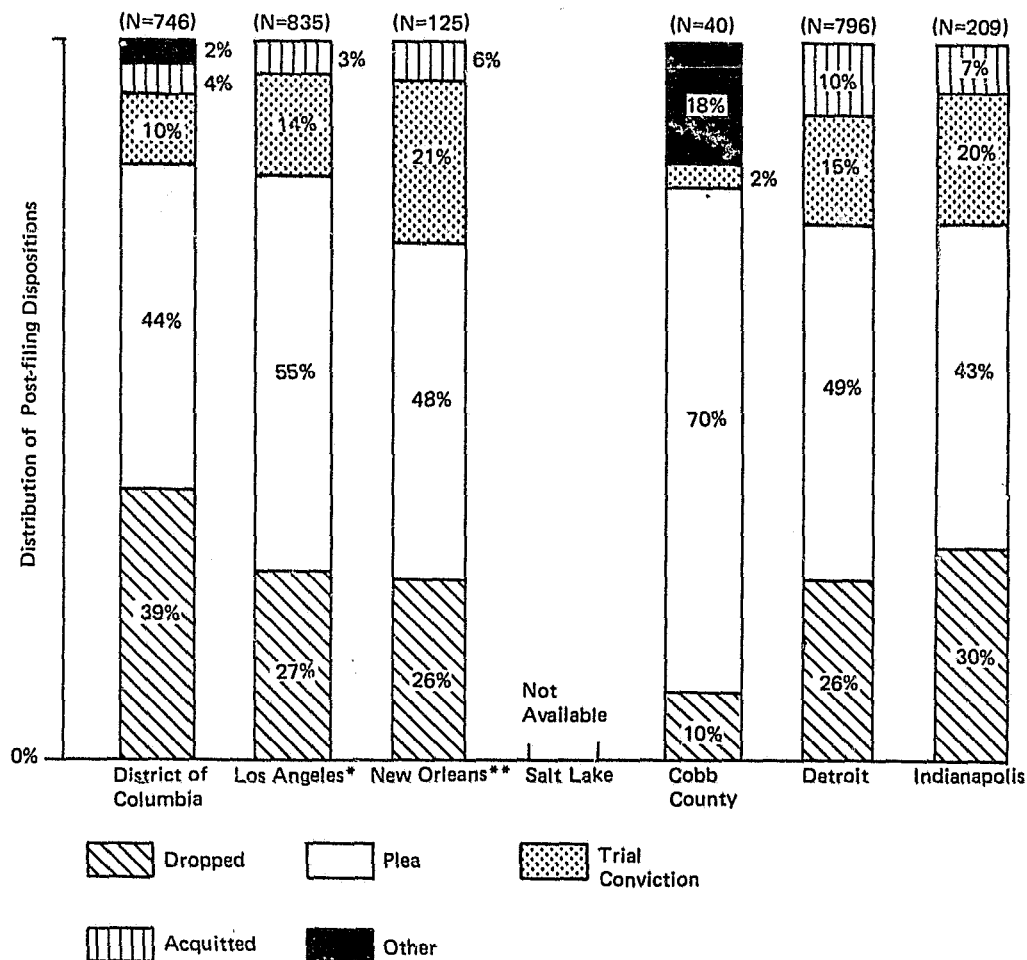


\*PROMIS data, January-June 1977.

\*\*Based on U.S. Census Bureau estimates for 1976.



Figure C.16. ROBBERY DISPOSITIONS FROM ARREST THROUGH TRIAL

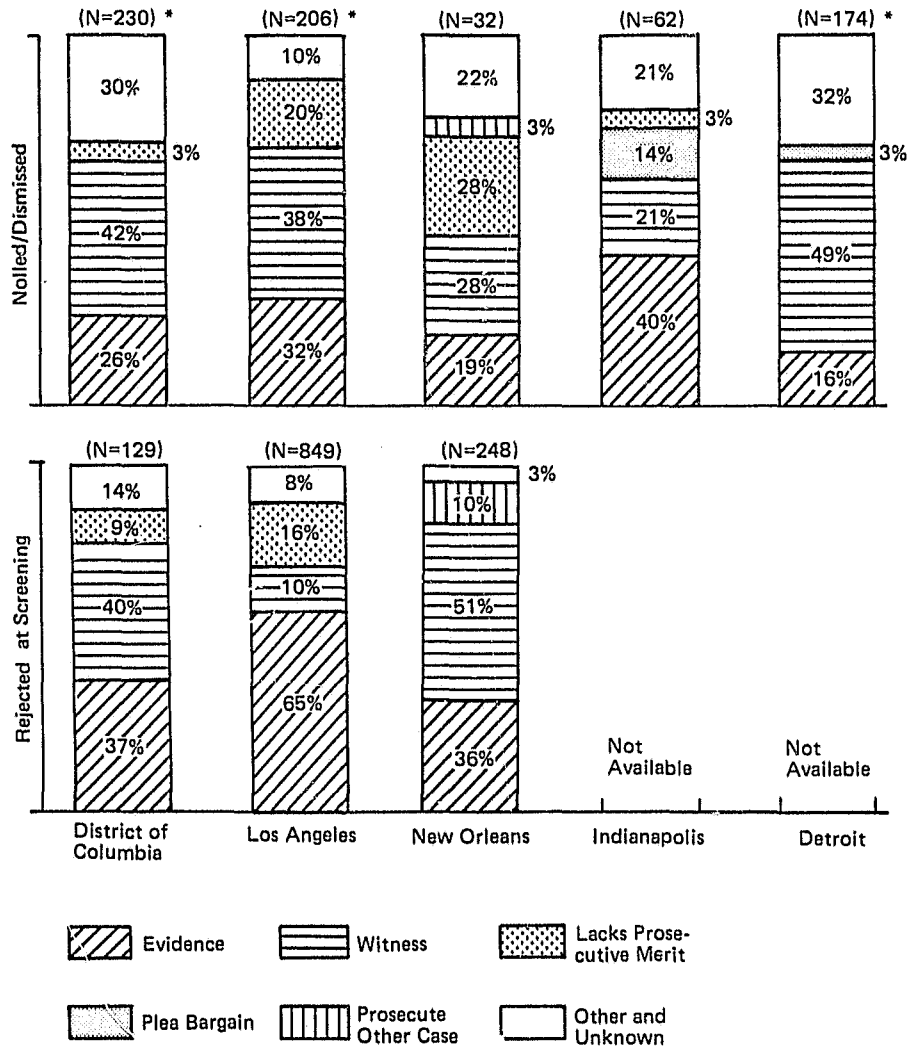


Source: PROMIS data, January-June 1977.

\*About 5 percent of the cases nolle or dismissed were referred to other jurisdictions for prosecution.

\*\*Referrals and other prosecutions accounted for 6 percent of nolle/dismissals.

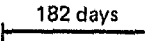
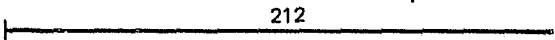
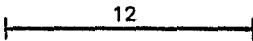
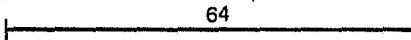
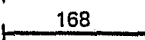
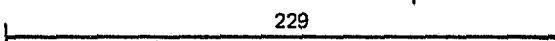
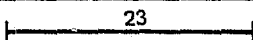
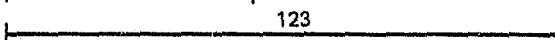
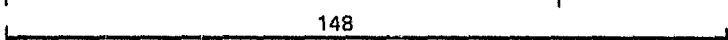
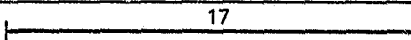
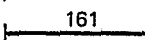
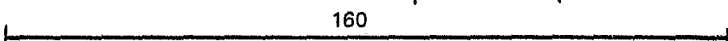
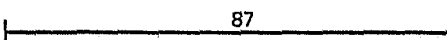
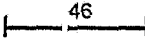
Figure C.17. TERMINATED ROBBERY CASES—THE REASONS



Source: PROMIS data, January-June 1977.

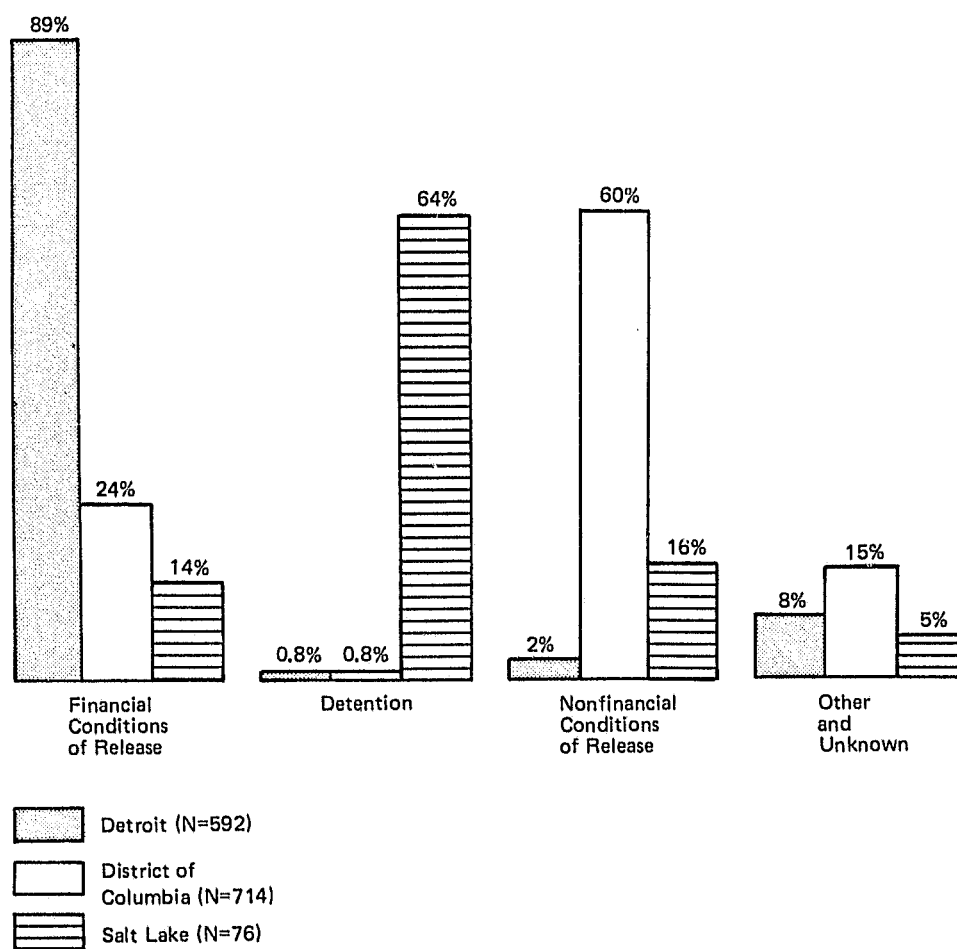
\*Excludes nollies/dismissals for which reasons were not recorded.

Figure C.18. MEAN PROCESSING TIME FOR ROBBERY CASES

Jurisdiction	N	Processing Stages and Time					
		Arrest	Screening	Preliminary Examination	Indictment	Postindictment Disposition	Sentencing
Cobb County	39						
	39						
District of Columbia	625						
	443						
	376						
	376						
Los Angeles	859						
	597						
	403						
Indianapolis	151						
	199						
	172						
New Orleans	113						
Detroit	585						

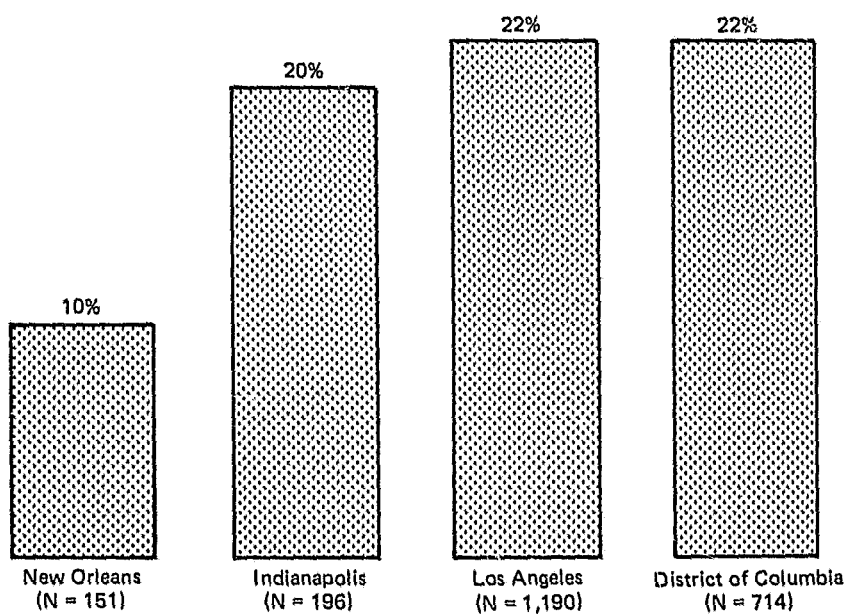
Source: PROMIS data, January–June 1977.

Figure C.19. DISTRIBUTION OF PRETRIAL RELEASE DECISIONS  
AT ARRAIGNMENT IN ROBBERY CASES



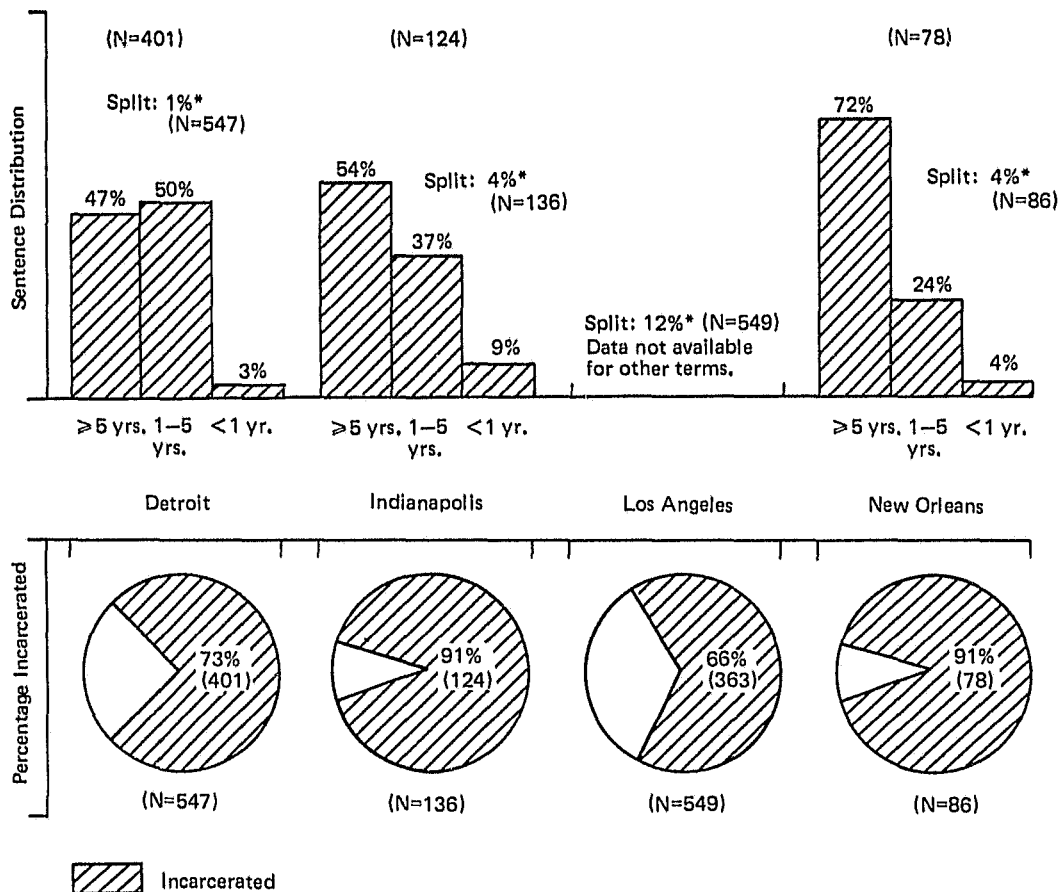
Source: PROMIS data, January—June 1977.

Figure C.20. PERCENTAGE OF ROBBERY DEFENDANTS ARRESTED  
WHILE ON CONDITIONAL RELEASE



Source: PROMIS data, January—June 1977.

Figure C.21. PERCENTAGE OF CONVICTED ROBBERY DEFENDANTS INCARCERATED AND LENGTH OF SENTENCE



Source: PROMIS data, January-June 1977.

\*Percentage of those sentenced who received six months or less plus probation.

## BURGLARY

### Prosecutions in Cobb County, Detroit, District of Columbia, Indianapolis, Los Angeles, New Orleans, and Salt Lake County

#### Filings and Filing Rates

Figure C.22 indicates that burglary filings relative to population were lowest in Los Angeles and Detroit (each at 25)—which were first and second, respectively, in absolute number of filings—and highest in Cobb County (97). Rates per 100,000 population for Indianapolis, New Orleans, and Salt Lake County were, respectively, 28, 41, and 44.

#### Disposition Rates

Prosecutors rejected at screening from zero to 47 percent of burglary arrests, although in Los Angeles 42 percent of such rejections were referred to other agencies for prosecution, and in New Orleans 9 percent involved decisions to prosecute other cases against the defendant. The rejection rates were:

Cobb County	(n = 240)	0%
District of Columbia	(n = 481)	8
Salt Lake	(n = 289)	22
New Orleans	(n = 540)	34
Los Angeles	(n = 3,557)	47

Of post-filing dispositions, pleas accounted for between 60 and 78 percent; nolle and dismissals, 10 to 28 percent; and trial convictions, 8 to 12 percent.

Post-indictment pleas were to the top charge in the vast majority of burglary cases in Detroit (94 percent), New Orleans (92 percent), and Los Angeles (80 percent), and in slightly less than half of such cases in Indianapolis (49 percent) and the District of Columbia (44 percent). Of burglary trials at which defendants were found guilty, convictions were secured on the top charge 50 percent or more of the time in Indianapolis (50 percent), New Orleans (57 percent), Detroit (74 percent), Los Angeles (85 percent), and the District of Columbia (93 percent).

#### Reasons for Terminated Cases

As shown in Figure C.24, evidence and witness reasons again generally accounted for the majority of case terminations both before and after filing.

#### Case-processing Time and Continuances

Wide disparities in case-processing time among jurisdictions are again evident (Figure C.25). For example, Los Angeles required, on average, less time to process defendants from arrest through sentencing than Indianapolis, Cobb County, or the District of Columbia needed to reach final dispositions after indictment.

Though able to process cases in a relatively expeditious manner, Los Angeles recorded the highest mean number of nonprocedural continuances (2.1) compared with Indianapolis (1.6), Detroit (1.7), New Orleans (1.9), and the District of Columbia (1.5).

### **Pretrial Release Decisions**

Markedly different pretrial release policies are evident in the three jurisdictions compared in Figure C.26. The District of Columbia emphasized nonfinancial conditions; Detroit, financial conditions; and Salt Lake, detention.

### **Recidivism—Defendants Arrested While on Conditional Release**

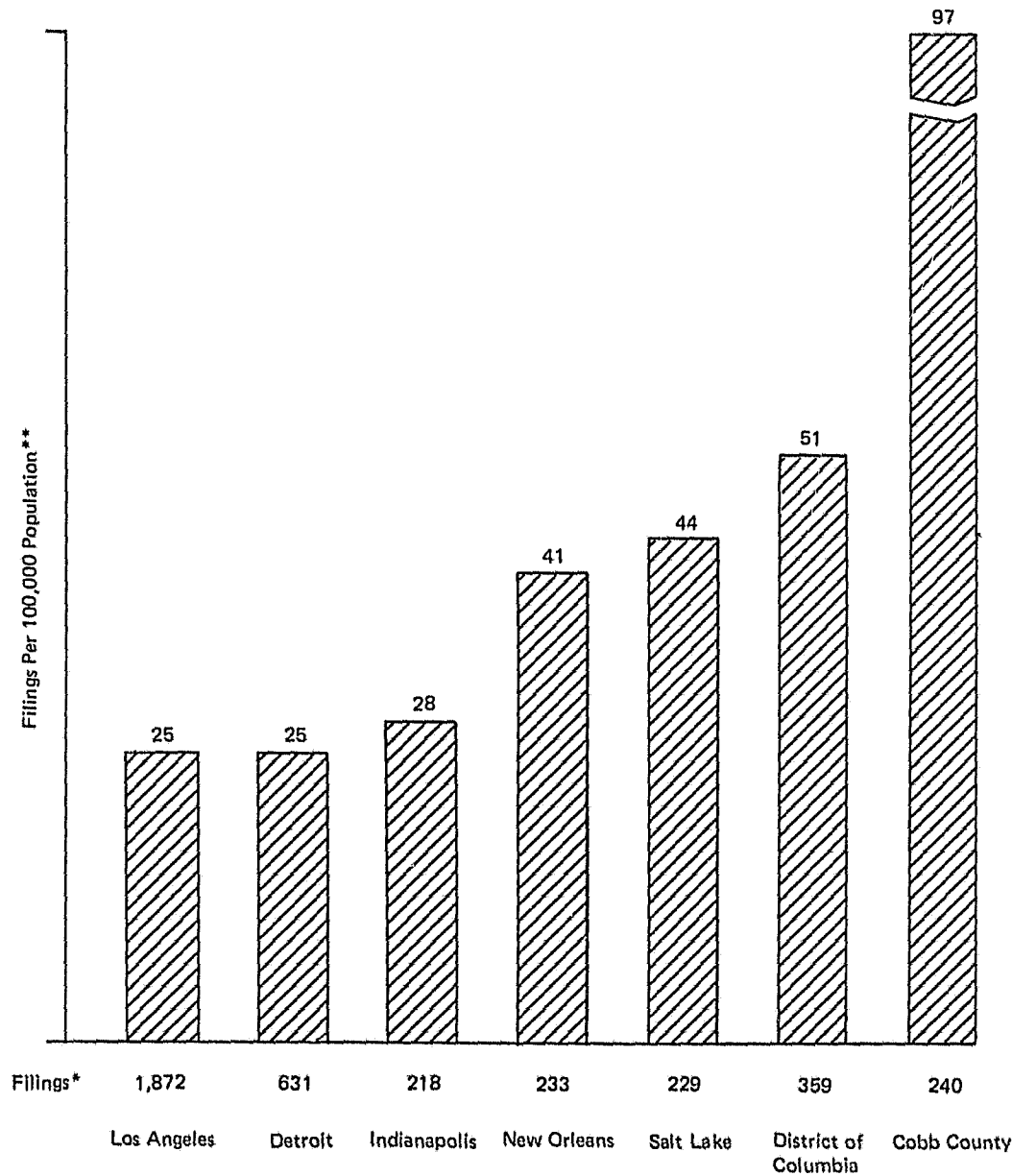
As noted by Figure C.27, a significantly smaller proportion of burglary defendants in New Orleans than in Indianapolis, the District of Columbia, and Los Angeles were arrested while on conditional release in connection with another crime.

### **Incarceration Rates and Length of Sentence**

Two of the four jurisdictions compared in Figure C.28 incarcerated the majority of convicted burglary defendants. Of those incarcerated in Detroit, Indianapolis, and New Orleans, most received sentences of one-to-five years.



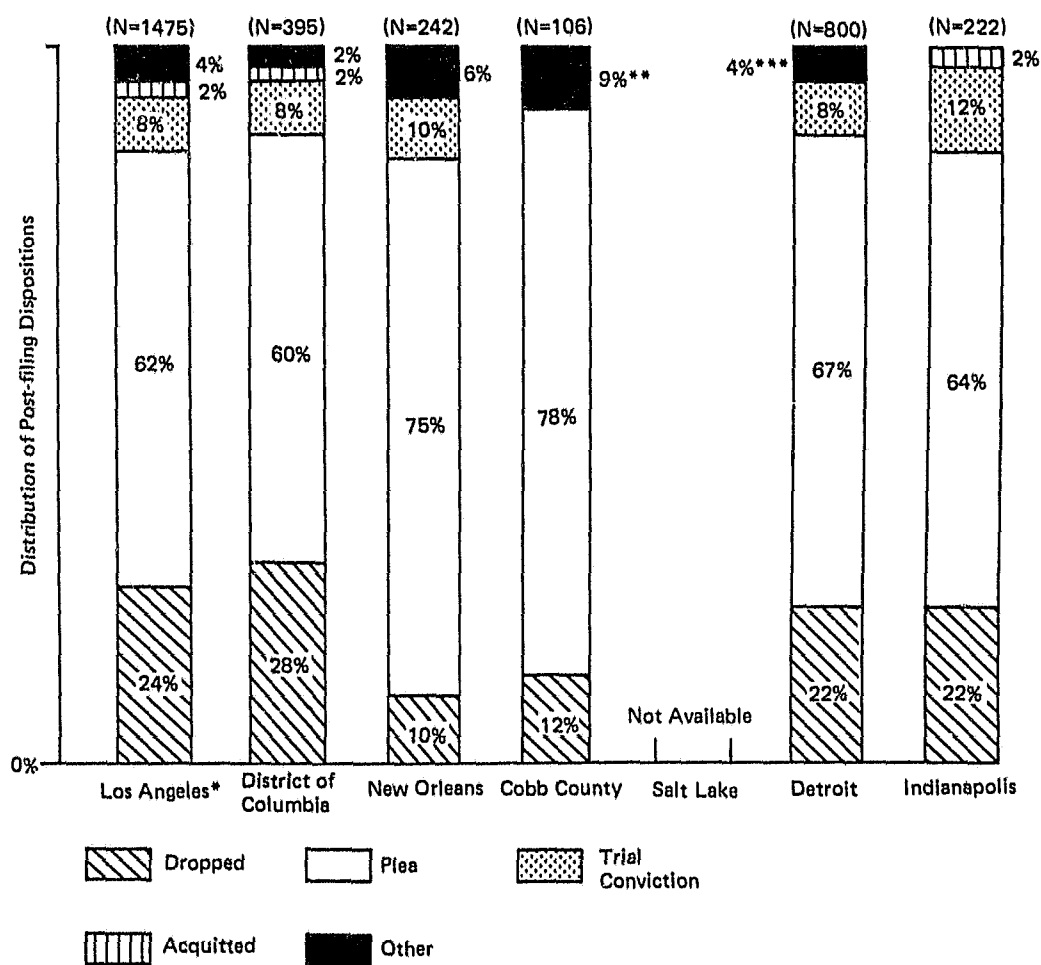
Figure C.22. BURGLARY FILINGS PER 100,000 POPULATION



\*PROMIS data, January-June 1977.

\*\*Based on U.S. Census Bureau estimates for 1976.

Figure C.23. BURGLARY DISPOSITIONS FROM ARREST THROUGH TRIAL



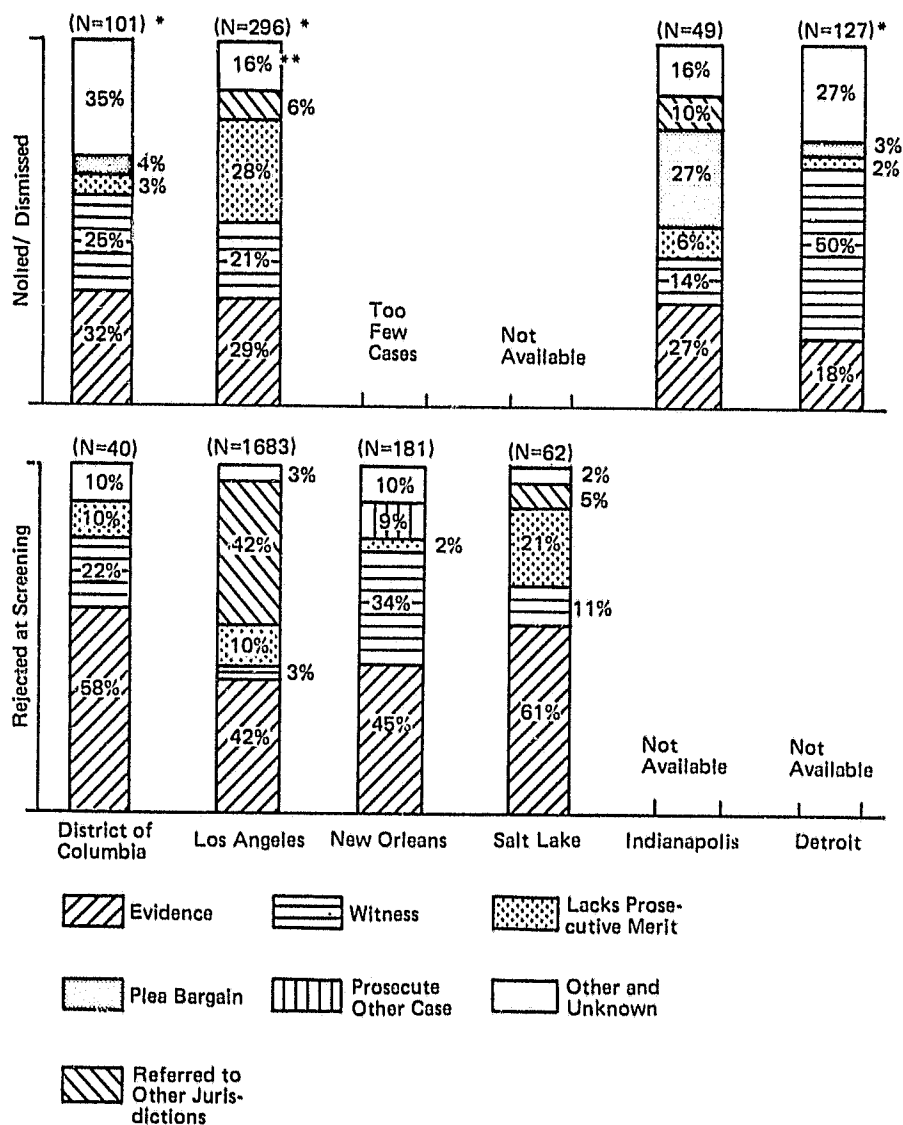
Source: PROMIS data, January–June 1977.

\*About 6 percent of the nolle and dismissals were referred to other jurisdictions for prosecution.

\*\*Includes 2 percent conviction, and 2 percent acquittal.

\*\*\*Includes 3 percent acquittal.

Figure C.24. TERMINATED BURGLARY CASES—THE REASONS



Source: PROMIS data, January—June 1977.

\*Excludes nollas/dismissals for which reasons were not recorded.

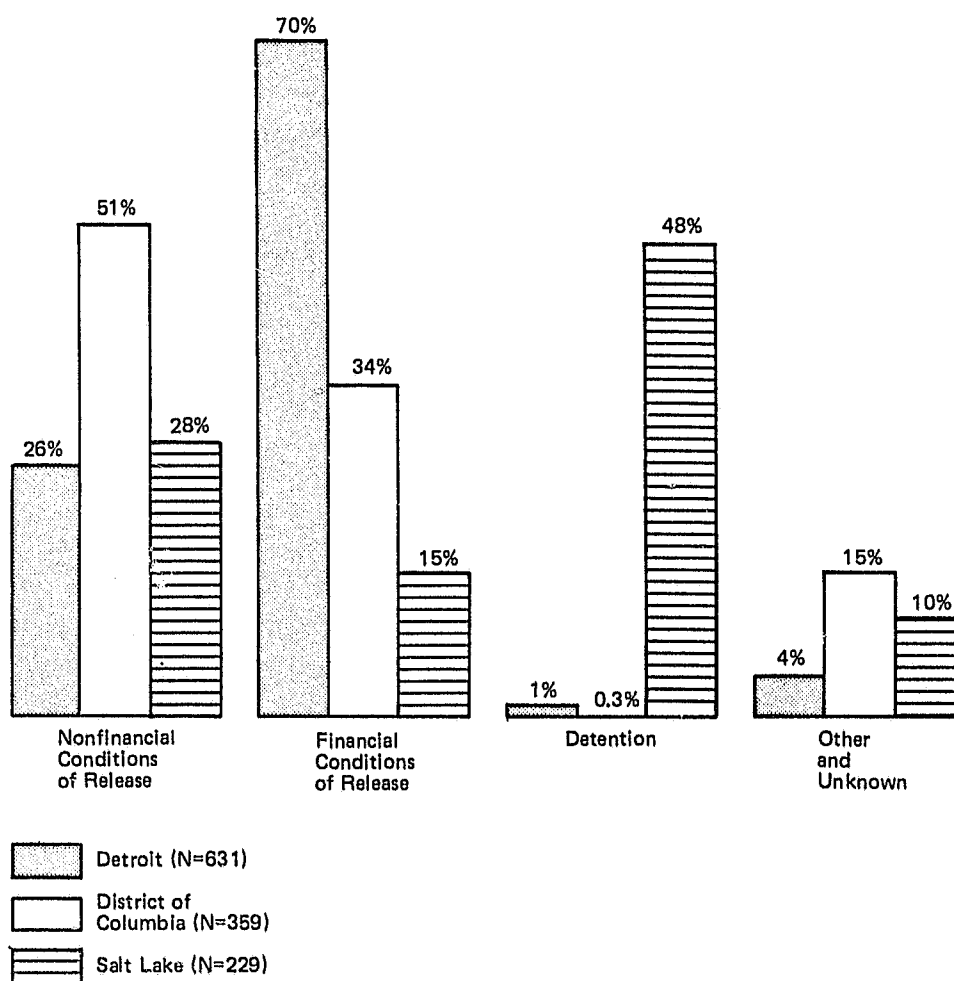
\*\*Twenty-four percent of "other" were due process reasons.

Figure C.25. MEAN PROCESSING TIME FOR BURGLARY CASES

Jurisdiction	N	Processing Stages and Time					
		Arrest	Screening	Preliminary Examination	Indictment	Postindictment Disposition	Sentencing
Cobb County	107	95 days					
	84					163	
	84	237					
District of Columbia	286	14					
	178	55					
	209					144	
	209	205					
Los Angeles	1,306	24					
	918	101					
	738	121					
Indianapolis	171	13					
	204					156	
	181	169					
New Orleans	214	82					
Detroit	620	29					

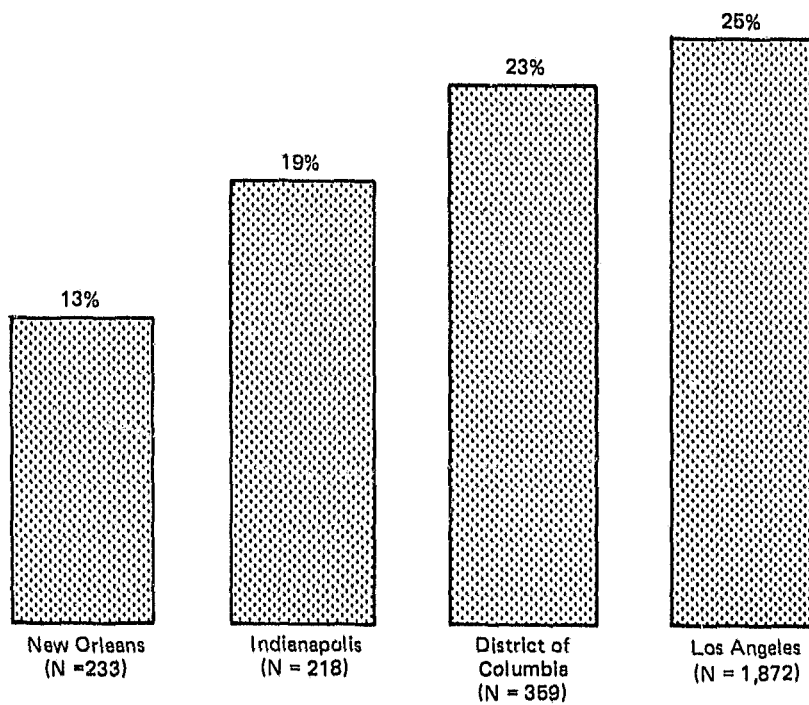
Source: PROMIS data, January–June 1977.

Figure C.26. DISTRIBUTION OF PRETRIAL RELEASE DECISIONS  
AT ARRAIGNMENT IN BURGLARY CASES



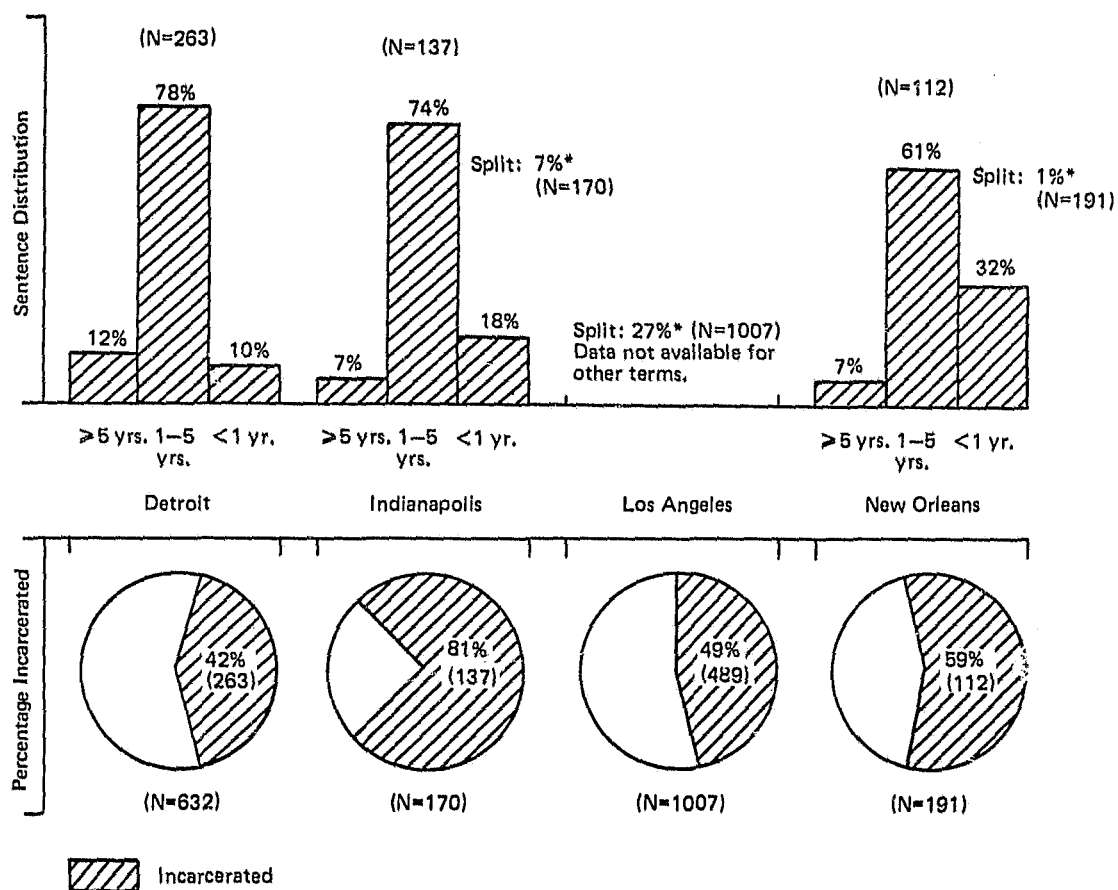
Source: PROMIS data, January—June 1977.

Figure C.27. PERCENTAGE OF BURGLARY DEFENDANTS ARRESTED  
WHILE ON CONDITIONAL RELEASE



Source: PROMIS data, January—June 1977.

Figure C.28. PERCENTAGE OF CONVICTED BURGLARY DEFENDANTS INCARCERATED AND LENGTH OF SENTENCE



Source: PROMIS data, January-June 1977.

\*Percentage of those sentenced who received six months or less plus probation.

## ASSAULT

### Prosecutions in Cobb County, Detroit, District of Columbia, Indianapolis, Los Angeles, and Salt Lake County

#### Filings and Filing Rates

Of the six jurisdictions compared in Figure C.29, Indianapolis recorded the lowest assault filing rate relative to population, and the District of Columbia posted the highest.

#### Disposition Rates

As shown below, prosecutors rejected up to 68 percent of assault arrests at screening. (In Los Angeles, 37 percent of the rejected arrests were referred to other agencies for prosecution.)

Cobb County	(n = 57)	0%
District of Columbia	(n = 815)	32
Salt Lake	(n = 122)	40
Los Angeles	(n = 1,959)	68

Generally, the predominant post-filing disposition was plea, which accounted for between 40 and 50 percent of the total. Nolles and dismissals represented between 24 and 46 percent of all post-filing dispositions; trial convictions constituted from 7 to 20 percent, and acquittals from 4 to 11 percent.

Post-indictment pleas were to the top charge 82 percent of the time in Detroit, 26 percent of the time in the District of Columbia, and 68 percent of the time in Los Angeles. Of those trials that resulted in conviction, 50 percent in Detroit were to the top charge, 75 percent in the District of Columbia, and 86 percent in Los Angeles.

#### Reasons for Terminated Cases

As shown in Figure C.31, evidence and witness reasons again generally accounted for the majority of case terminations both before and after filing.

#### Case-processing Time and Continuances

Extremes in case-processing time are evident in Figure C.32. Again, Los Angeles processed cases from arrest through sentencing in less time than some jurisdictions required to obtain a final disposition after indictment, despite a larger number of mean nonprocedural continuances in Los Angeles (2.4). The District of Columbia and Detroit averaged 1.7 nonprocedural continuances per assault case, and Indianapolis recorded 1.5.

#### Pretrial Release Decisions

The District of Columbia emphasized nonfinancial conditions of release for assault defendants. Detroit favored financial conditions, and Salt Lake did not exhibit a marked preference for any given type of release option (Figure C.33).

#### Recidivism—Defendants Arrested While on Conditional Release

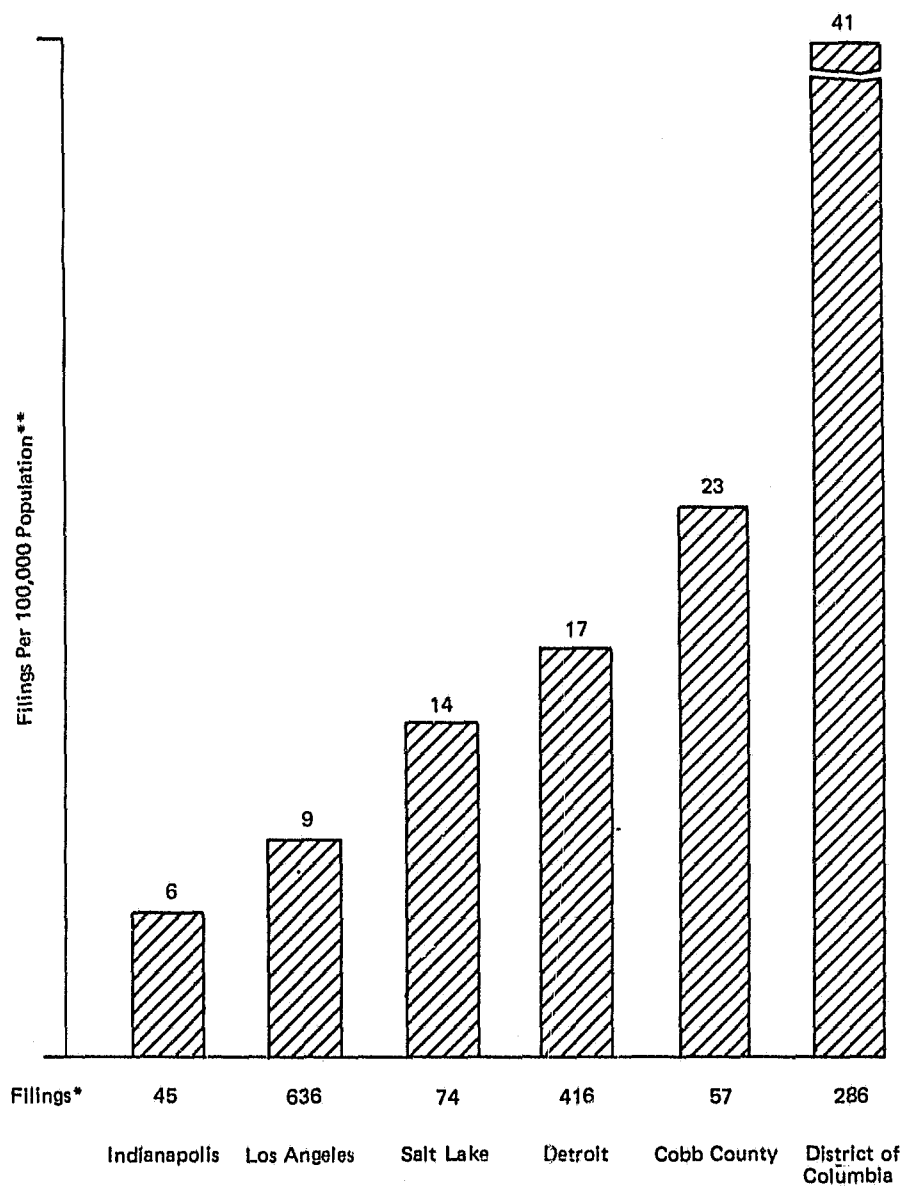
As noted by Figure C.34, the proportion of assault defendants arrested while on pretrial release in connection with another crime ranged from 7 percent in Indianapolis to 15 percent in Los Angeles.

#### Incarceration Rates and Length of Sentence

Of the three jurisdictions compared in Figure C.35, Indianapolis incarcerated the largest proportion of those convicted of assault (62 percent); Detroit the smallest (26 percent). However, both jurisdictions most frequently sentenced assault defendants to terms of one-to-five years.



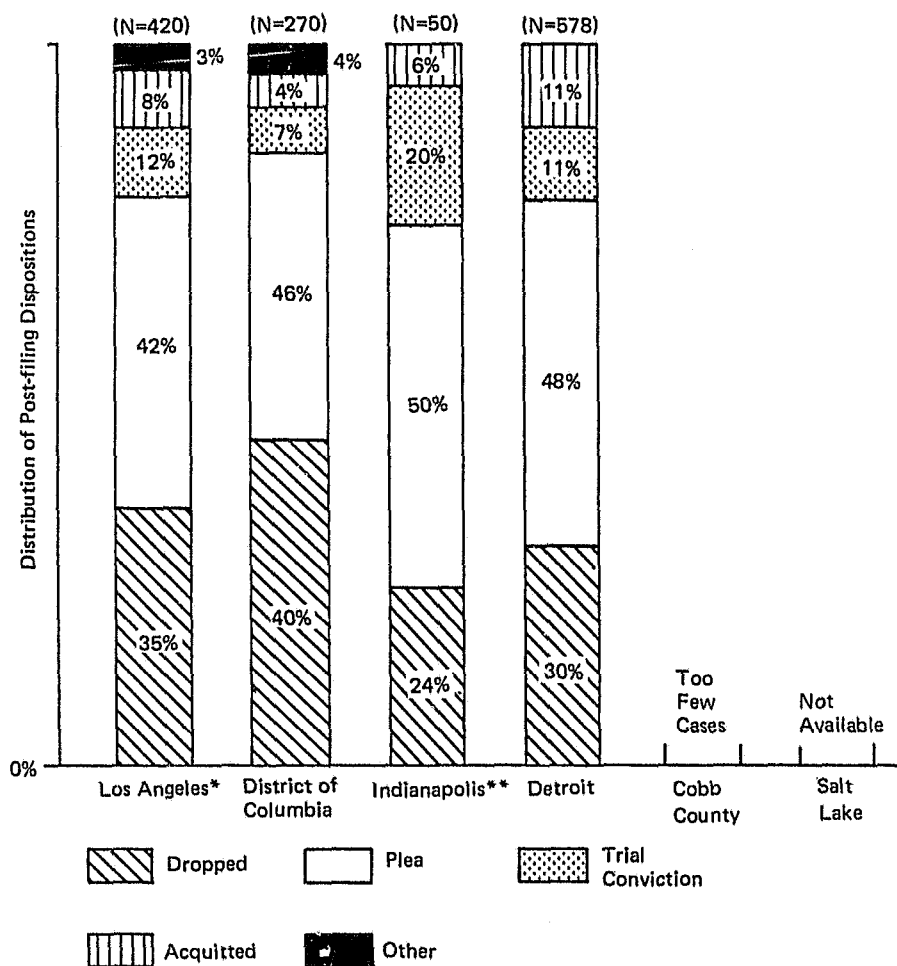
Figure C.29. ASSAULT FILINGS PER 100,000 POPULATION



\*PROMIS data, January—June 1977.

\*\*Based on U.S. Census Bureau estimates for 1976.

Figure C.30. ASSAULT DISPOSITIONS FROM ARREST THROUGH TRIAL

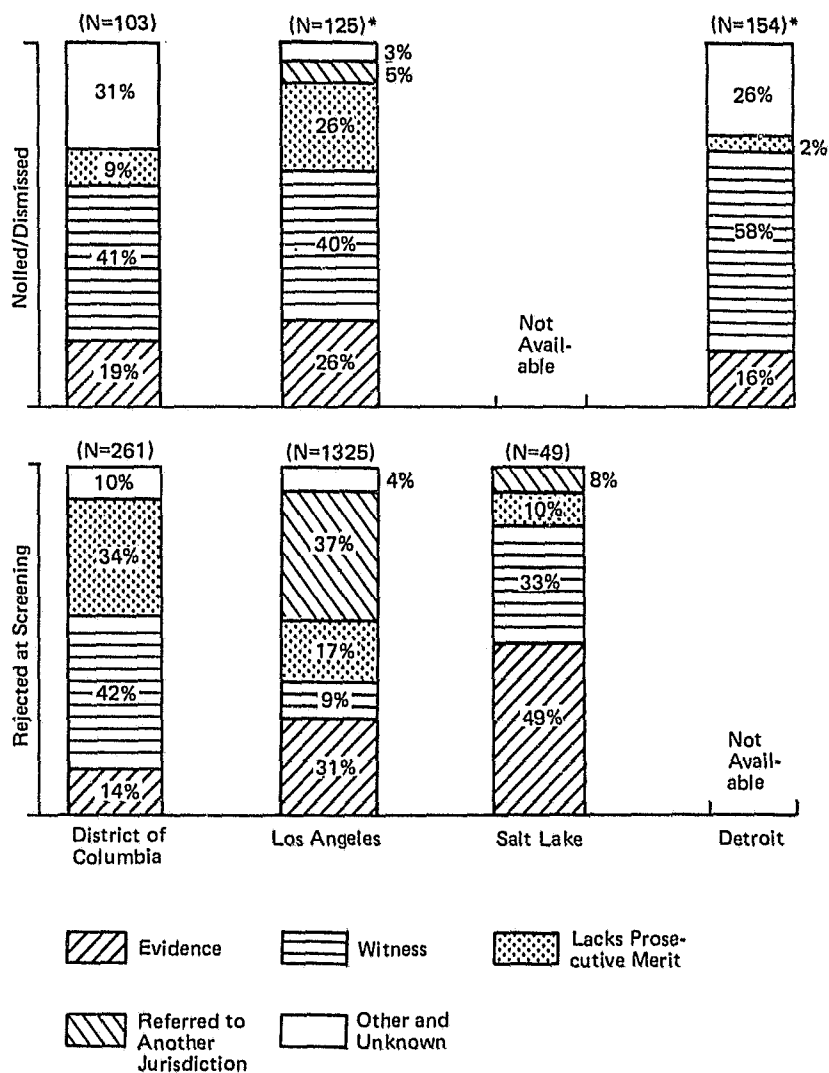


Source: PROMIS data, January-June 1977.

\*About 5 percent of nolle and dismissals were referred to other jurisdictions for prosecution.

\*\*About 17 percent of the nolle or dismissed cases were referred to other jurisdictions.

Figure C.31. TERMINATED ASSAULT CASES—THE REASONS



Source: PROMIS data, January—June 1977.

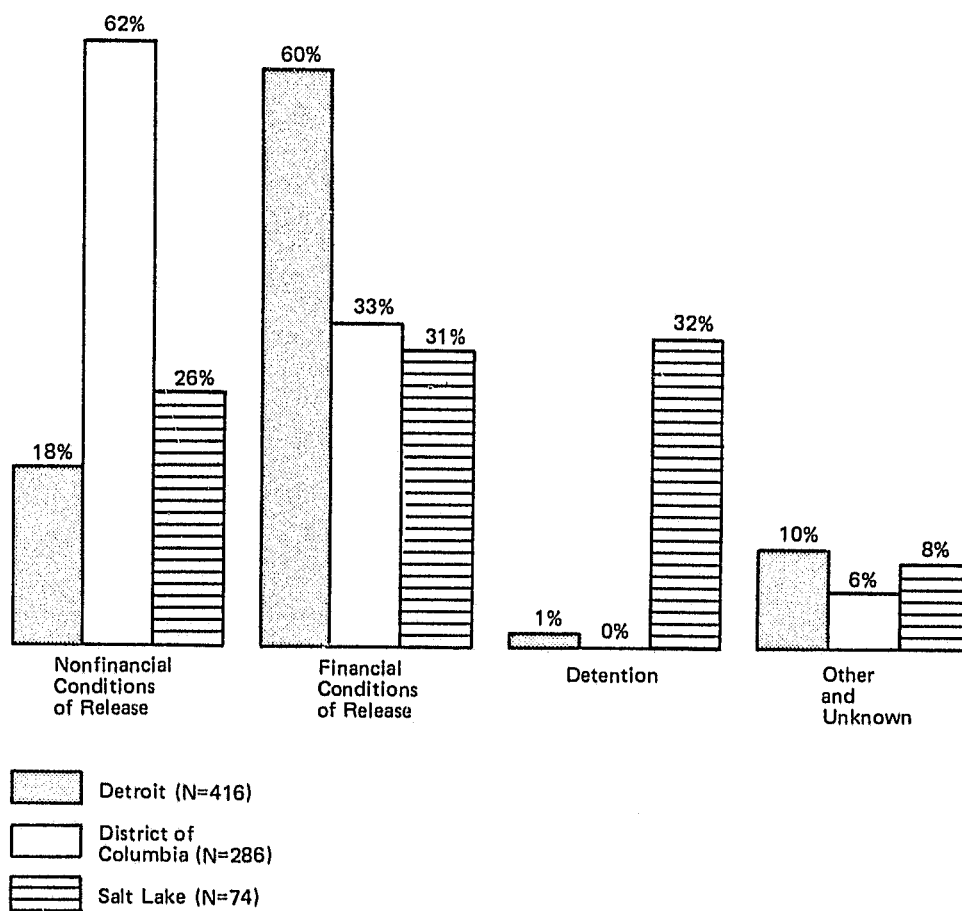
\*Excludes nolle/pro dismissals for which reasons were not recorded.

Figure C.32. MEAN PROCESSING TIME FOR ASSAULT CASES

Jurisdiction	N	Processing Stages and Time					
		Arrest	Screening	Preliminary Examination	Indictment	Postindictment Disposition	Sentencing
District of Columbia	244	19 days					
	97	67					
	117	172					
	117	238					
Los Angeles	406	32					
	236	150					
	164	167					
Indianapolis	34	12					
	43	186					
	37	188					
Detroit	395	77					

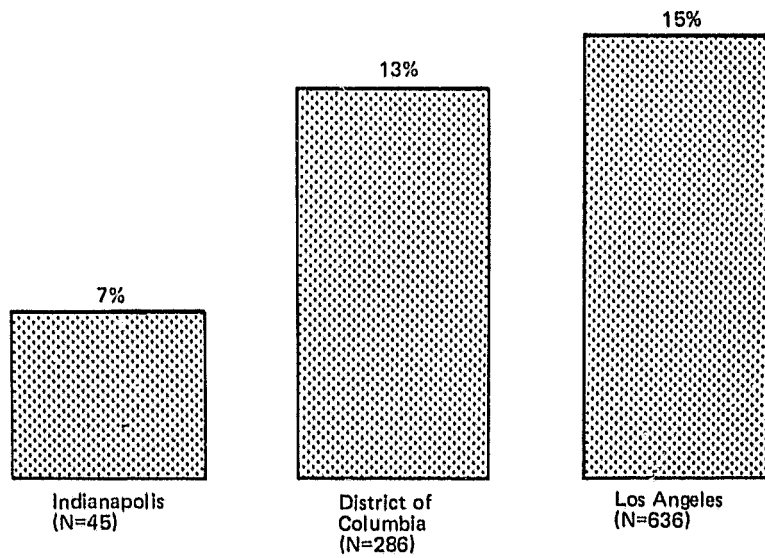
Source: PROMIS data, January–June 1977.

Figure C.33. DISTRIBUTION OF PRETRIAL RELEASE DECISIONS  
AT ARRAIGNMENT IN ASSAULT CASES



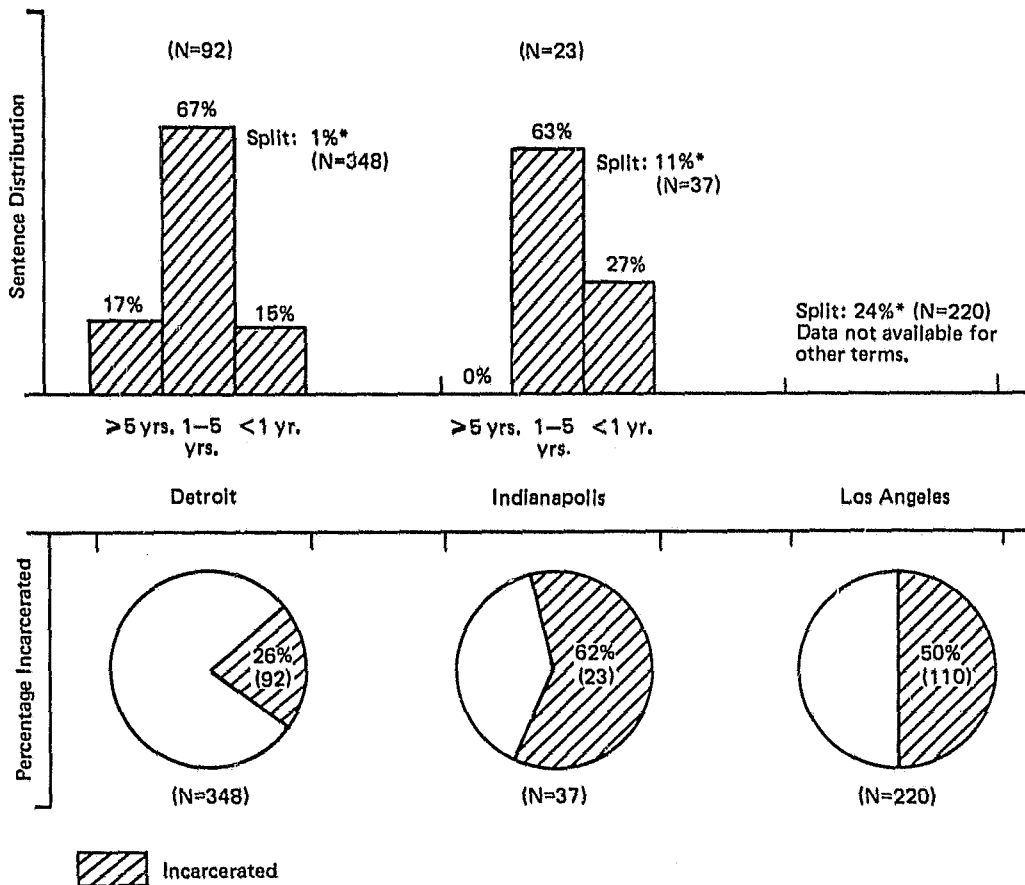
Source: PROMIS data, January–June 1977.

Figure C.34. PERCENTAGE OF ASSAULT DEFENDANTS ARRESTED  
WHILE ON CONDITIONAL RELEASE



Source: PROMIS data, January–June 1977.

Figure C.35. PERCENTAGE OF CONVICTED ASSAULT DEFENDANTS INCARCERATED AND LENGTH OF SENTENCE



Source: PROMIS data, January-June 1977.

\*Percentage of those sentenced who received six months or less incarceration plus probation.

## LARCENY

### Prosecutions in Cobb County, Detroit, District of Columbia Indianapolis, Los Angeles, New Orleans, and Salt Lake County

#### Filings and Filing Rates

Of the seven jurisdictions compared in Figure C.36, the District of Columbia and Cobb County, respectively, recorded the lowest (14) and the highest (92) number of filings per 100,000 population. Within these extremes, the larceny filing rate ranged from 16 to 39 for the other localities.

#### Disposition Rates

Prosecutors rejected at screening from 1 to 65 percent of larceny arrests, as shown below, although many of these rejected cases were referred to other agencies for prosecution or involved decisions to go forward with other cases against defendants (Los Angeles, 4 percent; New Orleans, 15 percent; Salt Lake, 20 percent).

Cobb County	(n = 229)	1%
District of Columbia	(n = 236)	15
Salt Lake	(n = 174)	24
New Orleans	(n = 452)	45
Los Angeles	(n = 3,379)	65

By far the dominant post-filing disposition was pleas, which accounted for between 51 and 72 percent of the total. Nolles and dismissals represented from 12 to 36 percent of all post-filing dispositions; trial convictions, from 0 to 17 percent; acquittals, from 0 to 8 percent.

With the exception of one jurisdiction, post-indictment pleas were to the top charge in the majority of cases: Detroit (96 percent); New Orleans (78 percent), Los Angeles (61 percent), Indianapolis (54 percent), and the District of Columbia (29 percent). Regarding trial convictions, 97 percent were secured on the top charge in Detroit, 89 percent in the District of Columbia, 86 percent in Indianapolis, 79 percent in Los Angeles, and 38 percent in New Orleans.

#### Reasons for Terminated Cases

As shown in Figure C.38, evidence and witness reasons generally accounted for most terminations of larceny cases both before and after filing. Witness problems were particularly severe in Detroit. Plea negotiations explained 50 percent of the nolles and dismissals in Indianapolis.

#### Case-processing Time and Continuances

Again, wide variations are evident in mean case-processing time (Figure C.39). Once more, Los Angeles demonstrated the speediest overall processing time despite the largest mean number of nonprocedural continuances (2.3). The continuance figures for the District of Columbia, New Orleans, Detroit, and Indianapolis ranged from 1.6 to 1.9.

#### Pretrial Release Decisions

The District of Columbia emphasized nonfinancial conditions of release at arraignment; Detroit, financial conditions (Figure C.40). Salt Lake did not exhibit a marked preference for any release option, although the jurisdiction did detain at arraignment a substantially greater proportion of larceny defendants than did the other two jurisdictions.

#### Recidivism—Defendants Arrested While on Conditional Release

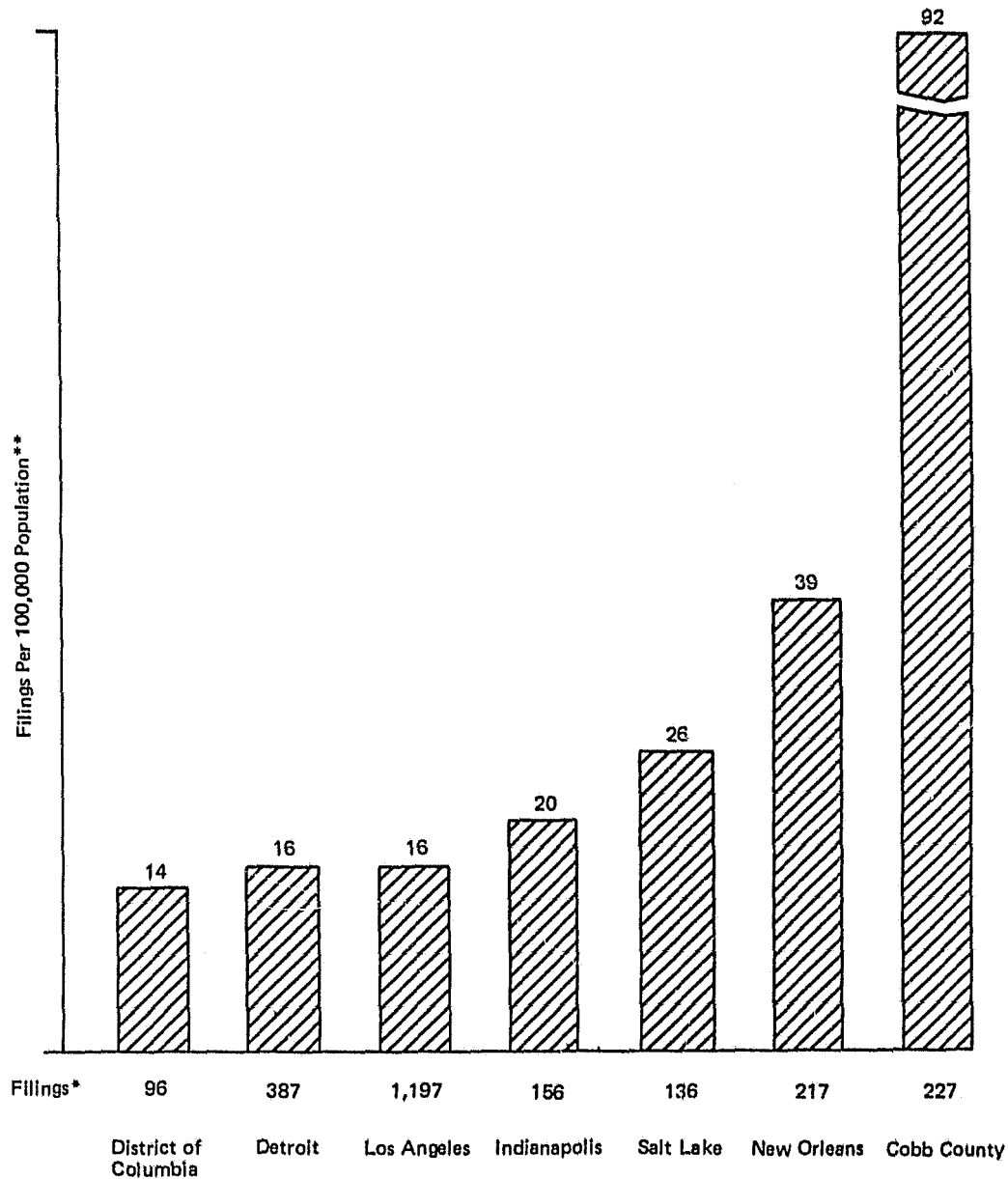
As indicated by Figure C.41, in three of the four jurisdictions compared, over 20 percent of the larceny defendants were arrested while on pretrial release in connection with another crime.



## Incarceration Rates and Length of Sentences

Of the four jurisdictions shown in Figure C.42, Indianapolis incarcerated the largest proportion of those convicted of assault (69 percent); Detroit, the smallest (34 percent). The majority of incarcerated larceny defendants in Detroit, Indianapolis, and New Orleans received sentences of from one-to-five years.

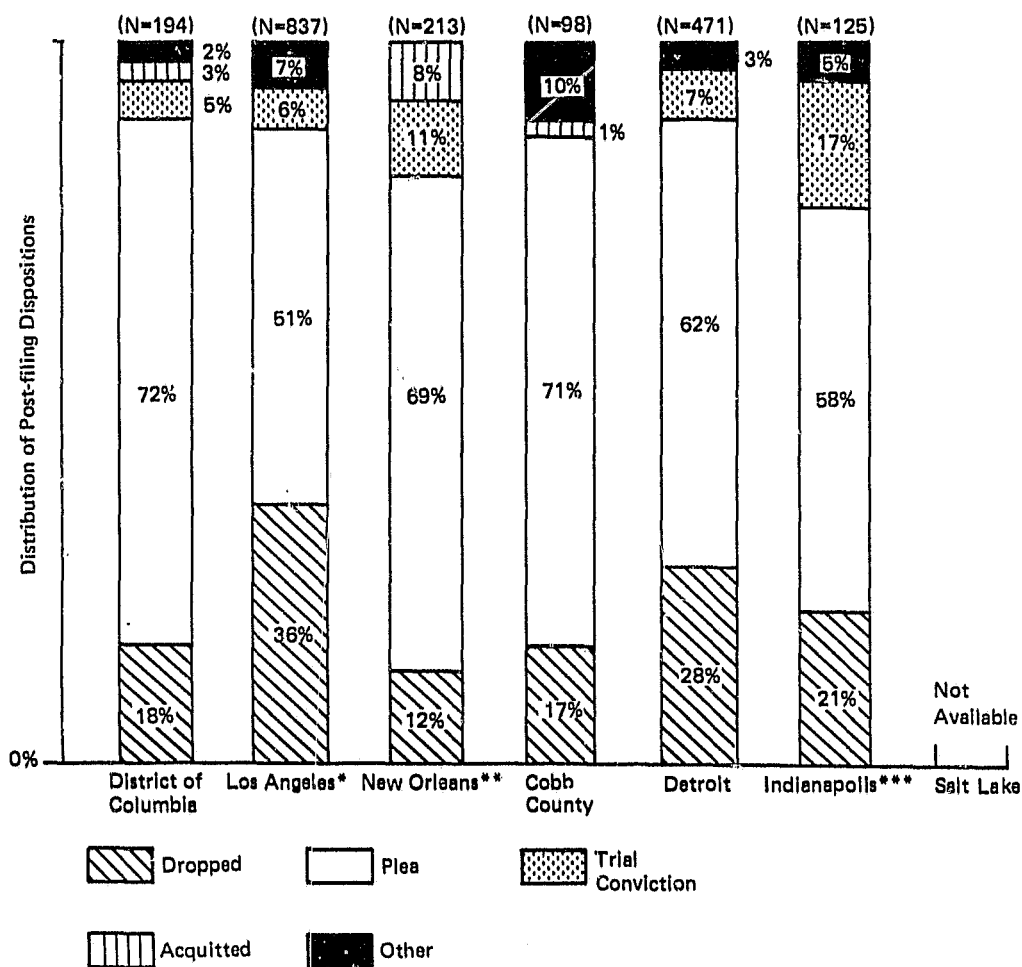
Figure C.36. LARCENY FILINGS PER 100,000 POPULATION



\*PROMIS data, January-June 1977.

\*\*Based on U.S. Census Bureau estimates for 1976.

Figure C.37. LARCENY DISPOSITIONS FROM ARREST THROUGH TRIAL



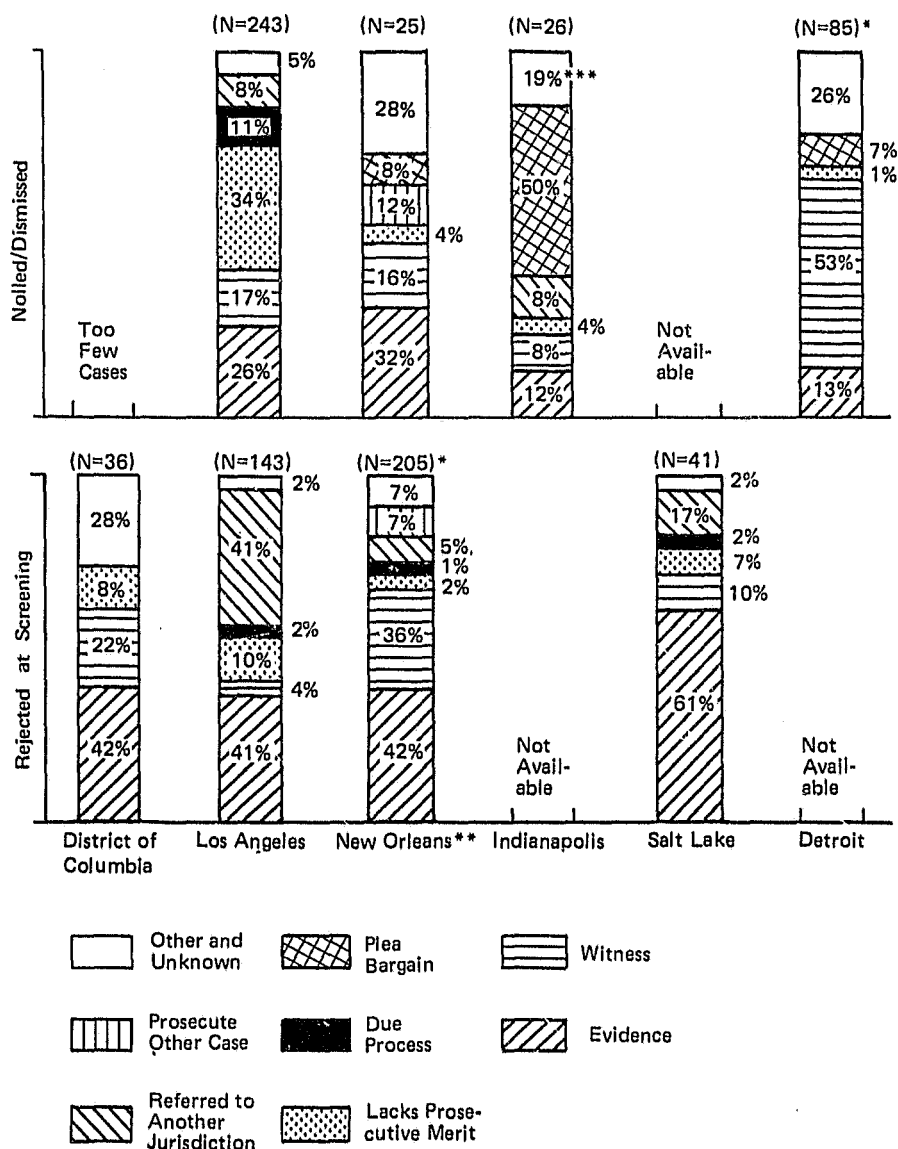
Source: PROMIS data, January-June 1977.

\*Referrals accounted for 8 percent of nolle/denials.

\*\*About 12 percent of nolle/denials involve decisions to prosecute other cases against defendants.

\*\*\*About 8 percent of nolle/denials were attributed to referrals.

Figure C.38. TERMINATED LARCENY CASES—THE REASONS



Source: PROMIS data, January–June 1977.

\*Excludes nolles/dismissals for which reasons were not recorded.

\*\*Most of the "other" reasons for nolles/dismissals are "diversion."

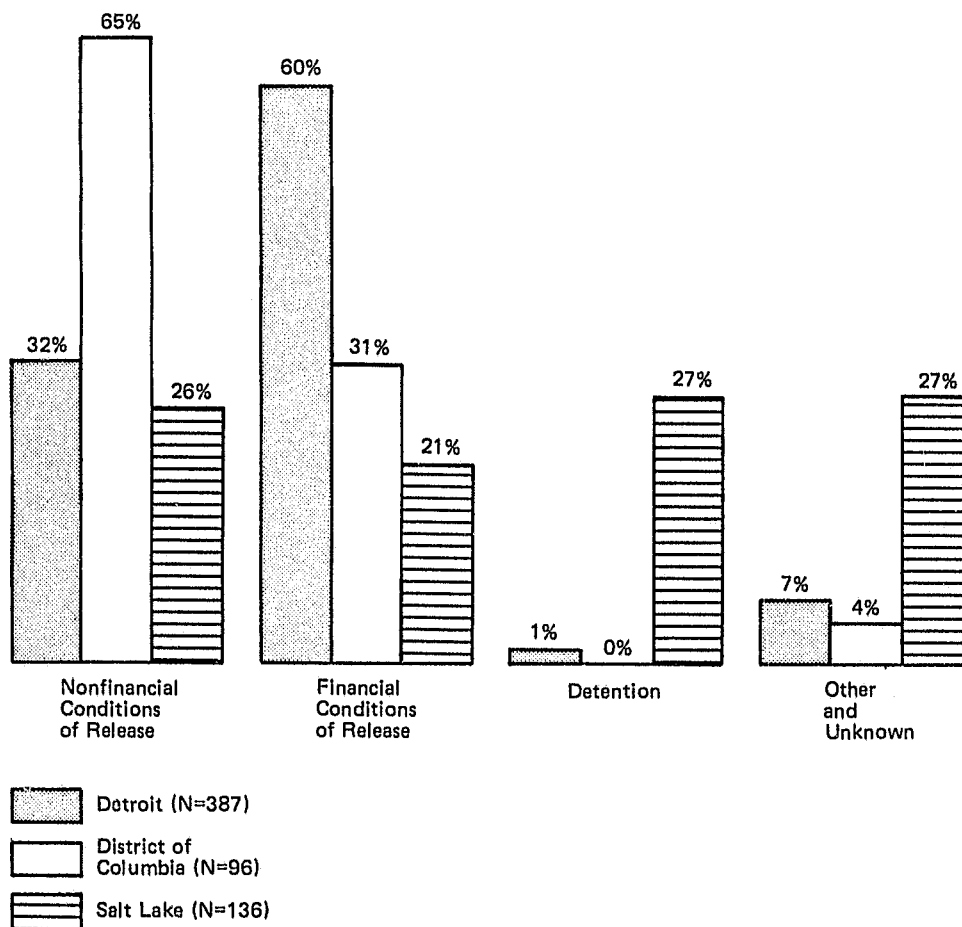
\*\*\*About 40 percent of this category is accounted for by diversions.

Figure C.39. MEAN PROCESSING TIME FOR LARCENY CASES

Jurisdiction	N	Processing Stages and Time					
		Arrest	Screening	Preliminary Examination	Indictment	Postindictment Disposition	Sentencing
District of Columbia	111	215 days					
	71	16					
	62	62					
	111	152					
Indianapolis	92	188					
	94	8					
	111	173					
Cobb County	88	315					
	116	102					
	88	192					
New Orleans	184	135					
Los Angeles	400	125					
	294	142					
	613	36					
Detroit	69	118					
	378	47					

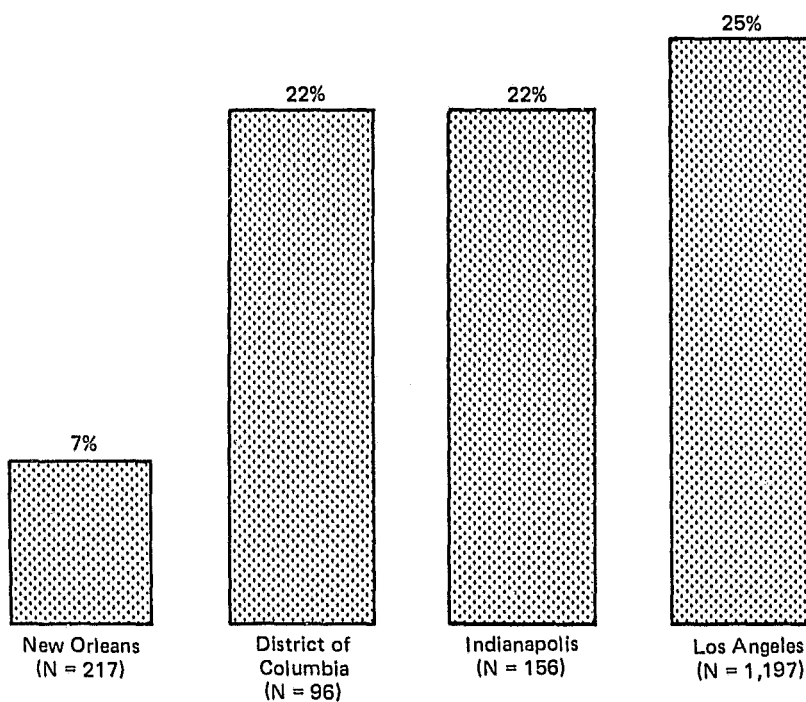
Source: PROMIS data, January-June 1977.

Figure C.40. DISTRIBUTION OF PRETRIAL RELEASE DECISIONS AT ARRAIGNMENT IN LARCENY CASES



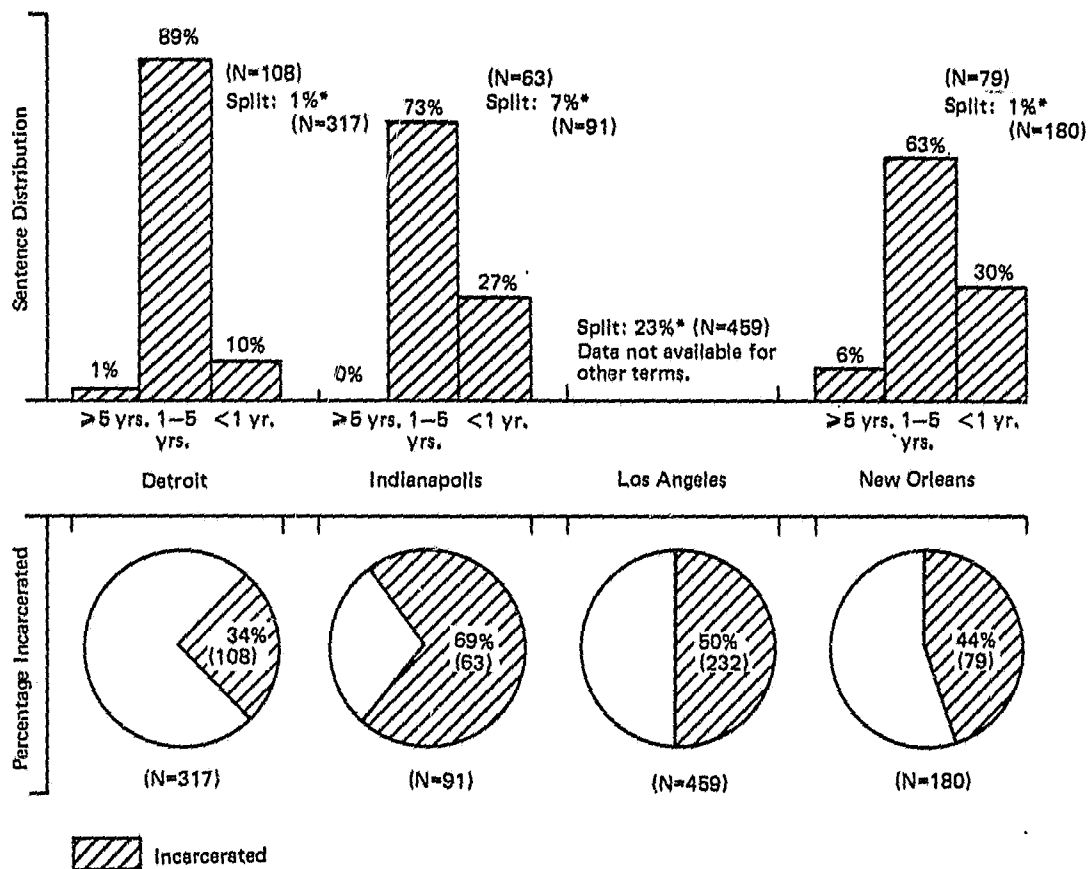
Source: PROMIS data, January—June, 1977.

Figure C.41. PERCENTAGE OF LARCENY DEFENDANTS ARRESTED  
WHILE ON CONDITIONAL RELEASE



Source: PROMIS data, January—June 1977.

Figure C.42. PERCENTAGE OF CONVICTED LARCENY DEFENDANTS  
INCARCERATED AND LENGTH OF SENTENCE



Source: PROMIS data, January-June 1977.

\*Percentage of those sentenced who received six months or less plus probation.

## AUTO THEFT

### Prosecutions in Cobb County, Detroit, District of Columbia, Indianapolis, Los Angeles, New Orleans, and Salt Lake County

#### Filings and Filing Rates

Of the seven jurisdictions compared in Figure C.43, auto theft filings per 100,000 population ranged from 1 in Los Angeles to 23 in Detroit.

#### Disposition Rates

At screening, prosecutors rejected from 3 to 72 percent of arrests, as shown below:

Cobb County	(n = 58)	3%
District of Columbia	(n = 215)	28
Salt Lake	(n = 63)	29
New Orleans	(n = 33)	55
Los Angeles	(n = 198)	72

In some jurisdictions, a number of cases were diverted to other agencies for prosecution, or rejected in favor of prosecuting another case against the defendant (District of Columbia, 5 percent; New Orleans, 11 percent; Salt Lake, 20 percent; Los Angeles, 48 percent).

Of post-filing dispositions, nolle and dismissals accounted for between 12 and 52 percent of the total; pleas, from 42 to 74 percent; and trial convictions from zero to 30 percent.

Except in one of the five jurisdictions compared, pleas were to the top charge most of the time: New Orleans, 100 percent; Detroit, 97 percent; Los Angeles, 93 percent; Indianapolis, 53 percent; District of Columbia, 43 percent. Data were sufficient in only two jurisdictions to compare the percentage of trial convictions that were secured on the top charge: Detroit, 84 percent; New Orleans, 38 percent.

#### Reasons for Terminated Cases

For those few jurisdictions for which the data permit comparisons (Figure C.45), witness and evidence reasons again generally accounted for most terminated cases. Of particular importance in Los Angeles were referrals.

#### Case-processing Time and Continuances

In the few instances in which comparisons are possible in Figure C.46, significant variations in the processing time required for auto theft cases are evident. The mean number of nonprocedural continuances ranged from 1.3 in New Orleans and the District of Columbia to 1.9 in Los Angeles. The continuance figures for Detroit and Indianapolis are, respectively, 1.8 and 1.7.

#### Pretrial Release Decisions

A familiar pattern is again indicated by Figure C.47. At arraignment, the District of Columbia emphasized nonfinancial conditions; Detroit, financial conditions; and Salt Lake, detention.

#### Recidivism—Defendants Arrested While on Conditional Release

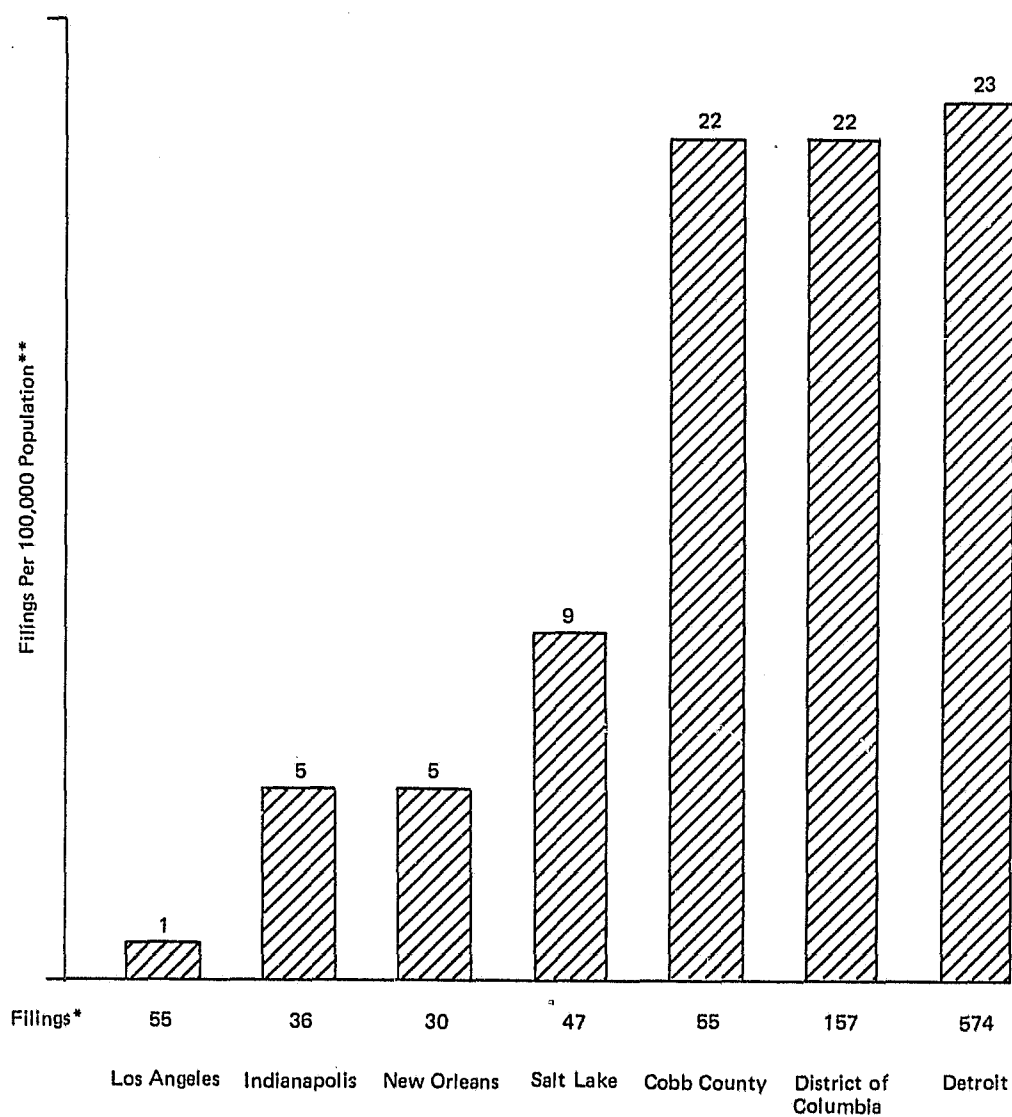
As noted by Figure C.48, the proportion of auto theft defendants arrested while on pretrial release in connection with another crime ranged from 7 percent in New Orleans to 33 percent in Los Angeles.

#### Incarceration Rates and Length of Sentences

Of the three jurisdictions compared in Figure C.49, Indianapolis incarcerated the largest percentage of convicted auto theft defendants (76 percent). Both Indianapolis and Detroit emphasized sentences of one to five years. New Orleans sentenced all such defendants to under one year.



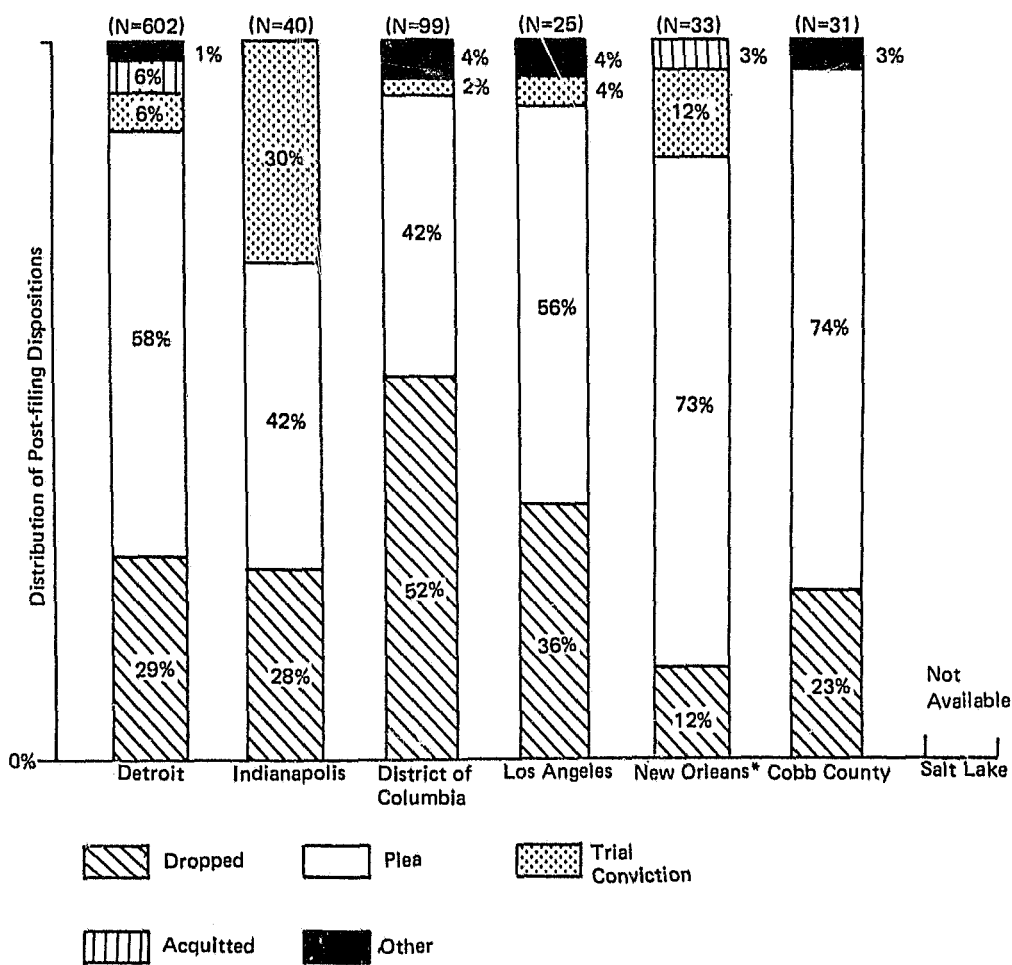
Figure C.43. AUTO THEFT FILINGS PER 100,000 POPULATION



\*PROMIS data, January-June 1977.

\*\*Based on U.S. Census Bureau estimates for 1976.

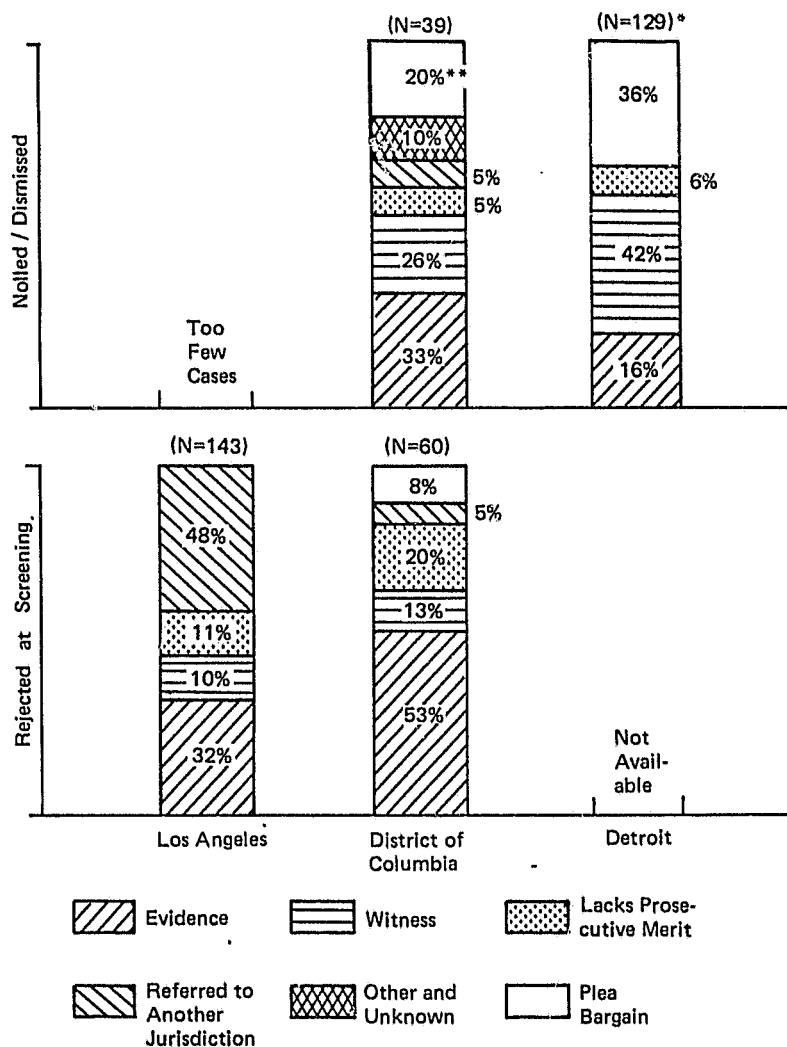
Figure C.44. AUTO THEFT DISPOSITIONS FROM ARREST THROUGH TRIAL



Source: PROMIS data, January—June 1977.

\*Referrals accounted for 25 percent of nolle/proceeds.

Figure C.45. TERMINATED AUTO THEFT CASES—THE REASONS



Source: PROMIS data, January—June 1977.

\*Excludes nolles/dismissals for which reasons were not recorded.

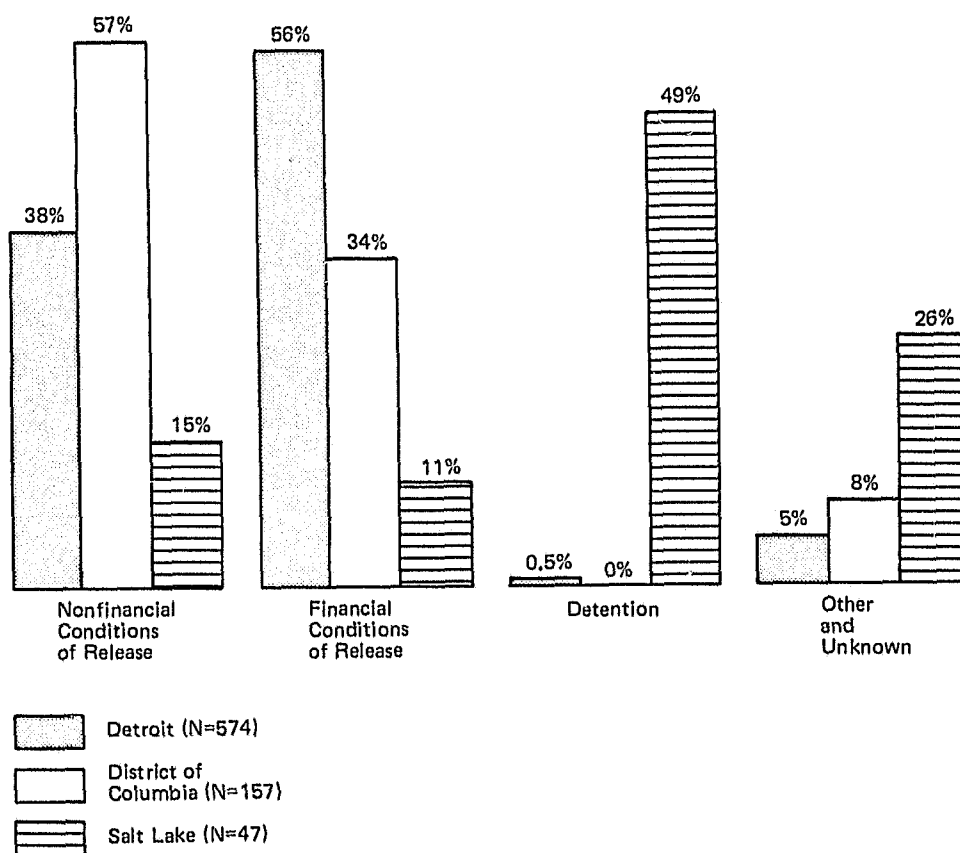
\*\*Diversion represents 25 percent of the "other" category.

Figure C.46. MEAN PROCESSING TIME FOR AUTO THEFT CASES

Jurisdiction	N	Processing Stages and Time					
		Arrest	Screening	Preliminary Examination	Indictment	PostIndictment Disposition	Sentencing
District of Columbia	116	16 days					
Indianapolis	31	144					
	36					123	
	28	28					
Cobb County	24	218					
	24					145	
	26	82					
Detroit	82	125					
	533	28					
Los Angeles	35	18					
New Orleans	28	73					

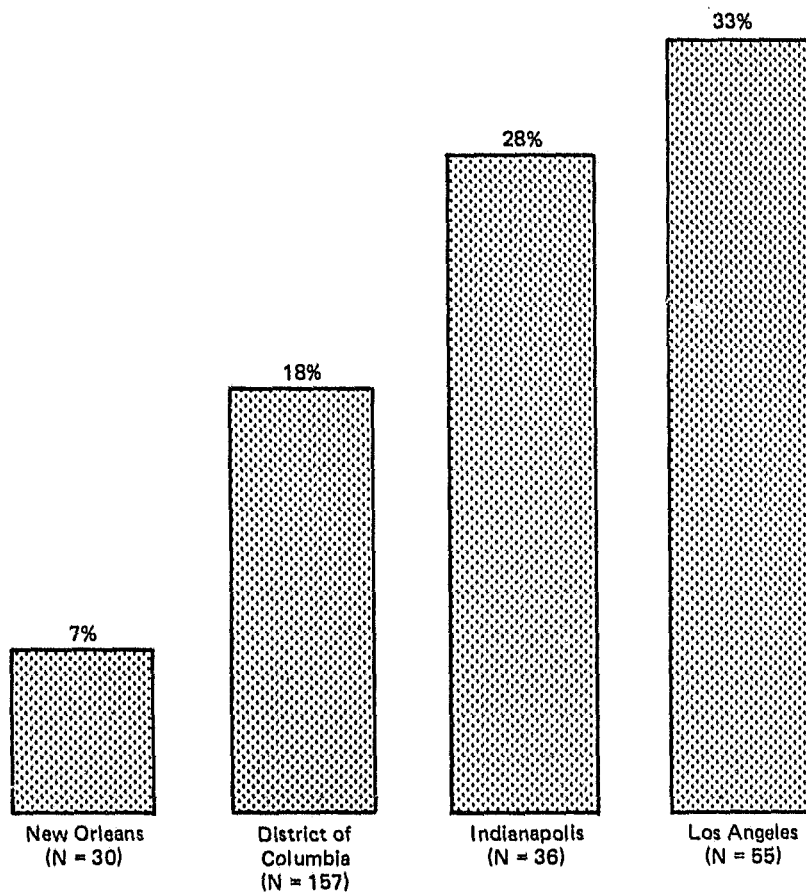
Source: PROMIS data, January—June 1977.

Figure C.47. DISTRIBUTION OF PRETRIAL RELEASE DECISIONS  
AT ARRAIGNMENT IN AUTO THEFT CASES



Source: PROMIS data, January—June 1977.

Figure C.48. PERCENTAGE OF AUTO THEFT DEFENDANTS ARRESTED WHILE ON CONDITIONAL RELEASE

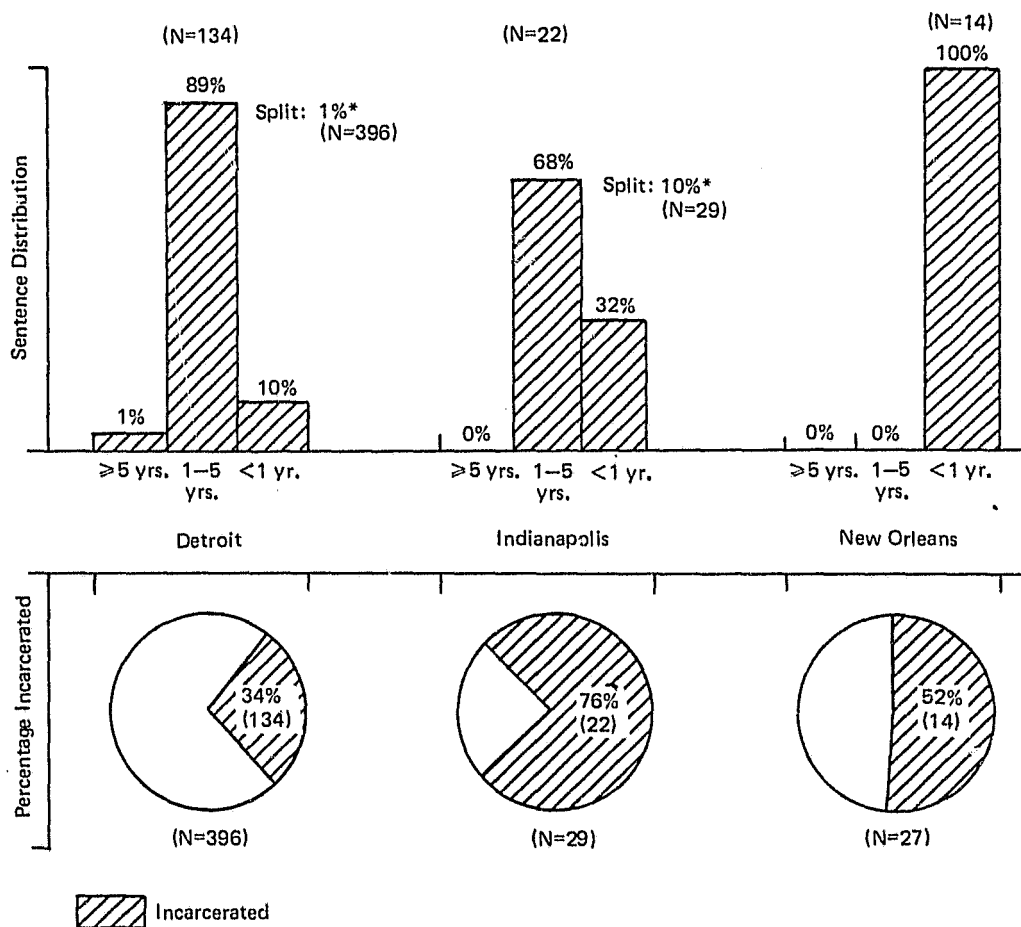


Source: PROMIS data, January-June 1977.

**CONTINUED**

**2 OF 3**

Figure C.49. PERCENTAGE OF CONVICTED AUTO THEFT DEFENDANTS INCARCERATED AND LENGTH OF SENTENCE



Source: PROMIS data, January-June 1977.

\*Percentage of those sentenced who received six months or less plus probation.



## FELONY DRUGS

### Prosecutions in Los Angeles, Indianapolis, Salt Lake, New Orleans, Detroit, and Cobb County

#### Filings and Filing Rates

Of the six jurisdictions compared in Figure C.50, Cobb County filed the most felony drug cases relative to population. (In Cobb County, marihuana offenses are prosecuted as felonies.) Los Angeles and Indianapolis filed the fewest drug cases relative to population.

#### Disposition Rates

At screening, prosecutors rejected up to 58 percent of the drug arrests:

Cobb County	(n = 235)	0%
Salt Lake	(n = 205)	7
New Orleans	(n = 660)	51
Los Angeles	(n = 3,053)	58

In Los Angeles and New Orleans, 34 percent and 22 percent, respectively, involved decisions to refer the arrest to other agencies for prosecution or to prosecute another case against the defendant.

Of post-filing dispositions, 15 to 43 percent were nolles and dismissals, and from 52 to 76 percent were guilty pleas and trial convictions.

Ninety percent of the post-indictment (or higher court stage) pleas in drug cases in New Orleans were to the top charge in the case. This compares with 87, 78, and 62 percent of the pleas in Detroit, Los Angeles, and Indianapolis, respectively. Trial convictions were to the top charge 66 percent of the time in New Orleans, 86 percent in Detroit, 78 percent in Los Angeles, and 67 percent in Indianapolis. (The rate of plea to the top drug charge was quite similar to the rate of trial conviction to the top charge in Detroit, Los Angeles, and Indianapolis; in New Orleans, however, trial convictions were much less often to the top charge than were pleas.)

#### Reasons for Terminated Cases

As indicated by Figure C.52, the dominant reason for rejecting drug cases at screening was insufficient evidence. Due process reasons for terminations were more common in drug cases than in any of the other crime categories. (Fifteen percent of the rejections in Los Angeles and 42 percent in New Orleans; 23 percent of the nolles and dismissals in Los Angeles, 26 percent in New Orleans, 13 percent in Detroit, and 4 percent in Indianapolis.) In Los Angeles, 34 percent of the drug rejections were referred for other prosecution; and, in New Orleans, 22 percent of the drug rejections were dropped because of another prosecution against the same offender.

#### Case-processing Time and Continuances

In the few instances in which the data depicted in Figure C.53 permit comparisons, there seems to be some variation in case-processing times for drugs. The mean number of nonprocedural continuances varied little among the jurisdictions: Indianapolis, 1.9; New Orleans, 2.0; Detroit, 2.1; and Los Angeles, 2.5.

#### Pretrial Release Decisions

Figure C.54 depicts the pretrial release decisions in Detroit and Salt Lake.

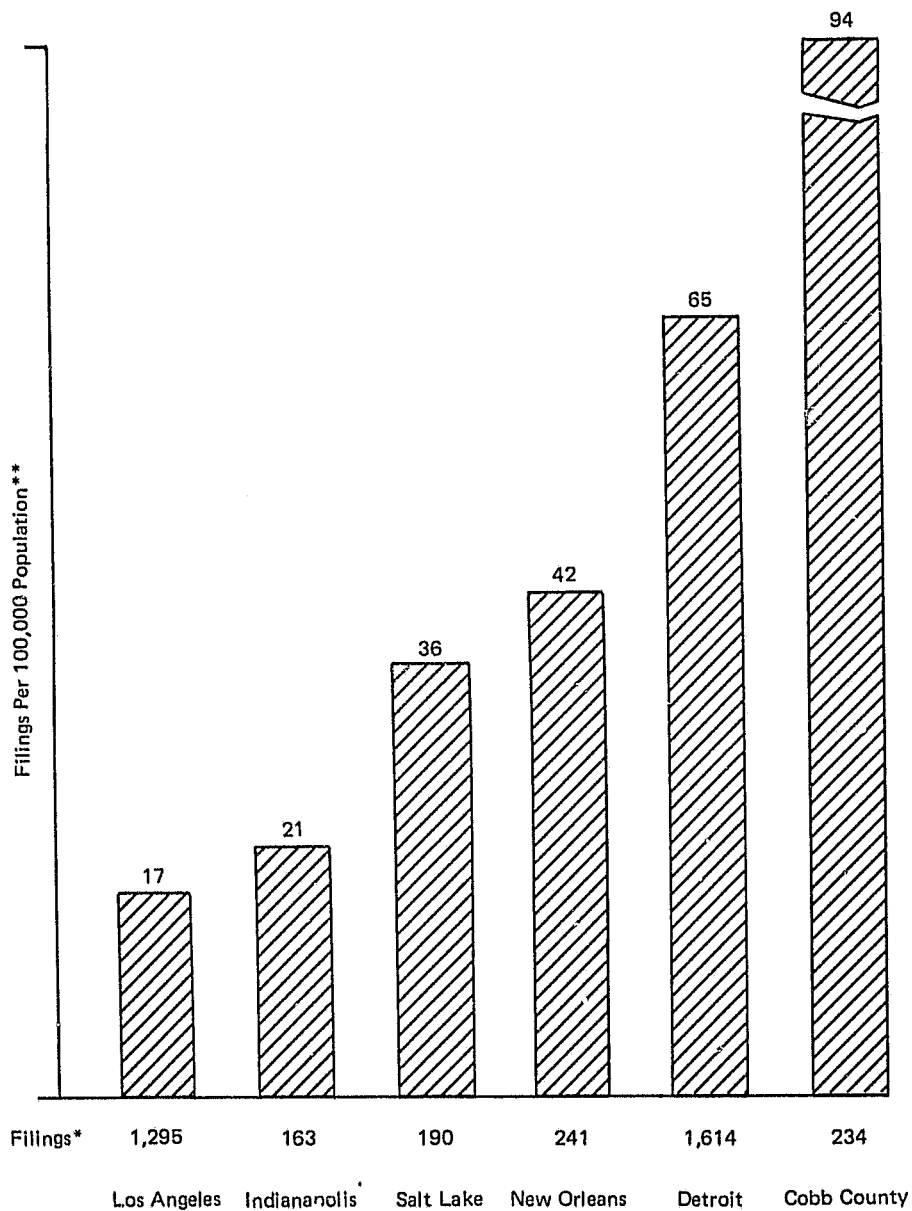
**Recidivism—Defendants Arrested While on Conditional Release**

In New Orleans and Los Angeles, 10 percent of the persons arrested for drugs were on conditional release in connection with another crime. Fifteen percent of the drug defendants in Indianapolis were on conditional release at arrest (Figure C.55).

**Incarceration Rates and Length of Sentences**

In the jurisdictions represented in Figure C.56, from 32 to 50 percent of the defendants convicted of felony drug offenses were sentenced to incarceration. In New Orleans, more than half were sentenced to five years or more incarceration. The majority of the sentences in Indianapolis and Detroit were for terms with a minimum of one-to-five years.

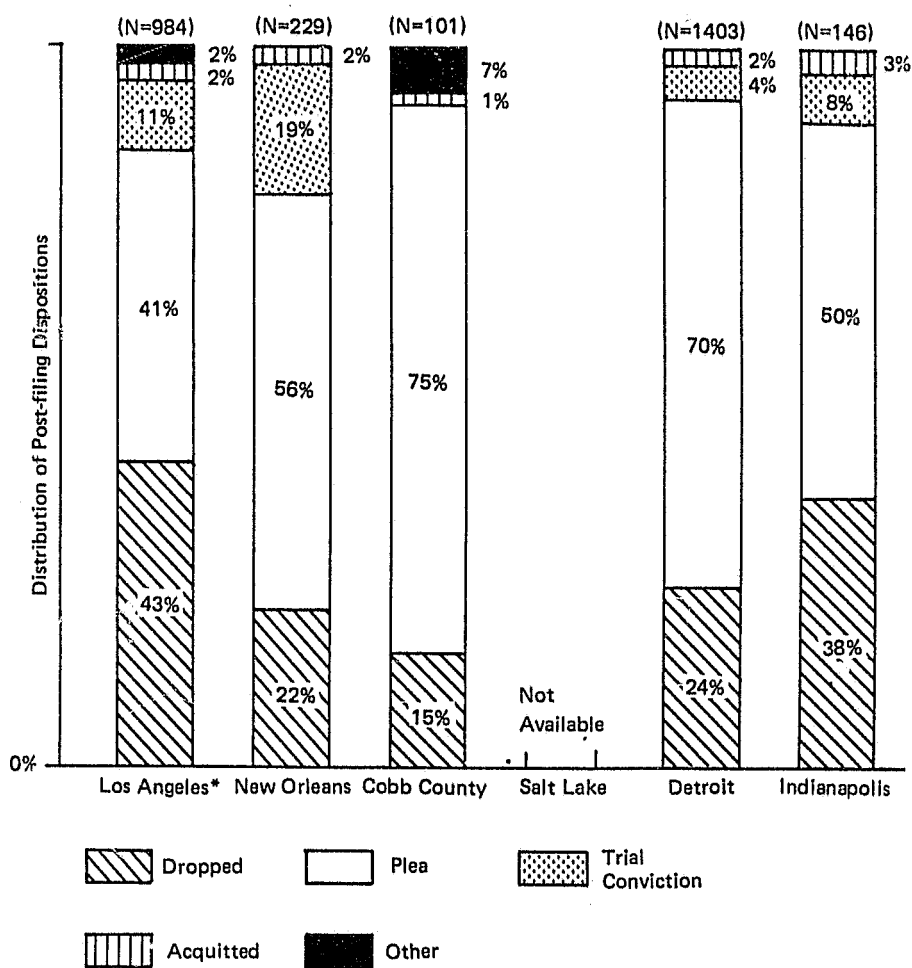
Figure C.50. DRUG FILINGS PER 100,000 POPULATION



\*PROMIS data, January-June 1977.

\*\*Based on U.S. Census Bureau Estimates for 1976.

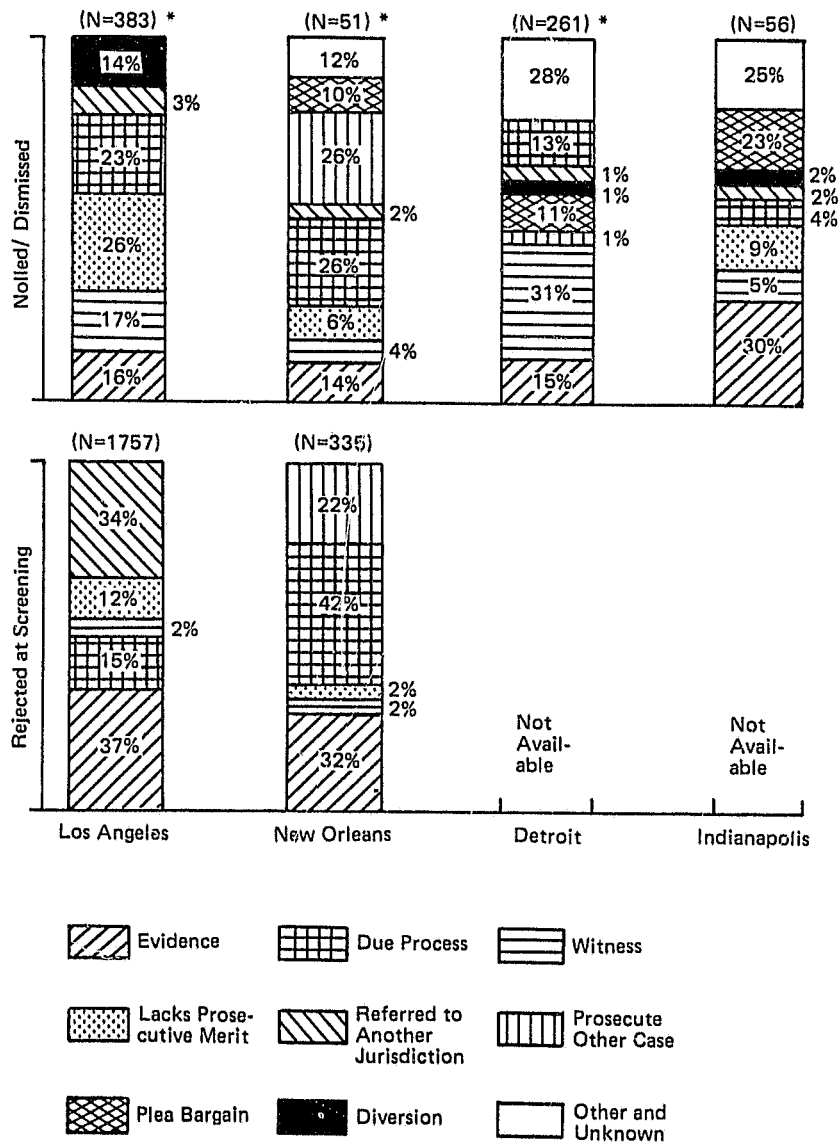
Figure C.51. DRUG DISPOSITIONS FROM ARREST THROUGH TRIAL



Source: PROMIS data, January-June 1977.

\*About 3 percent of the nolle and dismissals were referred to other agencies for prosecution.

Figure C.52. TERMINATED DRUG CASES—THE REASONS



Source: PROMIS data, January–June 1977.

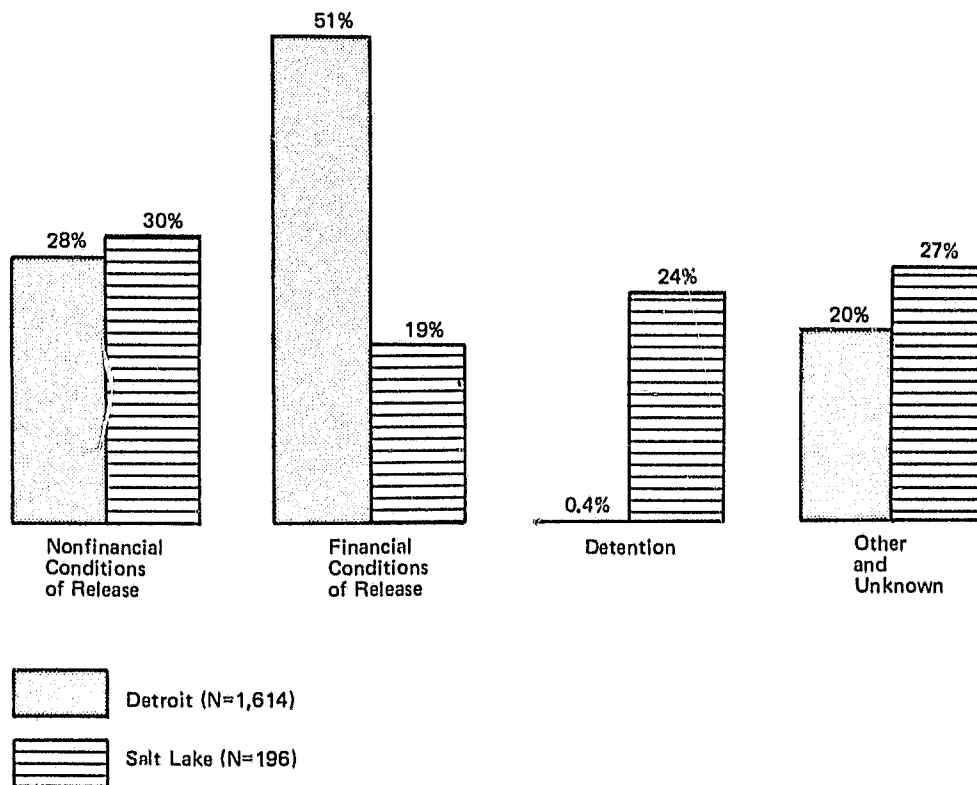
\*Excludes nolle/pro dismissals for which reasons were not recorded.

Figure C.53. MEAN PROCESSING TIME FOR DRUG CASES

Jurisdiction	N	Processing Stages and Time					
		Arrest	Screening	Preliminary Examination	Indictment	Postindictment Disposition	Sentencing
Los Angeles	941	59 days					
	518	178					
	314	193					
Indianapolis	140	14					
	123	248					
	106	228					
Cobb County	112	99					
	80	145					
	81	221					
Detroit	1,369	48					

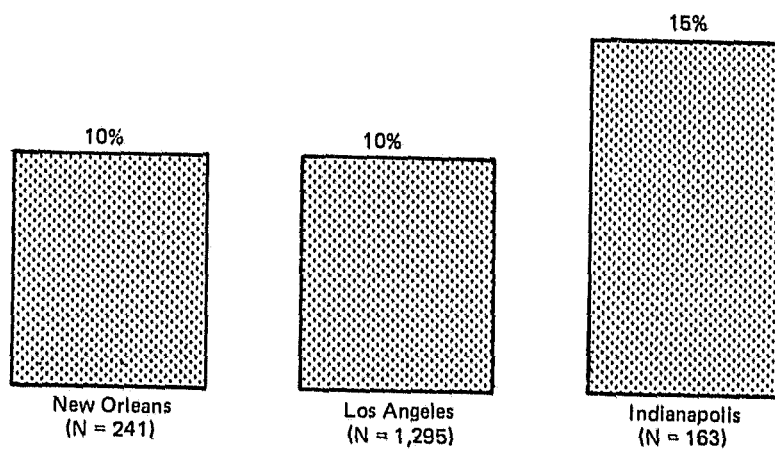
Source: PROMIS data, January-June 1977.

Figure C.54. DISTRIBUTION OF PRETRIAL RELEASE DECISIONS  
AT ARRAIGNMENT IN DRUG CASES



Source: PROMIS data, January–June 1977.

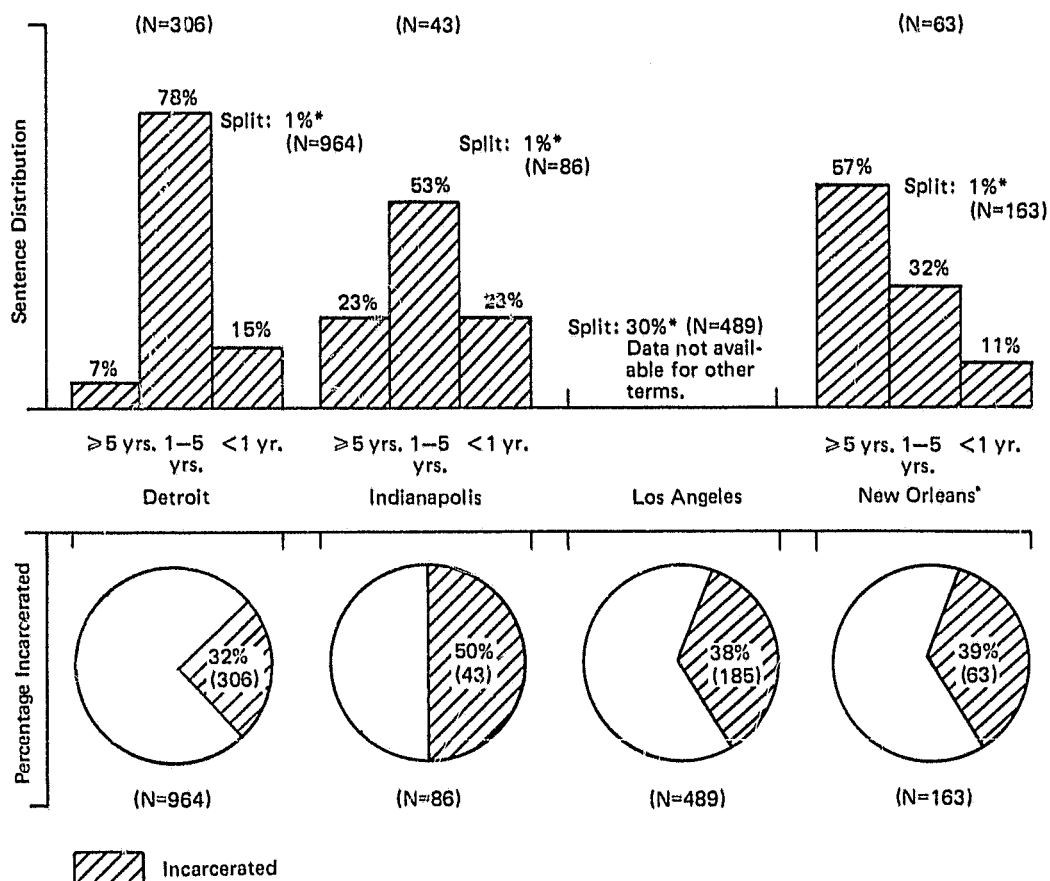
Figure C.55. PERCENTAGE OF DRUG DEFENDANTS ARRESTED WHILE ON CONDITIONAL RELEASE



Source: PROMIS data, January-June 1977.



Figure C.56. PERCENTAGE OF CONVICTED DRUG DEFENDANTS INCARCERATED AND LENGTH OF SENTENCE



Source: PROMIS data, January-June 1977.

\*Percentage of those sentenced who received six months or less incarceration plus probation.