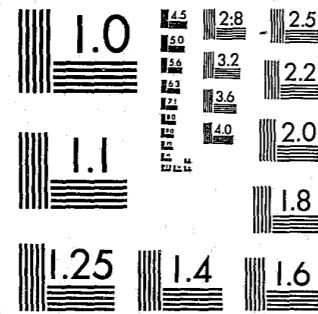


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PRETRIAL RELEASE:
AN EVALUATION OF DEFENDANT
OUTCOMES AND PROGRAM IMPACT

DELIVERY SYSTEM ANALYSIS OF
SANTA CLARA COUNTY, CALIFORNIA

Supported by a Grant from the
National Institute of Law Enforcement and Criminal Justice
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X
DELIVERY SYSTEM ANALYSIS OF
SANTA CLARA COUNTY, CALIFORNIA

Working Paper No. 7

by

Kristina Peterson

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INTRODUCTORY NOTE

Pretrial Release: An Evaluation of Defendant Outcomes and Program Impact presents the results of a national evaluation of pretrial release practices. The major findings and recommendations of the overall research effort are provided in *Summary and Policy Analysis*. Detailed results appear in three volumes:

- *Release Practices and Outcomes: A Cross-Sectional Analysis of Eight Jurisdictions* analyzes the ways that defendants secure release pending trial as well as the extent and correlates of pretrial criminality and failure-to-appear.
- *The Impact of Pretrial Release Programs: An Experimental Analysis of Four Jurisdictions* examines the extent to which program activities result in different release outcomes or changed defendant behavior during the pretrial period.
- *Pretrial Release Without Formal Programs* considers the nature of release decision-making in selected jurisdictions that lack pretrial release programs, because such programs either were never established or lost their funding.

Each volume is self-contained and can be read singly or in conjunction with other volumes.

Additionally, fourteen working papers have been prepared. Twelve of the working papers discuss the pretrial release practices in the individual jurisdictions studied; the remaining papers present detailed analyses of defendant outcomes for the two pilot test sites. Important findings from the various working papers have been included in the relevant volumes of the national evaluation of pretrial release.

PROGRAM HIGHLIGHTS

Background

The Santa Clara County pretrial release program was originated by a Judicial Executive Committee composed of both Municipal and Superior Court judges. It was funded briefly by L.E.A.A. and since 1971 by the county. Its scope of responsibilities has expanded from a misdemeanor O.R. program to include felony O.R.'s and Supervised O.R. The program is technically independent of other county departments and has a staff consisting of the Director, two Supervisors, 12 full-time interviewers, several part-time interviewers and 4 clerical members. Its budget is approximately \$440,00 per year.

Program Procedures

Pretrial Release Specialists are stationed at each of the three main booking facilities every day, 24-hours-a-day. Specialists interview the defendants immediately after booking and then verify the information. A point system is employed which does not take into account the nature of the charge. The program has the authority to release misdemeanor defendants if they have secured the required number of points. Felony cases are immediately referred to a judicial officer (between 8 AM and 10 PM) with a program recommendation.

The types of release available in Santa Clara County include: O.R., Supervised O.R., Conditional Release, and Surety Bond. Defendants granted an O.R. release are reminded of their initial court date by mail approximately 3 days before the appearance.

Those not granted O.R. and who do not post bail may be again referred to the program for re-investigation and Supervised Release consideration. Supervised clients are monitored more closely by the program and must be contacted at least once a week.

At the conclusion of the pretrial period, the program prepares a report on the defendant concerning compliance with any release conditions. These reports may be used by the Court for sentencing purposes.

Scope of Operations

Those eligible for program services represent approximately 66 percent of all persons arrested. The program actually interviews about 85 percent of the eligible felony defendants and 76 percent of the eligible misdemeanor defendants. Thus, of the 27,704 persons booked in 1977, 18,165 were eligible and 14,293 were interviewed.

The number of cases referred to the Supervised Release program in 1977 was 3,193 (or an average of 266 per month).

Release Rates

The number of defendants granted O.R. has increased over the years (from 5,419 in 1972 to 7,729 in 1977) although the rate has been fairly steady at about 55 percent of those interviewed.

Failure to Appear and Pretrial Criminality Rates

Failure to Appear rates have been fairly steady for the program's O.R. clients during the 1971-1978 period. The percent of such defendants who failed to appear and did not subsequently return to Court has ranged between 2.1 and 3.8. There is no discernible tendency for misdemeanor defendants to skip more or less than felony defendants. Rates for these two groups ranged from 2.2 to 3.9 percent and from 1.2 to 4.1 percent, respectively. Those defendants who simply missed a scheduled court appearance represent a much higher proportion of program clients. In the period 1971-72, this group totaled 6.4 - 7.1 percent of the O.R. defendants.

The very sparse information existing on rearrest rates suggests that in 1971 approximately 5.6 percent of all O.R. male defendants were rearrested pending trial for another offense. In the last quarter of 1974, approximately 13 percent of those defendants on supervised release were rearrested.

PROGRAM INDICATORS SUMMARY

Impact on Release Rates (1977)

Program recommended own recognizance release rate (both Programs combined):
57% (of those interviewed)
29% (of those booked)

Supervised Release Rate: 20% (of those referred)
2.3% (of all bookings)
4.5% (of all those interviewed by O.R. Specialists)

Total Released (O.R. and Supervised Release):
62% (of those interviewed)
32% (of those booked)

Failure to Appear (Fiscal 1976 Skip Rates)^a

FTA Rate for Felony Defendants Released on O.R.: 3.0% (of felony defendants released)

FTA Rate for Misdemeanor Defendants Released on O.R.: 2.6% (of misdemeanors defendants released)

Total FTA Rate for Regular O.R. Program Clients (Felony and Misdemeanor): 2.7% (of total released)

FTA Rate for Defendants Released on Bail (Refers only to those defendants interviewed by the Program who had sufficient points for O.R.): 5.1% (of these bailed defendants, 1971)

Total FTA Rate for All Defendants Released Following Supervised Release Investigation: 7.9%

Pretrial Criminality

Rearrests of Those Defendants Released on O.R. by Regular O.R. Program: 5.6% (August-December 1974, males only)

Rearrests of All Defendants Released Following Supervised Release Investigation: 13% (August-December 1974)

Rearrests of Those Defendants Released on Bail: 6.5% (of those interviewed by the Regular O.R. staff who had sufficient points for an O.R.)

Speed of Operations (1978)

Time between Arrest and Interview: less than one hour
Time between Interview and Release: misdemeanor cases = 30 minutes
felony cases = 2-6 hours

Eligibility

Regular O.R. Program: All arrestees except those with outstanding warrants, parolees, probationers and those charged with drunkenness.

Supervised Release Program: All defendants referred for investigation by the Court.

Scope of Interviewing (1977)

Percentage of Eligible Arrestees Interviewed: 79%

Percentage of All Arrestees Eligible: 66%

Percentage of Eligible Felony Defendants Interviewed: 85%

Descriptive Information

Number of Interviews Per Year: 14,300 (1977)
Number of Program-Recommended O.R. Releases: 7729 (1977)
Budget: \$441,000 (fiscal year 1978-79)
Permanent Staff Positions: 19
Public Service Employee Positions (CETA): 4

a. Skip Rates—Rates of defendants who fail to appear minus those defendants who return voluntarily or by the program or police.

I. PROGRAM SETTING

A. Jurisdiction Served

1. Economic and Political Structure

Santa Clara County is located in the Santa Clara Valley at the southern end of San Francisco Bay. It is a highly urbanized area with fully 98 percent of its 1.2 million inhabitants living in one of the five cities in the northwestern section of the county: Mountain View (population 58,000), Palo Alto (54,000), San Jose (57,610), Santa Clara (86,200), or Sunnyvale (105,300). The most significant recent change in the county's population occurred in the 1960's when the annual growth rate approached seven percent. During the latter part of the decade, the strains created by this population increase apparently combined with new social attitudes to create an impetus for revision in the criminal justice system. Since 1970, the population growth rate has dwindled and has averaged only 1.3 percent per year.

The social composition of the county reflects the racial mixture in the whole of California. In 1970, census statistics indicate that the Santa Clara County population was 76.8 percent white, 17.5 percent Hispanic, 3.0 percent Oriental and 1.7 percent black.

Economically, the people of Santa Clara are relatively prosperous, with over half of the population employed in a white collar occupation. A household income survey by the San Jose Chamber of Commerce reveals that in 1977 over 34 percent of the Santa Clara households had incomes of over \$25,000 per year and the median household income (\$20,421)

was significantly higher than that for California (\$15,629) or the United States (\$15,016). These figures suggest the likelihood of economic incentives for crime, especially property crime. (Summaries of the demographic, social and economic profile of Santa Clara are given in Tables 1, 2 and 3, respectively.)

Although the effective buying power of households seems relatively high, the total economic well-being of the people in Santa Clara must be viewed in the context of its poor employment situation. Between 1970 and 1977, the average yearly unemployment rate was 6.8 percent of the labor force (see Table 1). Following the national trend, this rate fluctuated through the years and reached a peak in 1975 of 9.2 percent unemployment.

Santa Clara County is governed by a Board of Supervisors consisting of five members elected by districts with overlapping, four-year terms of office. (The county seat is San Jose, a city located in the northwestern section of the county.) The Board's extensive powers include the appropriation of all county funds and the appointment of the County Executive, County Council and members of boards and commissions. The County Executive is the chief administrative officer of the county who serves at the pleasure of the Board for an unspecified length of time. Other appointive offices include the County Superintendent of Schools, the Chief Adult and Juvenile Probation Officers and the Juvenile Justice Commission. The District Attorney, Sheriff and members of the County Board of Education are county-wide elective offices. Although the Board of Supervisors are the most powerful governmental agents in Santa Clara County, they are not without public

Table 1. Population and Unemployment, Santa Clara County, 1970-1978

Year	Population	Civilian Labor Force	Unemployment Rate
1970	1,064,714	440,132	5.4%
1971	1,141,000	481,000	6.2%
1972	1,141,000	505,000	7.9%
1973	1,141,000	544,000	5.7%
1974	1,154,000	561,000	5.9%
1975	1,165,800	555,000	9.2%
1976	1,184,200	568,000	7.7%
1977	1,202,100	633,400	6.6%

Source: San Jose Chamber of Commerce Statistical Summary 1977-78.

Table 2. Occupational Summary of Santa Clara County, 1973

Occupation	Percent of Labor Force
INDUSTRY	
Manufacturing	30.0%
Wholesale and Retail Trade	17.6
Services	10.1
Educational Services	9.8
Construction	3.8
Government	13.7
WHITE COLLAR	
Professional/Managerial	33.1%
Sales and Clerical	26.0
Agriculture	1.7
Craftsmen and Foremen	12.4

Note: Total labor force in 1978 was 635,900
Source: San Jose Chamber of Commerce, Economic Development Department

monitoring. In addition to the periodic elections, citizens possess the powers of initiative and referendum as provided for in the California State Constitution.

Table 3. Economic Profile of Santa Clara County, 1977

Economic Indicator	Santa Clara	California	United States
<u>Household Income Group:</u>			
Under \$10,000	18.6%	30.3%	31.9%
\$10,000-\$25,000	46.8	48.6	48.8
Over \$25,000	34.6	21.1	19.3
Median Household Income	\$20,421	\$15,629	\$15,016
Mean Household Income	\$22,157	\$17,964	\$27,327
Source: San Jose Chamber of Commerce, <u>Statistical Summary 1977-78</u>			

2. Crime Trends

Trends in reported crime and criminal arrests for Santa Clara County are presented in Tables 4 and 5, respectively. The absolute number of total reported crime has oscillated during the past eight years, though the overall change represents a 48.7 percent increase (1970-1977). Its irregularity appears to be an artifact of the changing size of the population. When population is controlled for, the upward trend in reported crime is moderated considerably and the oscillations are dampened. Thus, the per capita increase in reported crime was 32.9 percent between

Table 4. Reported Crimes, Santa Clara County, 1970-1977, Selected Crimes

Charge	1970	1971	1972	1973	1974	1975	1976	1977
Homicide	19	33	49	50	55	56	65	67
Rape	320	330	349	391	367	412	503	538
Robbery	922	929	1,202	1,194	1,472	1,626	1,749	1,333
Assault	1,307	1,408	1,489	1,285	1,631	1,955	2,211	2,332
Burglary	14,232	16,534	18,443	18,215	21,363	24,780	23,404	21,799
Theft (\$200 and over)	2,488	2,639	2,567	3,124	3,972	5,152	5,636	5,212
Motor Vehicle Theft	5,970	6,175	6,571	6,170	6,153	6,028	6,310	5,793
Total Index Crimes	25,258	28,048	30,670	30,429	35,068	40,009	39,878	37,579
Percent change from previous year		+11.0%	+9.0%	-0.7%	+15.2%	+14.0%	-0.3%	-5.0%
Total Felonies (per 100,000 population)	2352.4	2547.5	2688.5	2615.1	2974.6	3362.1	3331.2	3126.4
Sources: California Department of Justice, <u>Crime and Delinquency in California, 1977.</u> California Department of Justice, <u>Criminal Justice Profile—1976.</u>								

Table 5. Criminal Arrests in Santa Clara County, 1970-1977, Selected Crimes

Charge	1970	1971	1972	1973	1974	1975	1976	1977
Homicide	43	51	42	50	58	55	67	61
Rape	87	83	96	86	64	105	124	118
Robbery	333	342	378	371	328	421	514	410
Assault	793	910	805	774	722	818	1,015	886
Burglary	1,281	1,277	1,199	1,128	1,231	1,609	1,870	1,640
Motor Vehicle Theft	489	423	433	342	277	272	283	268
Drug Law Violations	2,590	2,793	2,977	2,671	3,590	3,576	2,081	1,857
Sex Law Violations	137	134	168	119	128	154	153	175
Total Felony	7,612	7,806	7,895	7,379	8,352	9,375	8,982	8,181
Total Misdemeanors	28,869	26,776	25,522	24,581	24,741	26,244	32,413	33,541
Total Arrests	36,481	34,582	33,417	31,960	33,093	35,619	41,395	41,722
Percent Change from Previous Year—Total Arrests		-5.2%	-3.4%	-4.4%	+3.5%	+7.6%	+16.2%	+0.8%
Total Felony (per 100,000 population)	700.0	709.0	692.1	634.2	708.5	787.8	750.3	680.6
Total Misdemeanor (per 100,000 popu- lation)	2,688.7	2,432.0	2,237.2	2,112.5	2,098.7	2,205.4	2,707.6	2,790.4
Source: California Department of Justice, <u>Crime and Delinquency in California, 1977.</u> California Department of Justice, <u>Criminal Justice Profile—1976.</u>								

1970 and 1977. This averages to a 4.1 percent increase per year (compared with the 6 percent annual increase in total reported crime.)

The number of criminal arrests also increased between 1970 and 1977, though to a significantly less degree than reported crime. Total arrests increased 14.4 percent (from 36,481 to 41,722 arrests per year). Misdemeanant arrests rose by 16.2 percent during this period; felony arrests increased only 7.5 percent. These felony and misdemeanor rates represent average annual increases of 2.0 and 0.9 percent, respectively. However, when these arrest figures are controlled for population changes, the percent change in felony arrests actually decrease by 2.8 percent (from 700.0 to 680.6 per 100,000 population). Per capita misdemeanor arrests increased by only 3.8 percent from 1970 through 1977 (from 2688.7 to 2790.4 per 100,000 population). Thus, the total per capita arrest rate rose by only 2.4 percent from 1970 to 1977.

The demographic profile of defendants in Santa Clara County is given in Table 6 below. Although comprising only 1.7 percent of the population, blacks account for over 30 percent of all arrests for violent crimes, 27.2 percent for property crimes and 16.0 percent of all felonies. Similarly, Mexican-Americans, who number approximately 17 percent of the total population, are arrested for 26.4 percent of the violent crimes, 20 percent of the property crimes and over 25 percent of all felonies committed in Santa Clara County. Nevertheless, whites make up the largest group of defendants in all categories. They account for almost 63 percent of all misdemeanor arrests in the county. For all races and ethnic backgrounds, male defendants outnumber female defendants by at least a five to one margin.

Table 6. Demographic Profile of Defendants, Santa Clara County, 1977

Offense	Sex		Race		
	Male	Female	White	Black	Hispanic
Violent Crimes	88.9	11.1	37.0	33.8	6.4
Property Crimes	87.6	12.3	50.8	27.2	0.0
Total Felony	84.2	15.7	56.6	16.0	0.5
Total Misdemeanor	84.3	15.6	62.9	8.3	0.3

Sources: California Department of Justice, Crime and Delinquency in California, 1977.

B. The Criminal Justice System

1. Judicial Authority

Santa Clara County is served by a two-tiered court structure consisting of six Municipal (lower) Courts and one Superior Court. Municipal Courts have complete jurisdiction over all misdemeanors and municipal ordinance violations, as well as initial jurisdiction for felony cases through the preliminary hearing stage. The Superior Court has jurisdiction over felony cases, civil cases, probate matters, domestic relations issues, juvenile delinquency, and dependency and neglect matters. It is also the first court of appeal for cases tried in Municipal Court. Summaries of the criminal case loads in both courts are provided in Tables 7 and 8 below.

Table 7. Santa Clara County Municipal Courts: Felony Filings and Dispositions, 1971-1977

Proceeding	Fiscal Year					
	1971-72	1972-73	1973-74	1974-75	1975-76	1976-77
Total Filings	5,639	4,256	4,009	4,888	5,263	5,255
Total Dispositions	3,685	3,172	2,677	3,654	4,204	4,580
Dispositions before Hearing	1,422	1,176	1,133	1,632	1,540	1,880
Percent Dispositions Before Trial	38.5%	37.0%	42.3%	44.6%	36.6%	41.0%

Source: Judicial Council of California, Annual Reports, 1974-78

Table 8. Santa Clara Superior Court, Criminal Filings and Dispositions, 1971-1977

Criminal Proceeding	Fiscal Year					
	1971-72	1972-73	1973-74	1974-75	1975-76	1976-77
Total Filings	3,115	2,790	2,342	2,799	3,233	3,541
Total Dispositions	2,233	2,488	2,216	2,297	2,935	3,186
Dispositions Before Trial	1,859	2,149	1,895	1,980	2,504	2,731
Percent Dispositions Before Trial	83.3%	86.3%	85.5%	86.2%	85.3%	85.7%
Percent Defendants Convicted at Trial	(data unavailable)				91.2%	92.2%
Median Elapsed Time from Complaint to Trial (in months)	18	13	15	9	18	18

Source: Judicial Council of California, Annual Reports 1974-78.

The Municipal Courts have a total of over 5,000 filings per year for felony cases alone. Of the total dispositions, approximately 60 percent are transmitted to Superior Court. In the remaining 40 percent, charges are either dropped or reduced to the misdemeanor level and tried in the Municipal Court. Most plea bargaining occurs at the preliminary examination stage of the criminal justice process.

Judges for both Courts are nominated by the Governor's Selection Committee and appointed by the Governor. They must be members of the California Bar Association and are required to run in the next scheduled election. The term of office for both types of judge is six years. At the present time, 12 Municipal Court Judges and 27 Superior Court Judges serve in Santa Clara County.

Both the Municipal and the Superior Courts employ a number of Court Commissioners and private attorneys to assist as temporary judges. Commissioners are local attorneys appointed by the presiding judge. There are presently two Commissioners assigned to the San Jose Municipal Court. One of the Commissioners takes entire responsibility for the misdemeanor Arraignment Calendar; the other handles traffic cases. The Santa Clara County Superior Court received the equivalent of one and a half full-time private lawyers to assist as temporary judges or referees during fiscal year 1978-77.

The average length of time from initial complaint to Superior Court trial has ranged from nine to eighteen months during the last several years. However, as Table 8 indicates, less than 15 percent of the cases are even brought to trial. Of those defendants that are tried, over 90 percent receive convictions.

It is also clear from Table 8 that the proportion of criminal dispositions to total filings has increased. Between fiscal year 1971-72 and 1976-77, total filings per year increased by 14 percent while dispositions increased by almost 43 percent. Total dispositions represented 71.6 percent of total filings in fiscal 1971-72. By fiscal 1976-77, they represented 90 percent of the filings.

2. Criminal Procedure

Following arrest, defendants are taken to the nearest jail for booking. At that time, a bond is set according to the Santa Clara County Bail Schedule (see Appendix A for felony bail amounts). The arresting officer then fills out a Bail Affidavit describing the conditions of arrest and takes the defendant to a Pretrial Services

Specialist to determine if the defendant is eligible for personal recognizance release. The Specialist has the authority to recommend immediate release of misdemeanor defendants on their own recognizance but must gain the approval of the Court before releasing felony defendants. For misdemeanants, the Sheriff directs booking officers to issue a citation release following recommendation of the Pretrial Services Specialist. Persons with outstanding warrants, parolees and probationers are excluded from the program. Those persons charged with murder or drunkenness can be interviewed but may not be released on personal recognizance under any circumstances. Finally, all persons released must be accompanied home by a "responsible person."

Any defendant not granted a personal recognizance release and unable to post bail is incarcerated until Arraignment at the Municipal Court. Arraignments must take place in the Municipal Court located in the same district where the arrest took place and within two days after the arrest (excluding Sundays and holidays). If the court is not in session when the two days expire, Arraignment must be held in the next regular court session on the next judicial day.

Arraignment in Santa Clara County consists of the reading of the charges to the defendant, providing a list of witnesses and requesting a plea. The proceedings are generally presided over by a Municipal Court Commissioner rather than a Judge. If the defendant has not retained an attorney, the Court allows the defendant additional time to answer. For those cases originally triable in the Superior Court, the Commissioner must give the defendant at least one day to answer. For those cases originally triable in Municipal Court, no more than

seven days may be granted for this purpose.

All defendants who are not granted a personal recognizance release at the time of booking and who are unable to post bond are entitled under California State law to an automatic bail review by the Court. The review must occur within five days from the time of booking. Usually, this takes place during the Arraignment. Thus at the time of Arraignment, the Court may alter the bail, release a defendant on personal recognizance or request that the defendant be considered for Supervised Release. The last is often a result of suggestions by either the defendant or the defense attorney, but may be initiated directly by the Court.

A special staff in the Pretrial Services Division re-investigates the defendant to determine the suitability of granting Supervised Release and reports its recommendations to the Court. Referrals from the Municipal Court must be answered within two days after the request. Referrals from the Superior Court must be answered within one week. Supervising agencies that may be approved for such releases include drug, alcohol and mental health programs as well as job counselling services.

All defendants triable in Superior Court who have pled not guilty have the right to a preliminary examination within ten days after Arraignment. The examination, which takes place in Municipal Court for those cases not originating from Grand Jury indictments, is used to determine if there exists sufficient cause to prosecute the defendant on the stated charges. The magistrate may order the defendant to be discharged or may have the original charges reduced.

3. Law Enforcement Agents

Santa Clara County is served by eleven police departments and the County Sheriff. The police departments have jurisdiction over their respective municipalities; the Sheriff's Department has jurisdiction over all unincorporated areas as well as all those municipal areas which contract directly with the Department for their services (of which there are four). Table 9 shows the number of sworn personnel associated with some of the major law enforcement agencies in the county.

Law enforcement officials serve several functions within the criminal justice system. These include arresting suspects, serving warrants, transporting defendants to jail and places of arraignment, booking defendants, filling out Bail Affidavits to aid in release decisions and supervising the various detention facilities.

Following the initial arrest, the police officer or Sheriff's deputy takes the defendant to the nearest jail for booking. The only exception to this procedure is in the case of an arrest without a warrant. An officer has two alternatives other than booking the defendant in such cases. First, the officer may release a person from custody by simply issuing a field citation. This option applies only to those offenses declared to be an infraction or a misdemeanor. The officer prepares a written notice to appear in court at a specified date and time. If the defendant waives the right to be brought before a magistrate and signs the notice to appear, a release is made before booking. The second possibility is to release the defendant if (1) the officer decides there are insufficient grounds for making a criminal

Table 9. Law Enforcement Personnel, Santa Clara County, 1973

Enforcement Agency	Number of Sworn Personnel
County Sheriff	213
San Jose Municipal Police	560
Sunnyvale Municipal Police	156
Santa Clara Municipal Police	100
All Other Municipal Police	293
TOTAL	1,322

Source: Ron Obert, Santa Clara County Pretrial Release Program

Table 10. Arrest Levels of Law Enforcement Agencies in Santa Clara County, Total Arrests and Percent Felony and Misdemeanor, 1976

Enforcement Agency	Total Arrests	Percent Felony	Percent Misdemeanor	Percent of All Arrests in County
Santa Clara Sheriff's Office	6,795	30.6%	69.3%	15.3%
Santa Clara Highway Patrol	4,700	3.1	97.0	10.6
San Jose Police Department	13,041	23.6	76.4	29.3
All Other Police Departments	19,974	22.8	77.2	44.7
TOTAL	44,510	22.2%	77.8%	100.0%

Source: California Department of Justice, Bureau of Criminal Statistics, Criminal Justice Profile—1976, Santa Clara County

complaint against the person arrested, (2) the person was arrested for intoxication and no further proceedings are desirable, or (3) the person was arrested for being under the influence of a restricted and dangerous drug and was subsequently delivered to a facility for treatment. Under any of these three conditions, the arrest is recorded as a detention only.

If a pre-booking release is not granted, the arresting officer has the duty of filling out a Bail Affidavit (see Appendix A). This innovative form was developed at the suggestion of the Pretrial Services Division by the District Attorney, Sheriff and Police Chiefs of Santa Clara County. The document describes the circumstances of the arrest in detail, including whether or not firearms, injuries or drugs were involved in the alleged offense. It is then used by both the pretrial release investigator and the judge to determine conditions of release. Officers may also contact the pretrial release staff personally to try to affect the release decision. Besides the additional, valuable information the Bail Affidavit provides, there is some evidence that the document deters arresting officers somewhat from "over-booking" defendants.

The numbers and types of arrests made by the various law enforcement agencies in Santa Clara County is summarized in Table 10. As a single agency, the San Jose Police Department makes the greatest number of total arrests in the county while the Sheriff's Department makes the largest percentage of felony arrests (30.6 percent of its total in 1976).

4. Prosecuting Attorneys

The District Attorney's Office for Santa Clara County handles all criminal prosecutions for the county. The Chief District Attorney is an elected official who serves a four year term of office. Of the 87 attorneys on the staff, 8 are assigned to the Family Support Unit, 6 to the Juvenile Division, 42 to the Municipal Court and 31 to the Superior Court.

Three types of filings may be made in the Superior Court: information, indictment and certification. Following the preliminary hearing, California State law provides that all criminal felony cases triable in Superior Court must be prosecuted by information or indictment if the defendant has pled not guilty. Informations are filed by the prosecutor; indictments are filed by a Grand Jury. If the defendant has pled guilty at the preliminary hearing in Municipal Court, the case is referred to Superior Court for final disposition by means of a certification filing.

The proportions of each of these filings to the total are given in Table 11. Grand Jury indictments are the least frequent form of criminal filing in Santa Clara County. They represent less than 10 percent of all Superior Court filings. The most usual form is a filing of information by the prosecutor. Between 1967 and 1974, 72 to 83 percent of all Superior Court filings were of this type. Less than 20 percent of the cases were the result of guilty pleas at the preliminary hearing (i.e., certification filings).

Although a District Attorney does not appear in the Municipal Courts for Arraignments, the Office does play a part in pretrial release

decisions at various times. California State law (Article 853.6(j) (6)) states that a person may be denied release if "the prosecution of the offense for which the person was arrested or the prosecution of any other offense or offenses would be jeopardized by immediate release of the person arrested." Thus, for the more serious offenses, the pretrial release staff will contact the D.A.'s office to see if this section applies to the defendant. The District Attorney may also recommend other conditions of release, including the amount of bail that should be set.

The District Attorney's Policy Manual states that the Office considers it inappropriate to agree to reductions in bail in consideration for waiver of preliminary examination or entry of guilty pleas. Further, deputies "should not hesitate to request higher or lower than normal bail in proper cases, keeping in mind the sole purpose of bail is to insure the defendant's appearance in court." Except in narcotics cases, the Office policy is that a person convicted of felonies or misdemeanors should be permitted to remain on bail pending sentence.

In practice, however, it is not clear that the above policies are thoroughly accepted by the attorneys. Although the people interviewed in the Office maintained that court appearance was the most important consideration for pretrial release matters, they also saw release as a direct threat to their successful prosecution of the case. Many times, they maintained, release of the defendant jeopardized witness cooperation as well as the existence of the physical evidence (in most cases, witness protection is deemed too expensive). When asked whether "risk of flight" or "dangerousness" was the more important consideration in

Table 11. Superior Court Filings, Santa Clara County, 1967, 1970, 1974 (Number and Percentage by Type)

Filing	1967		1970		1974	
	Number	Percent	Number	Percent	Number	Percent
Information	1,207	77.2%	1,971	71.9%	2,017	82.9%
Indictment	80	5.1	233	8.5	118	4.9
Certification	276	17.7	537	19.6	297	12.2
TOTAL	1,563	100.0%	2,741	100.0%	2,432	100.0%

Source: California Department of Justice, Bureau of Criminal Statistics, Criminal Justice Profile—Santa Clara County

making release decisions, the latter was the more frequent answer given by the prosecutors interviewed.

One situation which apparently causes conflict between the District Attorney's Office and the Pretrial Services Division concerns defendants charged with homicide. District attorneys are unanimous in their opposition to releasing most homicide defendants, while the Pretrial Services staff tends toward more liberal release recommendations for such cases.

An interesting experiment conducted by the District Attorney's Office for pretrial release matters was the "Preprocessing Center." Funded by the Law Enforcement Assistance Administration for fiscal year 1975-76, the District Attorneys (by order of the Board of Supervisors) established a 24-hour-a-day program to review the charges and evidence against a defendant before booking. The staff operated in a trailer located near the Main Jail in San Jose and was credited with reducing the number of people charged and booked during its year of

operation. But it was faced with severe opposition from the District Attorneys themselves, who apparently objected to the working hours. When the L.E.A.A. funding ended, the Board of Supervisors decided on the basis of this opposition to discontinue the program. There is evidence that after the program ended, the police resumed their previous practice of over-charging arrestees.

5. Public Defender's Office

The County Public Defender's Office handles approximately 75 percent of the criminal cases in Santa Clara County. The Office has 55 attorneys, including four administrative positions. The Chief Public Defender is appointed by the Board of Supervisors and serves for an unspecified period of time until the Board chooses to make a replacement. All other staff members are chosen by a selection committee which bases its decision on oral examinations.

Functional specialization in the Office is based on both geographic and offense-related criteria. The divisions and the number of attorneys assigned to each are as follows:

- Superior Court, 15;
- Los Gatos Municipal Court, 1;
- Palo Alto Municipal Court, 3;
- Sunnyvale Municipal Court, 2;
- Santa Clara Municipal Court, 2;
- San Jose Municipal Court, 5;
- Homicide Division, 3;

- Mental Illness Division, 3;
- Juvenile Division, 6;
- Misdemeanor Trial Team, 4;
- Drunk Driving Team, 3;
- Preliminary Examinations, 4;
- Administrative, 4.

There is no vertical representation for felony cases in the Public Defender's Office as there is for misdemeanor cases.

Table 12 gives the workload statistics for fiscal years 1973/74 through 1977/78. The average case load for attorneys handling criminal cases is maintained at approximately 175 per month.

6. Bonding Agents

A total of thirteen bonding companies operate in Santa Clara County. Since most of the companies are underwritten by a regional or national insurance company, they maintain contacts with dozens of other bonding companies and cooperate with one another in locating defendants who fail to appear.

Bonding agents are predictably hostile to the O.R. program in Santa Clara and point out that most of those who are released on regular O.R. have the financial means to post bail. One agent maintained that the regular O.R. program functioned simply to expand the role of the State and increase the resources and personnel of the Pretrial Services Division. The general feeling among the bonding agents is that the needs of the defendants and the community would best be served by eliminating the regular O.R. program and concentrating only on bonds and supervised release programs. That way, it is felt, only those defendants who truly could not post bail would require the services of a governmental agency.

Table 12. Public Defender Workload (Number of Filings), Santa Clara County, 1973-78.

Type of Case	Fiscal Year				
	1973-74	1974-75	1975-76	1976-77	1977-78
<u>CRIMINAL</u>	2,342	2,799	3,233	3,541	3,410
<u>JUVENILE</u>					
Delinquency	2,584	4,036	4,378	5,281	4,822
Dependency	471	450	485	674	693
<u>CIVIL</u>					
Family Law	9,441	10,128	10,717	10,587	10,766
Probate	2,987	2,584	2,612	2,713	3,152
Personal Injury (M.V.)	2,667	2,576	2,286	2,433	2,888
Personal Injury (Other)	1,223	1,046	1,133	995	1,031
Civil Complaints	3,664	4,751	4,371	4,551	4,493
Civil Petitions	3,565	4,106	6,405	7,808	7,600
Eminent Domain	128	93	78	49	163
Appeals (Lower Court)	538	721	715	608	562
Mental Health	436	638	1,355	677	415
Habeas Corpus	96	146	165	314	373
TOTAL CIVIL	24,755	26,789	29,837	30,735	31,443
Source: Santa Clara County Public Defender's Office					

The fact that bonding companies have been unable to curtail the regular O.R. program is an indication of their political impotence relative to other groups in Santa Clara County. Part of the reason for this impotence lies in the absence of a county-based bonding association. A legal association of bonding companies existed briefly in the early 1970's, but it faltered when it was unable to maintain 100 percent membership. For political influence, the agents now rely on individual contact with the Board of Supervisors (especially during budgetary deliberations) and a State-wide bonding lobby. Although they have been unsuccessful in stemming the growth of the Pretrial Release Division, the State-wide lobby has managed to prevent adoption of the "10%" bond¹ in each of the four times it has been introduced in the California legislature. Bondsmen are confident that the "10%" bond will never be accepted in California but feel their business is threatened by the existing O.R. program.

Nevertheless, the bonding business in Santa Clara County appears to be lucrative. Although bondsmen are handling fewer clients, the amounts of bonds are increasing. For example, a study by the American Justice Institute in 1975² indicates that the amount of bail posted increased by 21 percent from September-December 1973 to September-December 1974. As a result, bondsmen are still able to be selective in their choice of clients.

¹The "10%" bond is one in which the defendant must pay 10% of the face value of the bond to the Court upon release. If the defendant subsequently fails to appear, the balance is due to the Court. If all appearances are made, the 10% is returned to the defendant.

²Gary G. Taylor, "An Evaluation of the Supervised Pretrial Release Program," American Justice Institute (mimeo.), June 1975.

Moreover, the collateral required to secure bond is said to normally cover losses due to bail forfeitures. Bondsmen must be notified within 30 days if a defendant fails to appear at court. They then have 180 days to locate the defendant. Almost all defendants are located easily within the first week after their scheduled appearance and motions to reinstate may be filed if there were acceptable reasons for the failure to appear.

In 1973, the number of bail forfeitures for non-traffic State misdemeanor violations was 283. Although data do not exist to indicate what proportion these bail forfeitures are of all bailed defendants, it is possible to compare them with the total number of non-traffic State misdemeanor cases filed for that year. Thus in 1973, bail forfeitures accounted for approximately 4.4 percent of the relevant cases. This percentage fell to about two percent in succeeding years, then rose to 3.7 percent in 1977 (326 forfeitures out of 8,838 cases).

7. Detention Facilities

There are three main pretrial booking and housing facilities in Santa Clara County. A fourth, located within the city of Santa Clara, is very small and is not one of the locations where the Pretrial Services Division operates. The largest of the three is the Main Jail, located in San Jose, where 80 percent of bookings in the county take place. It serves as the immediate and continuous holding facility for all male defendants apprehended in all parts of the County except the northern-most area. Arrested offenders (both male and female) apprehended in this northern section are taken to the North County Jail,

located in the city of Palo Alto. Approximately 13 percent of all county bookings occur in this facility. Offenders not released immediately after booking here are transferred to the Main Jail.

Finally, the Women's Detention Center, located in Milpitas, serves as the holding facility for all arrested female offenders apprehended in all parts of the county except the North County area. Approximately 7 percent of all county bookings are accounted for by the Center.

The Sheriff's Department has responsibility for operating all three detention facilities. Each is under the immediate direction of a Captain in the Department and the general supervision of the Sheriff. By State law, pretrial detainees may not be housed with convicted criminals. At the Main Jail, an attempt is also made to house the inmates according to the level of "criminal sophistication" suggested by their offense.

Jail capacity at the Main Jail was designed to be 477. The number of defendants normally detained in recent years, however, has been closer to 650. Defendants are housed in four, sixteen or 32-man cells. Sanitary and hygienic conditions are said to be poor, although the county is fairly successful in providing adequate medical and dental care. Meals are provided three times a day and the nutritional content is described as "above standard."

Although the present conditions are less than adequate, they apparently represent an improvement over conditions of a few years ago. In 1974, an inmate, supported by the Community Legal Services, filed suit against the Sheriff for poor food, housing and disciplinary conditions. The suit was eventually resolved by consent and various

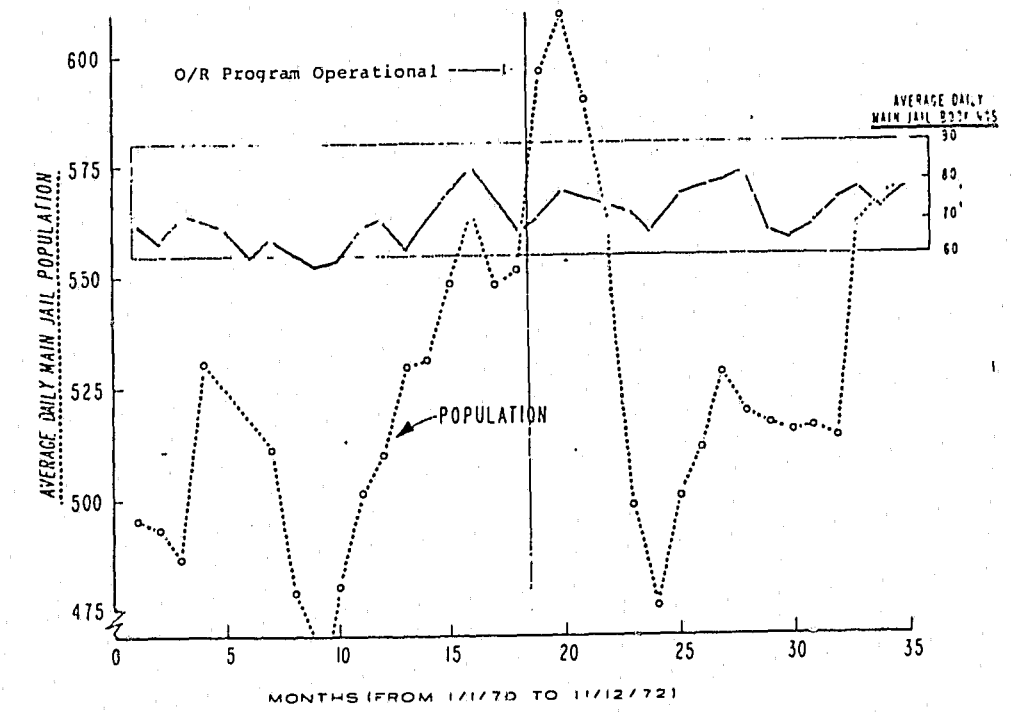
improvements were made at the Jail. In addition, the County is currently planning a new Reception Assessment Center for initial processing and interviewing.

The jail population problem was also remedied somewhat with the introduction of the pretrial release program. Figure 1 reproduces the evidence provided in the Pre-Trial Service's Final Report for the effect on average daily jail population at the Main Jail. Although the average daily booking remained fairly constant, the number of defendants detained in the Jail decreased dramatically during the first months of the program's operation. Following this initial decline, however, the population soon achieved (and eventually surpassed) its previous level.

8. Summary

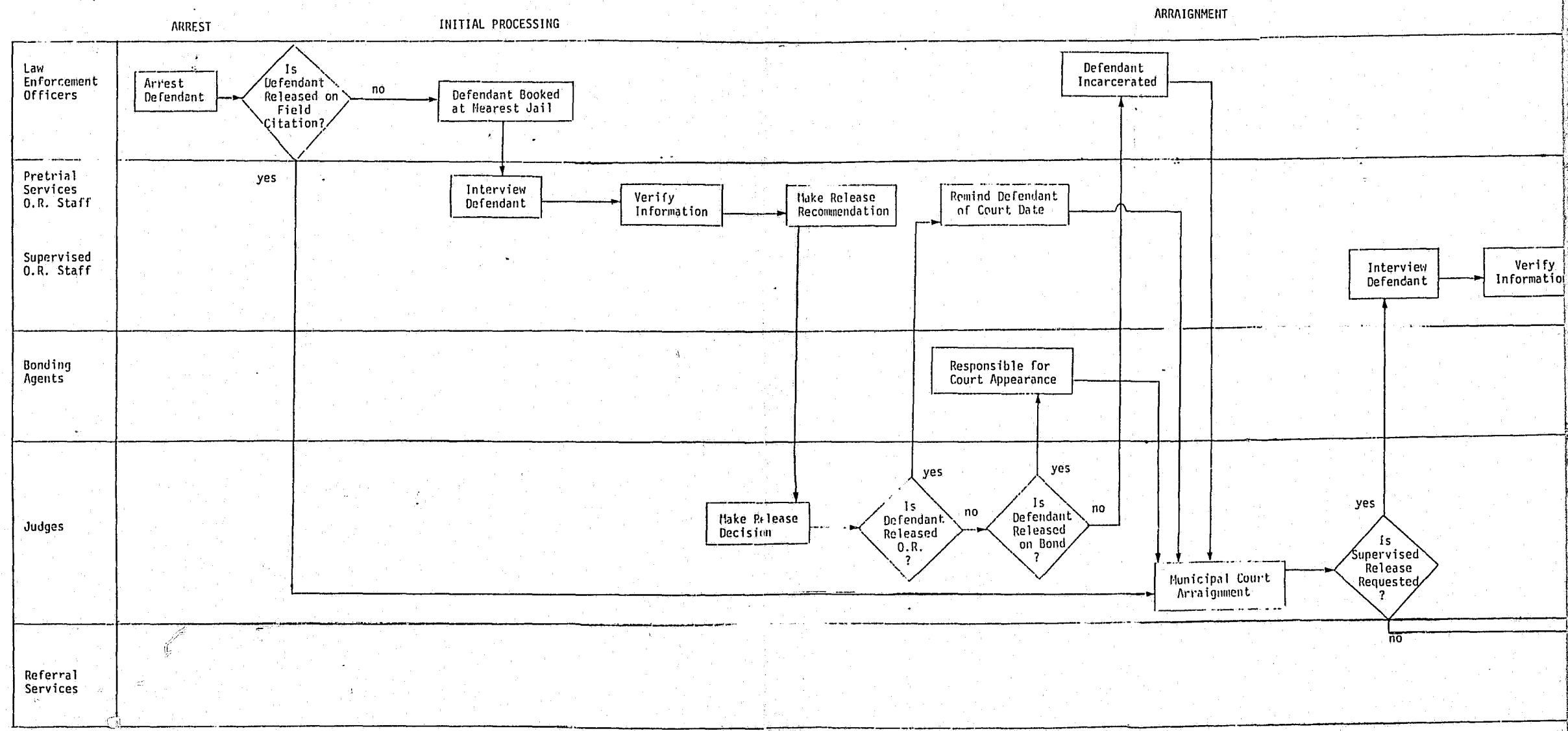
A summary of the defendant flow through the Santa Clara County criminal justice system is provided in Figure 2. The chart specifies the activities of each of the main criminal justice agents during the arrest, initial processing, arraignment and trial proceedings.

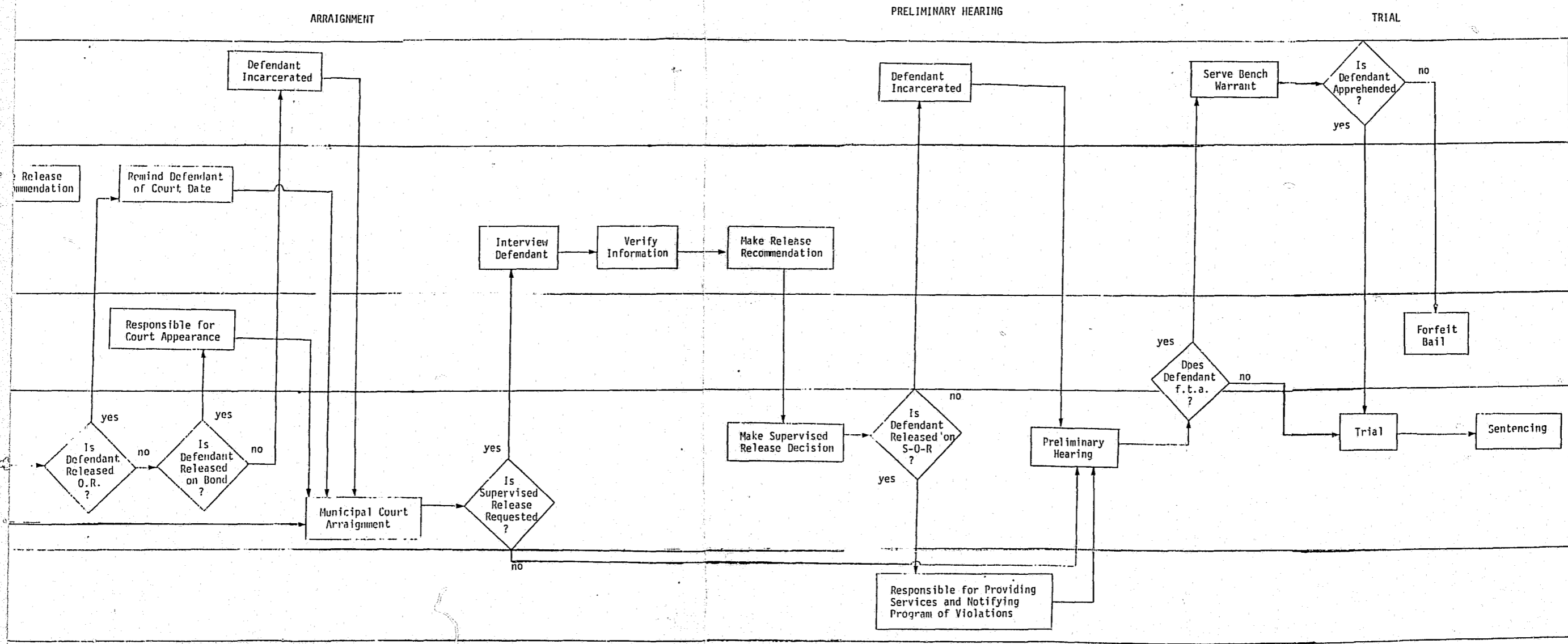
Figure 1. Average Monthly Bookings and Population Levels at the Santa Clara County Main Jail, 1970-1972.



Source: Ron Obert, Pre-trial Services Final Report, 1973.

Figure 2. Defendant Flow through the Santa Clara County Criminal Justice System





II. NATURE OF THE PRETRIAL RELEASE PROGRAM

A. History

The Santa Clara County pretrial release program had its origins in a Judicial Executive Committee which was formed in 1969 to examine bail reform in the county. It was comprised of both Municipal and Superior Court Judges and developed from the concerns of the civil rights movement as well as the county's booming jail population. Much of its subsequent success is attributed to the active participation of virtually all agents within the county's criminal justice system during both the planning stage and afterwards.

Personal recognizance release was given legal acceptance by the State of California in 1959, but it has always been considered a potential privilege rather than a right for all pretrial defendants. Application of this alternative prior to 1969 was thus sporadic and unstructured. Judges in the city of Palo Alto, for example, made frequent use of the alternative while judges in other court locations virtually ignored it.

In 1970, the Law Enforcement Assistance Administration selected San Jose as one of eight pilot cities to test the feasibility of personal recognizance release and other methods of reforming the criminal justice system. The grant given for this purpose was used to establish the Santa Clara Criminal Justice Pilot Program, which administered the O.R. program for a four month period. Following this experimental program, the County Board of Supervisors granted the program an additional \$20,000 to continue its operations.

After a year of successful operation, the program was granted

\$130,845 to establish an expanded program to serve all five judicial districts in Santa Clara County and the three detention facilities operated by the Sheriff. The grant included almost 79 thousand dollars from L.E.A.A., 20 thousand dollars from the County, and 32 thousand dollars of in-kind support. The Pretrial Services Division was created as a semi-independent agency to operate the program.

Initially, the Program concentrated its efforts on misdemeanor arrestees. California State law provides the specific option of releasing persons charged with misdemeanors without the prior approval of the Court. Given this legal flexibility and the fact that more than 70 percent of all bookings were for misdemeanors, the Program Director and the Judicial Executive Committee felt that it could achieve the greatest number of releases and gain needed community support if it concentrated on this class of defendants. Soon afterwards, the Program also began expanding its efforts towards felony defendants.

Release of felony defendants, however, occurred much less frequently than misdemeanor releases because there were initially no provisions for supervision of this higher-risk category. As a result, the county established a Supervised Pretrial Release Program in 1974 as a part of the Pretrial Services Division. A separate staff was created to review the defendants' community ties and make recommendations to the Court regarding alternatives for those defendants ineligible for regular O.R. and unable to post the set bond.

Part of the reason for establishing the Supervised Release Program was the realization that "a substantial number of prisoners are detained pretrial in the County jail who are not sentenced to jail

following adjudication."³ The specific design of the program was inspired by the program in Des Moines, Iowa. A delegation of criminal justice authorities from Santa Clara County visited that program in late 1973 and used its concepts as a basis of designing their own supervised release program.

B. Goals and Objectives

The originally stated goals of the Pretrial Services Program were to expand the proportion of persons who are released on their own recognizance pending trial and to demonstrate that such practices did not result in higher failure to appear and pretrial criminality rates. Underlying these goals was a concern for the inequities of the existing bail system and the severe overcrowding of the county jails. It was assumed that the possibility existed of predicting an individual defendant's likelihood of appearing at court and of committing additional crimes with the aid of a standardized point system which takes into account community ties, condition of health and prior criminal activity.

The Supervised Pretrial Release Program was established for objectives consistent with those of the regular O.R. Program. These included the assessment of a defendant's suitability of release under supervision pending trial, the actual supervision of these selected defendants and the desire to provide an immediate informational resource to the Court for the purposes of bail review. Like the regular O.R. Program, it was anticipated that the Supervised Release Program would help reduce the jail population, provide more equitable benefits

³Gary G. Taylor, op. cit.

to the defendants, more rationally allocate the county's scarce resources and not involve an increased risk to the community.

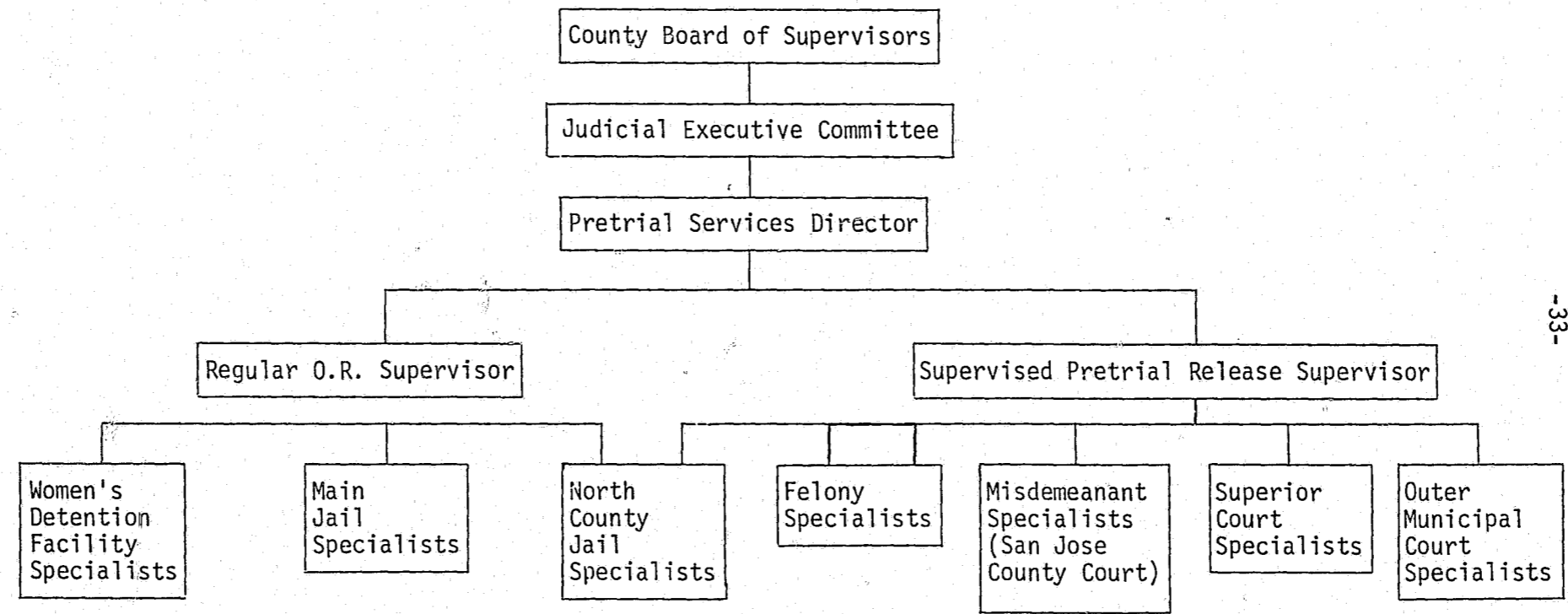
C. Organization

The organization of Pretrial Services in Santa Clara County is displayed graphically in Figure 3. The County Board of Supervisors has complete budgetary authority over the Program. The Program is independent of other county departments, and specific policies are decided by the Judicial Executive Committee. Comprised of one Superior Court Judge and one Judge from each of the county's six Judicial Districts, the Committee meets once a month to discuss the Program and its activities.

Ultimately, however, the policies of the Program are strongly influenced by its administrative Director, who is selected by and is responsible to the Judicial Executive Committee. The Program is separated into two main divisions: the Regular O.R. Program and the Supervised Release Program. Each Division has a Supervisor responsible for scheduling interviewers, interpreting rules and providing general program direction.

Within each of these two divisions, the interviewing staff is assigned by both geographic and offense related criteria. These Pretrial Release Specialists interview the defendants, verify the information and recommend releasing conditions. Regular O.R. Specialists are assigned to either the Women's Detention Facility, the Main Jail, or the North County Jail. Supervised Release Specialists are assigned to one of five subdivisions in the Program: felony, misdemeanor (i.e. San

Figure 3. Organization of Pretrial Services, Santa Clara County



Jose Municipal Court), Superior Court, Outer Municipal Courts, or North County Jail. The person assigned to the last of these subdivisions works part-time on the regular O.R. staff and part-time on the Supervised Release staff for the North County Jail area.

D. Budget

The budget of Pretrial Services was only about 130 thousand dollars at the beginning of the program (1970/71). With the addition of the Supervised Release Program, however, the required funds quickly increased to over 400 thousand dollars in fiscal 1977. The exact apportionment of these funds is given in Tables 13 and 14 below.

Table 13. Funding Summary, Pretrial Services, 1975-1978.

Fiscal Year	Budget	Expenditures
1975-76	\$339,000	\$337,416
1976-77	\$374,988	\$390,522
1977-78	\$424,882	\$426,037
1978-79	\$441,000	n.a.

Source: Ron Obert, Pretrial Services Director

After the passage of Proposition 13 in California, Pretrial Services received the smallest budget cut of any agency in the County. For example, while the Courts received a 10 percent budget reduction (from their original budget) for fiscal 1978-79, the Pretrial Services budget was reduced by only 5 percent.

Table 14. Budgetary Components for Fiscal Year 1977

Component	Expenditures
Personnel Total	\$335,300
Administrative Staff	75,545
Clerical Staff	36,553
Supervised-Release Staff	114,135
O.R. Staff (Permanent)	35,484
Temporary Staff (O.R.)	60,000
Other	13,613
Office Space and Supplies	8,492
Telephones	5,951
Travel	8,606
Mailing Costs	1,391
Data Processing Service	16,977
Fringe Benefits	49,290
Total	\$426,037
Source: Ron Obert, Pretrial Services Director	

E. Staff

The Pretrial Service Program has a total of 19 full-time staff members and a number of part-time staff members. The staff size has remained fairly constant since the beginning of the Supervised Program in 1974. The full-time staff includes the Director, his two Supervisors, 12 interviewers and four clerical staff. All of the seven Supervised Release Specialists are full-time, while only five of the eight Regular O.R. Specialists are considered full-time. The Regular O.R. Program hires several part-time, temporary interviewers to cover the second and third shifts at the jails (i.e., 4:00-12:00 p.m. and 12:00-8:00 a.m.). These part-time staff members are generally law students from nearby colleges and are paid \$6.04 per hour.

Salaries of the Supervised Release Specialists are generally higher than those of the Regular O.R. Specialists. This reflects the fact that the former are required to make subjective decisions and are therefore presumed to require more maturity and education. Salaries of the full-time Regular O.R. Specialists ranged from \$10,769 to \$13,946 during fiscal 1977. Salaries for the 1978 fiscal year show a high of \$15,250 for a Regular O.R. Specialist and a high of \$17,402 for one of the Supervised Release Specialists. Four of the Supervised Release staff members are paid with CETA funds.

There is a great variation in the socio-economic characteristics of the Pretrial Services Staff. Although most are white, between the ages of 31 and 45 years, and college educated, this does not represent a universal description. Table 15 reports the numbers and percentages of staff members in terms of race, sex, age, length of employment, education

Table 15. Staff Characteristics, Santa Clara County (1978)

Characteristic	Number	Percent
<u>Race</u>		
White	13	68 %
Black	2	10 %
Other Minority	4	21 %
<u>Sex</u>		
Female	9	47 %
Male	10	53 %
<u>Age</u>		
Under 25 years of age	4	21 %
26-30 years of age	5	26 %
31-45 years of age	10	53 %
<u>Length of Employment</u>		
Employed 1-11 months	2	10 %
Employed 1-2 years	3	16 %
Employed 2-3 years	3	16 %
Employed 3-5 years	6	31 %
Employed more than 5 years	5	26 %
<u>Education</u>		
College education (2 or fewer years)	3	16 %
College degree	13	68 %
Advanced degree	3	16 %
<u>Previous Criminal Justice System Experience</u>		
	7	37 %
Source: Ron Obert, Pretrial Services Director		

and experience.

Except for the temporary staff members, there is very little turnover among the staff. Five members have been employed for more than five years, and eleven have been employed for at least three years.

All Pretrial Services Specialists are hired through the State Merit System. Applicants are given written tests and oral interviews to determine their general knowledge concerning criminal justice procedure, community human service resources, investigative techniques and caseload management. Applicants must have at least a bachelor's degree, preferably in criminology, penology, sociology, psychology or a related field.

F. Facilities

The Pretrial Services Program is situated in a modern, spacious building a few blocks from the Municipal Court Building in San Jose. All administrative staff members as well as the Supervised Release Division is located here, while the activities of the Regular O.R. Specialists take place primarily in the individual booking locations. There is adequate secretarial support and a large computer services budget for program-related research. In addition, staff members have direct access to computerized local criminal histories. Unlike some computerized systems of this sort, the Program boasts of its efficiency and accuracy. Its success is attributed to the fact that the system was designed for the Program and is not shared with other criminal justice agencies.

At the Main Jail, Regular O.R. Specialists interview defendants at a booth located next to the booking desk. While this location prevents arresting officers from avoiding the O.R. Program altogether, it has the disadvantage of providing little privacy for interviews

and the possibility of interruptions. As a result of this and the standardized point system employed for personal recognizance release decisions, these initial interviews with defendants tend to be fairly impersonal and formalized.

G. Scope of Operations

1. Volume of Services

Eighty percent of all bookings occur at the Main Jail in San Jose. Because of this, most attention and available statistical information excludes the other two detention facilities. In the following discussion, therefore, the data refer only to the Main Jail.

In 1977, the average monthly booking totaled 2,200 (total number of bookings for the year was 26,400). Of the total, approximately 29 percent of the defendants were charged with felonies, 71 percent with misdemeanors. Only these defendants arrested for "on-view" offenses are interviewed by the Specialists. Thus parolees, probation violators and those defendants arrested on warrant are ineligible to be interviewed by the Pretrial Release staff. Those arrested for on-view offenses represent approximately 66 percent of the total number arrested. In 1977, approximately 67 percent of felony defendants were eligible as opposed to 65 percent of all misdemeanor defendants.

Not all eligible defendants are interviewed by Pretrial Services, however. In 1977, an average of 85 percent of all eligible felony defendants and 76 percent of all eligible misdemeanor defendants were interviewed. Overall, interviewed defendants represented 79 percent of all eligible defendants. Most of those defendants excluded were arrested for charges involving drunkenness. Table 16 summarizes these trends in the Program's coverage.

The number of cases referred to the Supervised Release staff for

Table 16. Volume of Services Provided by the O.R. Release Program, 1971-78 (Main Jail Only)

TIME PERIOD	TOTAL NUMBER OF BOOKINGS	TOTAL ON VIEW		TOTAL INTERVIEWED			FELONIES INTERVIEWED
		NUMBER	% OF BOOKINGS	NUMBER	% OF "ON VIEWS"	% OF BOOKINGS	% OF "ON VIEWS"
September - December 1971	9,285	6,336	68.2%	2,868	45.3%	30.9%	60.1%
Monthly Average 1971	2,321	1,584		717			
1972	28,265	19,115	67.6	9,281	48.6	32.8	57.9
Monthly Average 1972	2,355	1,593		7,734			
1973	25,726	17,698	66.1	9,722	54.6	37.8	72.9
Monthly Average 1973	2,227	1,475		810			
1974	26,539	16,891	63.7	12,712	75.5	47.9	90.0
Monthly Average 1974	2,212	1,408		1,059			
1975	26,287	16,746	65.3	14,194	84.8	54.0	88.3
Monthly Average 1975	2,232	1,396		1,183			
1976	25,806	16,911	65.6	14,284	83.9	55.4	77.8
Monthly Average 1976	2,151	1,409		1,190			
1977	27,704	18,165	65.6	14,293	78.7	51.6	85.2
Monthly Average 1977	2,309	1,513		1,191			
1978	17,462	11,066	63.4	7,688	69.5	44.0	89.3
Monthly Average 1978	2,495	1,581		1,098			
Source: Pretrial Services Monthly Reports							

investigation has steadily increased since the Program's initiation in September 1974. In 1977, the Program was given a total of 3,193 referrals, or an average of 266 per month.

2. Days and Hours of Operation

Because of the different nature of their services, the two Divisions of Pretrial Services operate on different time schedules. Originally, the Regular O.R. staff interviewed defendants only on weekday mornings. But it was soon realized that this system could not handle the heavy caseload with sufficient speed.

The Main Jail now has around-the-clock service, seven days a week. One Specialist is assigned to each of the first two shifts (8:00-4:00 p.m. and 4:00-12:00 p.m.). Because of the extra number of bookings during the third shift, two Specialists are on duty at this time. One Specialist is on duty at the Women's Detention Center from 11:00 p.m. to 7:00 a.m., seven days a week. During the other 16 hours of the day, defendants are interviewed by telephone by Specialists stationed at the Main Jail. Finally, the North County Jail is serviced twice a day for approximately two hours each (8:00-10:00 a.m. and 8:00-10:00 p.m., or until all defendants are interviewed). Each of these schedules was designed to accommodate the greatest number of defendants within the shortest period of time after arrest and booking. Decisions for personal recognizance release for misdemeanor arrests are typically made within 30 minutes after booking. Those for felony arrests may consume as much as six hours for decision since they also require judicial approval.

The Supervised Release staff and the administrative staff operate on a single, 8:00 to 5:00 shift on weekdays only. The shorter time schedule is in part because the Supervised Release staff's schedule

must only correspond to the times the Court is in session. But the schedule is also a function of the fact that the services they provide do not require as immediate attention as do those of the Regular O.R. staff. The Supervised Release Division usually receives its referrals from one to four days after arrest. From two days to a week after the Arraignment are given to make a recommendation to the Court.

III. PROGRAM PROCEDURES

A. O.R. Interview and Verification

Pretrial Release Specialists are stationed at each of the three major booking facilities. Immediately after booking, the defendant is questioned by a Specialist to determine suitability for personal recognizance release. The interviewer uses a standardized questionnaire established by the Judicial Executive Committee (see Appendix B for a sample questionnaire). The criteria contained in this form include residential stability, family ties, employment stability and past criminal history.

The defendant is told at the beginning of the interview that all information will be verified. At the completion of the interview, the Specialist requests names for references from the defendant who can confirm the information. Defendants must then sign an authorization for the Specialist to verify the interview information. Those who do not are denied release. If the defendant is on probation or parole, the appropriate supervising officer is also contacted by the Specialist.

After verifying as much of the information as possible, a point weighing scale is used to determine eligibility of release. To qualify for release, a defendant must score at least five points on the maximum 12-point scale. Points given for specific types of answers are described in Appendix B. Unverified information is not added to the final score. Any information not related to ties to the Bay Area is not regarded as a "community tie."

Program policy also specifies circumstances under which a defendant, despite the number of attained points, may not be released on O.R. These

include:

- extremely serious felonies involving violence and weapons;
- cases where the Specialist feels that immediate release would affect the health, welfare or safety of the offender or another;
- cases where the defendant has pending charges and has been rearrested while out on bail or O.R.;
- persons arrested on a combination of "warrant" and "non-warrant" charges where the warrant does not involve a vehicle code infraction;
- persons brought into custody on "warrantless" matters in combination with probation or parole violations for original felony offenses;
- persons arrested as the result of a family disturbance without release approval from the victim; and
- persons not having a residence within an approximate 60 mile radius from San Jose.

B. Release Procedure

All defendants who qualify for personal recognizance release are required to sign a Promise to Appear affidavit. Any defendant who refuses to sign this form may not be recommended for release. The defendant is also informed of the penalties associated with failing to appear for any court date.

If the charge was for a misdemeanor and the defendant qualifies for release, the Specialist completes a citation release form (see Appendix B). Both the Specialist and the arresting officer must then co-sign the form for the release to become effective. Officers have been ordered by the Sheriff to immediately release all defendants upon the recommendation of the Pretrial Release Specialists in all but extreme circumstances. In only three cases since the Program began has an officer refused to

authorize a release. In two of those cases the officer was subsequently reprimanded.

If the defendant qualifies for release and is charged with a felony, all the information gathered by the Specialist must be presented to an appropriate magistrate for a release decision. Court Commissioners and Judges are available for this purpose seven days a week from 9:00 a.m. until 10:00 p.m. and may be contacted in person or by telephone. During the regular court days and during the evening hours, the Specialist is directed to contact the Arraignment Judge of the San Jose Municipal Court. Since this position rotates monthly, it was felt that a more varied cross-section of judicial judgement could be attained with this procedure. However, if the Arraignment Judge is unavailable, the Specialist may contact any judge or magistrate who possesses proper jurisdiction to make the release decision.

Once a defendant is deemed eligible for release on personal recognizance and signs the Promise to Appear, the Executive Committee requires that a responsible person accompany the defendant home. However, if the defendant remains in custody for more than six hours as a result of an arrest involving intoxication, the duty sergeant may grant a release during the daylight hours. No defendant may be held in custody for more than eight hours after the release decision has been made.

Nevertheless, no defendant may be released without transportation during hours of darkness. This last provision derived from a concern by the Committee for community acceptance of the Pretrial Release Program. In unusual cases, therefore, a law enforcement official may be required to accompany the defendant home.

If the defendant was not released on personal recognizance at this time the Pretrial Release Specialist prepares a Court Report for use by the judge at Arraignment and all subsequent appearances. It provides the judge with information to be considered during reviews of release decisions and related adjudication procedures. A sample Court Report form is provided in Appendix B. It includes information on the defendant's background and prior record, the Bail Affidavit and the reasons for denial of pretrial release.

C. O.R. Follow-up Procedures

The Program does not maintain continuous contact with defendants released on personal recognizance. The only contact that does occur consists of a letter to the defendant which is mailed approximately five days prior to the first scheduled court appearance. The letter simply reminds the defendant of the date, time and place of the appearance. If the defendant fails to appear for any scheduled court hearing, the Court automatically issues a bench warrant and notifies the Program of the failure. Staff members may then attempt to locate the defendant. The program generally locates and returns approximately 45 percent of the defendants who miss a court appearance.

D. Supervised Release Referrals and Investigation

All defendants who fail to post bond and are ineligible for personal recognizance release must be granted a hearing for reconsideration of release conditions within five days of the original release determination. In practice, this hearing usually occurs at the time of Arraignment. At that time, the Court may decide to alter the amount of bail required

or may grant the defendant an O.R. release.

The defense attorney or the defendant may also request that the Court refer the case to the Supervised Release Program for consideration. Only those cases referred directly from the Court may be reviewed by the Program.

Although most of the Program's referrals occur at Arraignment, referrals may also appear subsequent to the Arraignment for the purposes of Bail Reduction Motions and Bail Setting Motions. In addition, the defense attorney may move to grant the defendant supervised release at any time prior to sentencing.

Upon receipt of one of these types of referrals, a Supervised Release Specialist re-interviews the defendant and gathers all information previously obtained about the case. Supervised Release Specialists use the information gathered to make subjective decisions regarding suitable release conditions. No point system is used in making this assessment. Given the nature of this form of release, the Specialists are necessarily more social-work oriented and must pay special attention to drug, alcohol, employment, health and mental needs of the defendant.

After the interview and data collection, the Specialist attempts to verify the information. If the defendant gives approval, the Specialist may contact the employer. Occasionally, the District Attorney is contacted for recommendations for release and for information concerning possible investigatory reasons for not granting a release. This contact is always made in cases where the Specialist is contemplating a regular O.R. release rather than a supervised release.

E. Supervised Release Recommendations

The Supervised Release Specialist must report a release recommendation to the Court no later than two days after Arraignment for misdemeanor cases and within one week of Arraignment for felony cases. The Recommendation form used for this purpose is similar to the Regular O.R. form provided in Appendix B. Copies of the report are sent to the District Attorney and the Public Defender as well.

The Specialist may recommend any of a number of possible release alternatives. These include:

- bail reduction;
- bail continuance;
- bail increase;
- regular own recognizance release;
- supervised release by either the Program or a drug, alcohol, job counselling, mental health or any other rehabilitative program; or
- no release.

All recommendations made by the Specialists must be approved by the Supervised Release Supervisor. No special hearing is required to review the Supervised Release report. The Court may simply review the report, contact any relevant officials, and make the release decision. In general, the Program's recommendation is accepted by the Court.

F. Supervised Release Program Follow-up Procedure

The Court specifies the conditions under which a person may remain on a Supervised Release status. The Defendant is required to sign the Order for Release agreement specifying these conditions (see Appendix B).

At a minimum, the defendant must call the Specialist once a week to check in. The defendant must also:

- remain in Santa Clara County unless granted written permission to leave by the Program;
- report any change of address in writing to the Program;
- not violate any State or Federal laws; and
- participate in any programs specified by the Court as a condition of release.

The Specialist reminds the defendant of the court date when contact is made and arranges for transportation to court if necessary. If the defendant fails to call the Program on a weekly basis, the Specialist either visits or telephones the defendant and reminds them of their duties. All defendants on Supervised Release are followed by the staff through disposition in the Superior or Municipal Court. Usually, those defendants released on regular O.R. at the suggestion of the Supervised Release staff are also followed through to final disposition.

Specialists also keep in constant contact with all those programs to which defendants have been referred. A record of the defendant's compliance with the conditions of release is provided to the Court by means of a Performance Report. This information is used by the Judges for sentencing purposes.

IV. PROGRAM IMPACT

A. Impact on Release System

1. Rates of Release

The numbers and percentages of defendants release on either personal recognizance or supervised release is summarized in Table 17, which gives release rates for the O.R. and Supervised Release Program separately as well as combined.

Although the number of bookings at the Main Jail has remained fairly constant during the past several years, the number of defendants interviewed by the Program has steadily increased from 9,281 in 1972 to 14,293 in 1977. The average number of interviews per month has thus increased from 773 in 1972 to 1,191 in 1977.

The number of defendants eligible for Pretrial Release interviews (i.e., those charged with non-warrant offenses), has remained fairly constant. In 1977, for example, the proportion of defendants eligible for Pretrial Release services represented approximately 66 percent of all those persons booked at the jail. The Program has, however, succeeded in reaching more of its eligible clients as the years progressed. In 1972, 48 percent of the eligible defendants were interviewed. By 1977, the Program was interviewing about 79 percent of these defendants.

Although the number of defendants granted personal recognizance release at this initial booking stage has increased (from 5,419 in 1972 to 7,729 in 1977), these released defendants do not represent a general increase in the proportion of all defendants interviewed.

Table 17. Release Rates, Regular and Supervised Pretrial Release, Santa Clara County, 1971-78 (Main Jail Only).

Time Period	Number of Bookings	Regular O.R. Program			Supervised O.R. Program ^a			TOTAL RELEASED (Both Programs)				
		Number Interviewed	Percent Released	Percent Felonies Released	Number of Referrals	Percent O.R.'ed	Percent S-O.R.'ed ^b	As a percent of bookings		As a percent of all interviewed		
								O.R.	Total ^f	O.R.	Total ^f	
1971 ^c												
Monthly Average	2,321	717	63.5%	30.6%	n.a.	n.a.	n.a.	19.7%	n.a.	63.5%		n.a.
1972	28,265	9,281	58.4%	25.5%				19.2%	n.a.	58.4%		n.a.
Monthly Average	2,355	773			n.a.	n.a.	n.a.					
1973	25,726	9,722	55.9%	28.8%				21.1%	n.a.	55.9%		n.a.
Monthly Average	2,227	810			n.a.	n.a.	n.a.					
1974	26,539	12,712	49.3%	27.1%				23.6%	n.a.	49.3%		n.a.
Monthly Average	2,212	1,059			105 ^d	13.3%	23.8%					
1975	26,287	14,194	48.9%	23.2%	2,005	20.7%	18.4%	28.0%	29.4%	51.9%	54.5%	
Monthly Average	2,232	1,183			167							
1976	25,806	14,284	51.7%	20.3%	2,748	16.5%	16.6%	30.4%	32.1%	54.9%	58.1%	
Monthly Average	2,151	1,190			229							
1977	27,704	14,293	54.0%	21.7%	3,193	12.9%	20.3%	29.4%	31.7%	57.0%	61.5%	
Monthly Average	2,309	1,191			266							
1978 ^e	19,962	8,799										
Monthly Average	2,495	1,100	52.3%	20.3%	245	6.6%	19.1	24.2%		54.8%	55.4%	

a. SORP = Supervised Release Program
 b. S-OR = Supervised Release
 c. data begin with September 1971
 Source: Pretrial Services Monthly Reports

d. data begin with September 1974
 e. data through August 1978
 f. Total = O.R. + S-O.R.

The eligible defendants who were released on personal recognizance in 1972 were 58.4 percent of the total eligible defendants. In the mid-1970's, this proportion dropped to approximately 49 percent. By 1977, the number of defendants released had risen again to 54 percent of the total interviewed.

However, when those defendants granted O.R. by the Supervised Release Program are taken into account, the release trend is steadier. The total number of defendants released on O.R. by both programs ranged from 52 to 57 percent between 1975 and 1978. These figures suggest that the introduction of the Supervised Release Program allowed the Regular O.R. Specialists to be somewhat more cautious in making personal recognizance release decisions. They were no longer solely responsible for releasing the more risky defendants. This possibility is discussed further below.

The number of referrals from the Court for Supervised Release investigations has increased from 2,005 in 1975 to 3,193 in 1977. The proportion of defendants granted Supervised Release, however, has varied. During the first four months of the Program's operation, approximately 24 percent of all those defendants investigated by the Program were granted a Supervised Release. This percentage quickly dropped to a low of 16.6 percent in 1976, but has since risen again to approximately 20 percent.

When the number of defendants granted O.R. is combined with those granted Supervised Release, the total number represents about 60 percent of all those defendants originally interviewed by the Regular O.R. staff. The total percentages for 1975 through 1978 are close to those for the

O.R. Program releases prior to the beginnings of the Supervised Release Program.

It is thus possible that the introduction of this new Program allowed the Courts to be more specialized in the type of release chosen to best assure appearance at court and community protection; if so, the lower rates of O.R. releases do not represent an overall reduction in the attempts to avoid pretrial detention. Like the Supervised Release Program itself, these figures suggest that a more interventionist approach developed among the agents of the criminal justice system as time progressed.

2. Equity of Release

For its 1973 Final Report,⁴ Santa Clara County Pretrial Services sampled 10 percent of those persons released during the first half of the 1972-73 fiscal year. The demographic distribution of this sample is reproduced in Table 18 below.

Table 18. Demographic Characteristic of Persons Released by Pretrial Services, July through December, 1972.

	Sex		Race		
	Male	Female	White	Hispanic	Black
Number	307	19	217	90	15
Percent	94.2%	5.8%	66.6%	27.6%	4.6%

Source: Pretrial Services 1973 Final Report

Assuming that the 10 percent sample was random, we can trace these numbers back to the original arrest figures to determine if the demographic

⁴Ron Obert, Santa Clara County Pretrial Release Program Final Report (August 1, 1973).

characteristics of those persons released differs statistically from the demographic profile of all defendants. Using the Chi Square technique, we find that the frequencies of the releasee population differ significantly from the total defendant population.

In particular, whites are released in much higher percentages than would be expected in an unbiased process. Blacks are released considerably less frequently than we would expect, while Hispanic defendants are released in approximate proportion to their representation in the total defendant population.

When the same statistical technique is used on the gender distribution, a similar imbalance appears. Males are released in greater proportion to their distribution in the overall defendant population while females are released significantly less frequently than would be expected. It is not possible with the existing data to determine the causes of these imbalances. They could, for example, be a function of the type of crimes committed by these various groups or the types of community ties they tend to have.

3. Speed of Operations

The average amount of time a defendant spends in custody before being released has decreased considerably since the Program began. In the 1973 Final Report, the Pretrial Services Program estimated that misdemeanor defendants averaged 2.4 hours from booking time to O.R. release in 1971; felony defendants averaged 11.6 hours; all defendants combined averaged 3.7 hours. This compares with figures for the year immediately preceding the Program's operation (1970) in which the average times were 72 hours for felonies, 74 hours for misdemeanors and 72.8 hours for the total number of defendants booked at the Main Jail.

In 1971, approximately 74 percent of the misdemeanor defendants

were released within two hours; 90 percent were released within four hours. Of the felony defendants, approximately 59 percent were released within 11 hours and 90 percent were released within 24 hours. The Program estimates that these waiting periods have decreased even further in recent years. For defendants released on O.R., the average estimated time from booking to release is six hours for felony cases and 30 minutes for misdemeanor cases.

B. Defendant Outcomes

1. Failure to Appear Rates

The only available statistics on failures to appear for the entire 1972-1978 period are on what the Program calls the "Skip Rate." The Skip Rate is defined by the number of outstanding bench warrants after the second failure to appear. It thus excludes those defendants who were returned by the Program or choose to return on their own accord for the scheduled appearance immediately following the failure to appear occurrence. The actual rate is the proportion of such outstanding bench warrants to the total number of cases involving O.R. defendants in either the Municipal or Superior Court. Thus in fiscal year 1976-77, there were a total of 263 outstanding bench warrants for those defendants released on their own recognizance. These represented 2.7 percent of the total number of cases involving O.R. defendants during this period of time (9,757).

The Skip Rate for defendants released on their own recognizance ranged between two and four percent during the 1972-1978 period. The rate for the entire period taken together was 3.2 percent (1,620 skips out of a total 50,176 cases). The overall rates for felony and misdemeanor cases taken separately is not significantly different from the total.

There were a total of 267 felony defendants and 1,357 misdemeanor defendants who had outstanding bench warrants at the conclusion of fiscal year 1977-78. These represented Skip Rates of 3.4 and 3.2 percent, respectively (the total cases consisted of 7,969 felony and 42,211 misdemeanor).

Since it began in 1974, the Supervised Release Program has also attempted to compute failure to appear rates for those defendants granted some form of supervised release. Defendants are categorized as having failed to appear if a bench warrant is issued following a missed court date and the Program is unable to locate and return the defendant within a few days. Defendants who voluntarily return within this time period are also excluded. Thus, the rate calculated is essentially a Skip Rate, although more narrowly defined than the O.R. Skip Rate. Statistics for the O.R. Program may allow as much as twelve months for the defendant to return since the rate is calculated on a yearly basis. Those for the Supervised Release Program, however, do not take into account defendants who may have returned sometime after the four or five day waiting period.

Thus it would be inappropriate to compare the Supervised Release Skip Rate directly with the O.R. Skip Rate. The Program estimates that if both rates were calculated in exactly the same way, the Rates would be very similar, with the Supervised Release Rates only slightly higher. This higher rate is explained by the fact that most of the defendants granted Supervised Release have been charged with felonies and their community ties rendered them less likely to appear at Court (and therefore, ineligible for regular O.R.).

The Skip Rates for both O.R. defendants and those on Supervised Release are given in Table 19 below. The Skip Rate for all defendants on Supervised Release has ranged from 6.1 percent in fiscal 1974 to 12.0 percent in fiscal 1977. For the entire period, there were 162 defendants who failed to appear at court after five days. This represents 8.8 percent of a total 1,838 defendants granted Supervised Release.

Two studies conducted by Pretrial Services in 1972 and 1973 compared the failure to appear rates for O.R. defendants with those for defendants released on bail using three different definitions of a failure to appear. Rows 1 and 2 of Table 19 summarize some of the results of these two studies.

The first rough indication of the failure to appear rate is the number of defendants who missed a scheduled appearance in Court. During the latter half of 1971, there were a total of 145 such defendants, representing 6.4 percent of the total defendants released on O.R. When the number of defendants whom the Program was able to return are excluded from this total, the rate drops to 4.1 percent (or 93 defendants). Thus, the Program was successful in returning 46 percent of all O.R. defendants who had failed to appear. Finally, when "self-surrenders" are taken into account, the "voluntary" failures to appear reduce to only 63 defendants, or 3.0 percent of the total O.R. defendants. Figure 4 details the process on which these three definitions of failure to appear are based for the July-December 1972 study.

The August-December 1971 study also attempted to compare failure to appear rates for O.R. defendants with those for defendants released on bail. Only those male defendants released on bail who had been processed

⁵Ron Obert, op. cit.

Figure 4. Pre-Trial Release Program Performance
July 1972 through December 1972

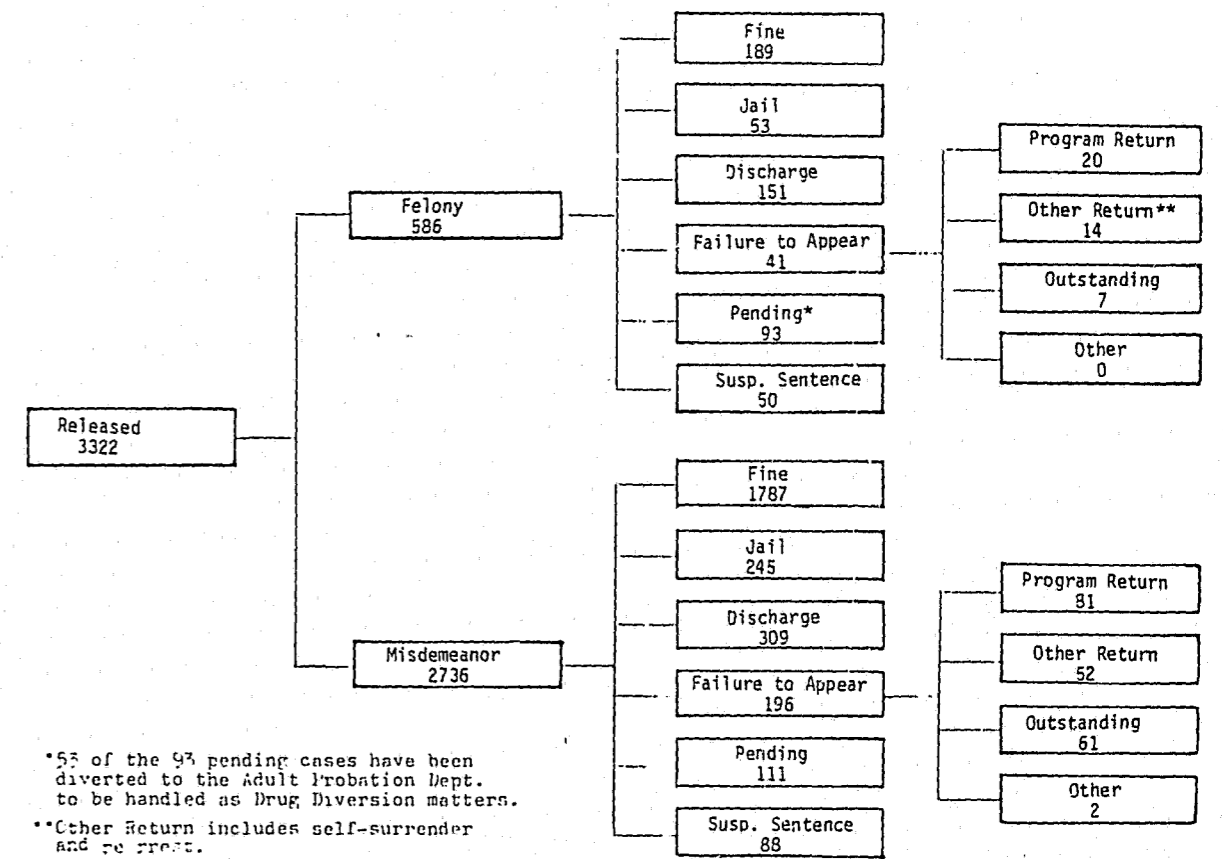


Table 19. Failure to Appear Rates

Time Period	O. R. PROGRAM												SUPERVISED RELEASE	
	TOTAL				FELONIES				MISDEMEANORS				TOTAL	
	Missed a Scheduled Appearance ^a		Skip Rate ^b		Missed a Scheduled Appearance		Skip Rate		Missed a Scheduled Appearance		Skip Rate		Skip Rate	
	Number	Percent	Number	Percent	Number	Percent	Number	Percent	Number	Percent	Number	Percent	Number	Percent
August-September '71	145	6.4%	63	3.0%	30	7.6%	6	1.8%	115	6.1%	57	3.2%	n/a	n/a
July-December '72	237	7.1%	68	2.1%	41	7.0%	7	1.2%	196	7.2%	61	2.2%	n/a	n/a
Fiscal 1972-73			159	2.7%			25	2.6%			134	2.8%	n/a	n/a
Fiscal 1973-74			298	3.8%			58	3.8%			238	3.9%	n/a	n/a
Fiscal 1974-75			283	3.6%			46	2.8%			247	3.8%	17	6.1%
Fiscal 1975-76			320	3.6%			50	4.1%			270	3.5%	27	7.1%
Fiscal 1976-77			263	2.7%			40	3.0%			223	2.6%	45	7.9%
Fiscal 1977-78			287	2.9%			48	3.6%			245	2.8%	73	12.0%

Source: Pretrial Services monthly reports.

^a"Missed a Scheduled Appearance" is a defendant based, not appearance based, concept.

^bSkip Rate = the rate of defendants who fail to appear minus those defendants who return voluntarily or by the program or police.

through the O.R. interview and achieved the necessary points for an O.R. were included in the study. Of the 51 bailed defendants, 10 (or 5.1 percent) missed a scheduled appearance. This proportion was somewhat lower than that for O.R. defendants.

There was an even greater difference in Skip Rates between the O.R. and bailed defendants. Only one defendant out of the 51 bailed was classified as having skipped. This represents 0.5 percent of the total and compares favorably to the 3.0 percent rate for all O.R. defendants. The only conclusion that might be drawn from these figures is that perhaps the combination of community ties (as evidenced by the required number of points for O.R. release) and the potential loss of bail monies provided an extra incentive for bailed defendants to appear at court.

2. Rearrest Rates

Only sparse information exists regarding the rates of rearrest for defendants on pretrial release. The study done for the 1973 Pretrial Services Final Report estimates that 5.6 percent of all males arrested between August and December 1971, were subsequently rearrested. This rate was computed from the 19 rearrests discovered for a sample of 342 defendants tracked by the Program. For those defendants who were interviewed by the Program, had the necessary points for O.R., but were released on bail, the study shows that 6.5 percent were subsequently rearrested while awaiting trial (13 out of the 199 bailed defendants fell into this category). Unfortunately, data do not exist which would allow us to compare rearrest rates in the years immediately preceding the Program.

The Supervised Release Program attempted to keep track of rearrests during its first year of operations but has since discontinued this

practice. Between three and five percent of the defendants granted supervised release in the four months of December 1974 and January, February and March of 1975 were recorded as having been re-arrested. A more accurate estimate is provided in a study by Gary Taylor of the American Justice Institute.⁶ He reports that of the 100 defendants granted Supervised Release between August and December, 1974, a total of 13 were subsequently rearrested while awaiting trial. These 13 thus represent a 13 percent rearrest rate.

3. Program Acceptance

Except for the bondsmen, it is clear that the Pretrial Release Program is highly accepted among the Santa Clara County criminal justice agents. Interviews conducted by the Program staff in 1973 disclosed few criticisms and many favorable comparisons of the program with the previous bail system. The following summaries are taken directly from the Program's survey results:⁷

Judges

A. O.R. (General):

- There was a very positive view and acceptance of the concept of O.R., mainly because of inadequacies and injustices in the bail system.
- Some judges indicated that they would like to see bail stopped and another system instituted—O.R. or preventive detention. Those who expressed this view usually felt, in addition, that they were probably the only one holding this view.
- Municipal and superior court judges differed mainly in their level of knowledge of the program. Municipal Court judges were more involved in the program and several Superior Court judges have not been on the criminal bench for some time.

⁶Gary Taylor, op. cit.

⁷Ron Obert, op. cit.

B. Santa Clara County O.R. Project

The general feeling among judges is:

- acceptance of the program and its operation—there are no major criticisms;
- people being released are good risks;
- less time should be given to minor misdemeanants and more time to borderline misdemeanants and felons—several feel that almost all misdemeanants can be released without any investigation;
- a formalized program is necessary to screen for O.R.;
- pleased with the increase in information available to them which gives them more confidence in making release decisions, especially in borderline situations; and
- the program should be continued and expanded but some expressed concern over the costs.

Policemen

A. O.R. (General):

- Overall, policemen favor O.R. because of financial inequities of the bail system.
- Some get negative feedback from field personnel because of fast releases.
- Several are favorable toward use of citations (saves time for officers and is not as dehumanizing as booking in jail).

B. Santa Clara County O.R. Project:

- Most are favorable, in general, but feel they have only limited information and personal experience to go on.
- A few feel all the financing might not be necessary since police are equipped to make decisions and the Sheriff has legal options (e.g. 853.6) he can exercise.

District Attorneys

A. O.R. (General):

- D.A. staff were very favorable toward O.R.

- They feel the use of citations is acceptable.

B. Santa Clara County O.R. Project

- Staff opinion was generally favorable, but they feel many releases could be effected without elaborate screening (concern over costs).
- They feel more releases are being effected and this includes some who would not have made bail.

Public Defender Staff

A. O.R. (General):

- Attitudes were very favorable.
- There was some concern over point qualifications and that more could be done to release those not qualifying.

B. Santa Clara County O.R. Project:

- Reaction was favorable; they feel the program should continue but more time spent with felons and other borderline cases.
- P.D. staff favors the expansion of use of citations.

Bondsmen

General Comments:

- O.R. is discriminatory; bondsmen and bail are not.
- O.R. project is a misuse of funds—it just gets people out who "skip," causing extra expense for rearrests;
- Bail skips and forfeitures are extra income to the County; whereas, they lose income with O.R.
- O.R. program is hurting the County financially and is not accomplishing anything; also they believe 50% of O.R.'s are not appearing.
- Other contact than the interviews indicates that some bondsmen are accepting, or providing, a blending of O.R. and bail where only those not being able to make bail would be screened for O.R.

Another survey conducted by a member of the American Justice Institute finds that the Supervised Release Program enjoys equally high support among the judges in Santa Clara County. Seven judges from the San Jose Municipal Court, the Sunnyvale Municipal Court and the Santa Clara County Superior Court were interviewed in early 1975 when the Program had been operating for one year. The following comments are taken directly from the Institute's report.⁸ The number of judges who made each response is given in parentheses.

1. Supervised Release is a needed pretrial release option (N=7).
2. The local program is being conducted competently (N=7).
3. Staff of the program are dedicated, enthusiastic, and thorough (N=7).
4. The large majority of those granted SORP release would not have been granted regular OR in the absence of the Supervised Release Program (N=7).
5. The Court Reports prepared by the program are very useful, much needed, and constitute a major advantage of the program (N=7).
6. The amount of supervision provided by SORP is unknown, although it is apparently adequate (N=7).
7. SORP people have been used on occasion in court for special information needs (N=7).

Comments from both of these two surveys were highly consistent with our own findings. Criminal justice authorities, especially the judges, were highly supportive of both the Regular O.R. and the Supervised O.R. Programs. A few of the judges, nevertheless, expressed the concern that the Programs maintain their current mandate rather than expanding it in

⁸Gary Taylor, op. cit.

the direction of greater control over release decisions. Bonding agents were the most critical of the Regular O.R. Program and claimed that it represented an unnecessary and redundant service to the community.

Although all of the comments regarding both the O.R. Program and the Supervised Release Program were highly favorable, analysis of the extent to which the judges actually accepted the Programs' recommendations reveal that there is some disagreement concerning release decisions. Table 20 summarizes the proportions of Program recommendations accepted by the Court from 1971 through 1978.

Throughout the 1971-1978 period, the Court denied release to over 50 percent of all those defendants recommended for release by the

Table 20. Judicial Approval of Pretrial Services Recommendations, 1971-78
(Number and Percent of Judicial Denials of Program Recommendations)

TIME PERIOD	O.R. PROGRAM		SUPERVISED O.R. PROGRAM	
	NUMBER	PERCENT OF ALL CASES	NUMBER	PERCENT OF ALL DISPOSITIONS
1971 ^a	108	54.6%		
1972	848	46.8%		
1973	882	57.6%		
1974	1,147	58.7%	28	6.7%
1975	1,063	71.3%	318	15.9%
1976	1,346	52.0%	399	14.5%
1977	1,436	49.7%	588	18.4%
1978 ^b	785	60.0%	433	14.7%

a. data for September and December only
b. O.R. data for January-June only; SORP data for January-August only

Source: Pretrial Services Monthly Reports

O.R. Program. Since the court does not play a part in misdemeanor releases, these figures suggest that the Program's point system does not reflect all the information which is taken into account by the Court for release.

Indeed, the severity of the offense, which is not included in the point system, is apparently an important consideration for these felony decisions. For example, those defendants charged for offenses in which weapons were used or violence was involved are almost never released. The Program Director estimates that the most conservative judges may release only 20 percent of the felony defendants who have attained the required five points.

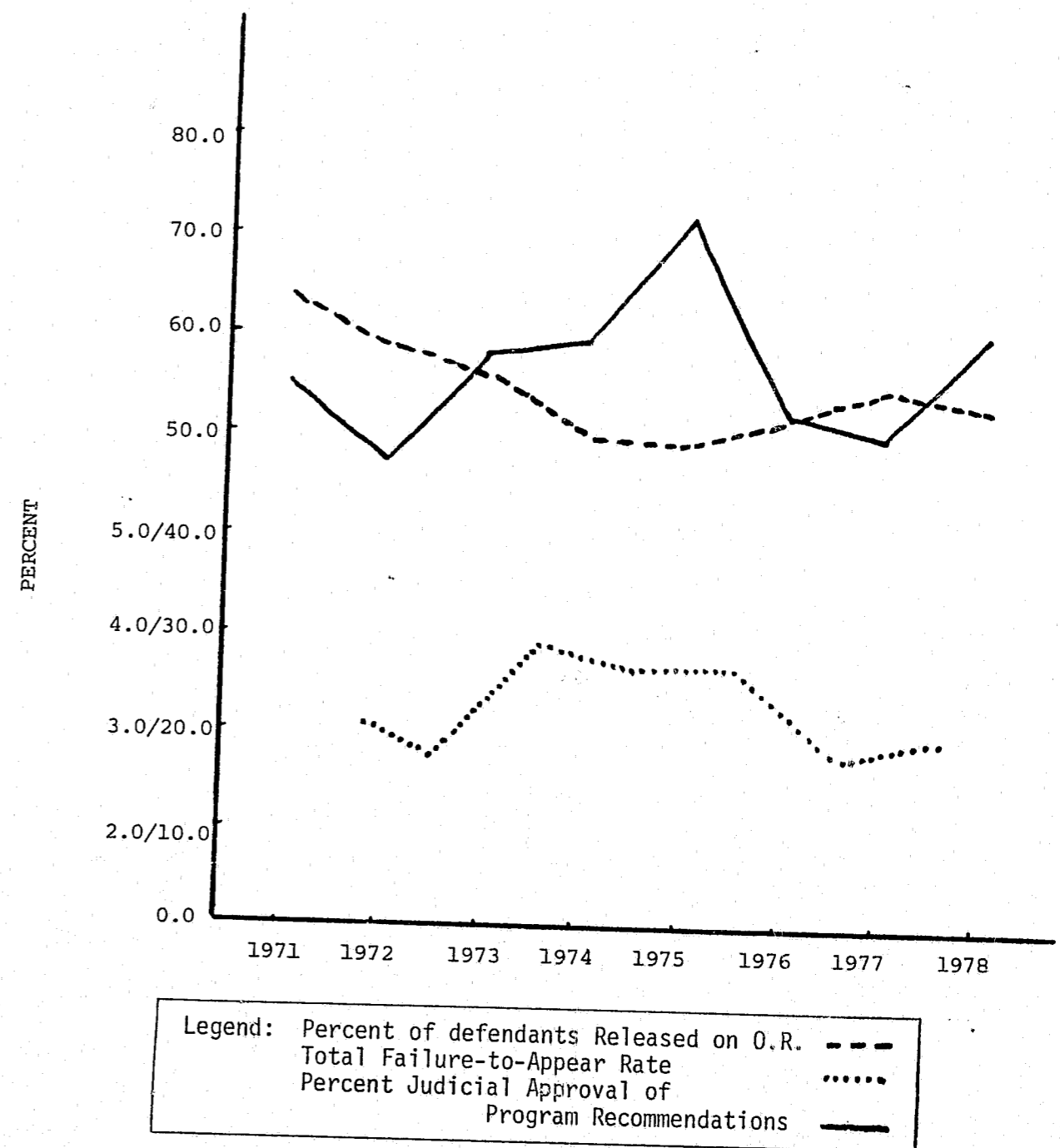
The fact that Supervised Release Specialists do consider severity of the offense is reflected in the lower number of judicial denials of their recommendations than those for the Regular O.R. staff. Less than 20 percent of their recommendations are not accepted by the court.

D. Relation of Defendant Outcomes to Rates of Release

The introduction of the Supervised Release Program greatly increased the number of defendants on non-financial pretrial release. As a percentage of total bookings, the number jumped from about 20 percent in pre-1974 to 30 percent after the Supervised Program began. However, the total number released as a proportion of only those interviewed by the Programs does not reflect an increase. Approximately 55 percent of the defendants interviewed before and after the existence of the Supervised Release Program were granted a form of non-financial release.

The extent to which these two release rates have fluctuated during the past several years is illustrated in Figures 5 and 6 below. These

Figure 5. Regular O.R. Program; Comparison of Release Rates, Failures to Appear, and Judicial Approval Rates, 1971-1978



Note: Left hand percent figures on vertical axis refer to the Failure-to-Appear Rate; right hand percent figures refer to Release Rates and Judicial Approval Rates.

Figure 6. Supervised O.R. Program; Comparison of Release Rates, Failures-to-Appear, and Judicial Disapproval Rates, 1974-78



Legend: Percent of Defendants Released on Supervised Release ---
 Failure-to-Appear Rate
 Percent of Cases Denied by Judge ———

Graphs also include the trends on failure to appear rates (i.e., Skip Rates) and rates of judicial approval of the Program recommendations.

Several interesting features of the relationship among these three rates emerges in the O.R. graph. For example, the proportion of defendants released on O.R. appears, appropriately, to have a negative correlation with the Skip Rate. The Judicial Approval Rate also follows a logically prescribed pattern. As the proportion of defendants released on O.R. declined from 1971 to 1975, judicial approval also declined (i.e., judicial denials went up). Similarly, as the failure to appear rate increased or decreased, the judicial denial rate increased or decreased accordingly.

E. Cost Effectiveness

For its 1973 Final Report, Pretrial Services estimated the Program's effect on jail costs. The analysis assumed that all those defendants released through the Program sooner than would be expected without the Program could be viewed as contributing to "jail time saved." The Jail Day Savings were thus calculated on the basis of the following information:

- average time from booking to release via the O.R. Program;
- average time from booking to release for comparable groups before Program began; and
- the time difference between these two averages.

Only male defendants booked for offenses that would not have excluded them from O.R. consideration were included in the pre-Program sample.

The Program's analysis shows that in 1970, misdemeanor defendants spent an average of 1.3 days in jail. Felony defendants spent 6.7 days

in jail. When these figures are compared with comparable ones for post-Program waiting periods, it was found that the Program saved 1.2 jail days per misdemeanor release and 6.2 jail days per felony release. When these savings are multiplied by the estimated number of each category of defendant receiving personal recognizance release in a one year period, the total jail days saved may be calculated. Thus, the Program estimated that 6,600 misdemeanor jail days and 7,333 felony jail days were saved in the twelve month period.

The actual dollar savings to the County was then estimated by taking into account the fact that the County had been contracting for pretrial detention space in other counties' facilities. This was based on the assumption that if the O.R. Program had not been in existence, the amount of contractual space rented by the County would be even greater than it was.

The average rate charged by these other counties for pretrial detention for Santa Clara County defendants is \$9.63 per day per defendant. When this rate is multiplied by the yearly total jail days saved, it suggests that the Program saved the County \$134,175 (or \$11,181 per month). This represents a net savings of \$34,120 for the first year of the Program's operation (estimated costs for the first 15 months of operation was \$100,055). For the second year's operations (fiscal year 1972-73), this would represent at least a \$36,537 savings (\$134,175 minus the \$97,638 operating costs during this year). This latter estimate, of course, assumes that the out-of-county contract jail space cost does not change and that the same number of O.R. releases occur.

There have been no other studies of this type since this original

jail day savings estimate was made. However, the Program's Director estimates that the O.R. Program has saved the County an additional \$100,000 per year in hospital costs for defendants in need of medical attention who were granted O.R. release. This estimate is based on the fact that if these defendants had not been released on their own recognizance, the Sheriff's Department would have had to incur any necessary hospital costs. But once a defendant is released, private insurance companies or the State must pay the costs of medical treatment.

V. CONCLUSION

The Santa Clara County Pretrial Release Program is especially notable for its high acceptance among virtually all officials in the local criminal justice system. A large part of this acceptance can be explained by the fact that the local judiciary was involved in its origins and development. But it is also clear that the Program's incomplete control over release decisions (since felony defendants must be released with judicial approval) and its success in maintaining pre-Program failure to appear and pretrial criminality rates has given it added legitimacy in the eyes of the public and the local criminal justice officials.

In addition, the generous budgetary support given by the Board of Supervisors can be seen as having aided the Program's acceptance in the community. With the funds set aside for research and computer services, the staff was able to conduct studies (such as those reported in this paper) which justified its claims of cost-effectiveness and community protection. Without these studies, it would have been easier for the community to have paid inordinate attention to the unusual and unfortunate cases emphasized by the media.

A last feature of the Program which contributes to its acceptance may also constitute one of its failings. Almost 34 percent of all arrested defendants are ineligible for the Program's services. And of those defendants that are eligible for the Program, only 79 percent are actually interviewed. Thus, a potentially large number of defendants may not enjoy the privileges of personal recognizance release.

FIRST REVISED FELONY BAIL SCHEDULE

SANTA CLARA COUNTY

(FEBRUARY 22, 1974)

This schedule is adopted by Superior, Municipal and Justice Courts of the County of Santa Clara pursuant to Section 1269b of the Penal Code and is to be utilized pursuant to Section 1269b, Penal Code, in setting bail for the release of prisoners arrested on felony charges, without warrant, for the alleged commission of any bailable offense, and for writs of habeas corpus.

THIS SCHEDULE IS EFFECTIVE BEGINNING JANUARY 1, 1974.

FOR ANY FELONY CHARGE WHICH IS NOT LISTED HEREIN, THE BAIL SHALL BE \$5,000.

NONBAILABLE OFFENSES, UNDER THIS SCHEDULE, ARE AS FOLLOWS:

- MURDER
- KIDNAPPING (SECTION 209 PENAL CODE)
- TRAIN WRECKING (SECTION 219 PENAL CODE)
- ESCAPE
- ASSAULT WITH INTENT TO MURDER (SECTION 217 PENAL CODE)
- FUGITIVE

Bail for any of the foregoing shall be set by a Magistrate.

The following bail schedule contemplates the following practice where more than one offense is charged:

(1) When a defendant is booked on two or more charges arising from the same course of conduct, bail shall be the amount set for the charge having the highest bail.

(2) When a defendant is booked on two or more charges arising from separate courses of conduct, bail shall be the sum of the amount set for the charge in each course of conduct having the highest bail.

Example (1): 182 P.C. \$3,000
459 P.C. 3,000
496 P.C. 1,000
Bail for this combination is \$3,000.

Example (2) 10851 V.C. \$2,000
20001 V.C. 2,000
23101 V.C. 1,000
Bail for this combination is \$4,000.

CONSPIRACY:

AMOUNT OF BAIL

- A. To commit a misdemeanor
- B. All others, as per the felony indicated

\$1,000

FIRST REVISED FELONY BAIL SCHEDULE (continued)

Offense & Section	AMOUNT OF BAIL
ARSON:	\$10,000
a. <u>447a P.C.</u>	10,000
b. <u>448a P.C.</u> - Unoccupied	10,000
c. <u>448a P.C.</u> - Occupied	5,000
d. <u>452 P.C.</u> - (Fire bomb possession)	3,000
ASSAULT DEADLY WEAPON OR FORCE - <u>245 P.C.</u>	2,000
ASSAULT - INTENT TO COMMIT RAPE - <u>220 P.C.</u>	1,000
ASSAULT - POLICE OFFICER OR FIREMAN	3,000
a. <u>241, 243 P.C.</u> - Without weapon	3,000
b. <u>245(b) P.C.</u> - With weapon	
ATTEMPT TO COMMIT A FELONY, AS PER FELONY DESCRIBED	
BIGAMY - <u>281 P.C.</u>	1,000
BOOKMAKING - <u>337(a) P.C.</u>	1,000
BURGLARY (First Degree) - <u>459 P.C.</u>	3,000
BURGLARY (Second Degree) - <u>459 P.C.</u>	1,500
CHILD MOLESTATION - <u>288 P.C.</u>	3,000
CRIME AGAINST NATURE - <u>286 P.C.</u>	3,000
DEADLY WEAPON CONTROL ACT - <u>12020, et al P.C.</u>	
a. Possession blackjack, sap, dirk, knuckles	1,000
b. Possession of concealed weapon by ex-felon or ex-addict, <u>12021 P.C.</u>	2,500
EXTORTION - <u>518 P.C.</u>	5,000
FELONY DRUNK DRIVING - <u>23101 V.C.</u>	1,000
FELONY HIT AND RUN - <u>20001 V.C.</u>	2,000
FORGERY - <u>470 P.C.</u>	2,000
FORGERY - <u>475 P.C.</u>	2,000
FORGERY OR DRUG OR MARCOTIC PRESCRIPTIONS - <u>4390 B. & P.</u>	2,000
GRAND THEFT AUTO - <u>487.3 P.C. or 10851 V.C.</u>	2,000
GRAND THEFT MERCHANDISE - <u>487.1 P.C.</u>	2,000

CONTINUED

1 OF 2

FIRST REVISED FELONY BAIL SCHEDULE (continued)

Offense & Section	AMOUNT OF BAIL
GRAND THEFT PERSON - <u>487.2 P.C.</u>	3,000
INDECENT EXPOSURE - <u>314.1 P.C.</u>	1,000
INFLICTION OF CORPORAL INJURY UPON WIFE OR CHILD - <u>273d P.C.</u>	2,500
KIDNAPPING - <u>207 P.C.</u>	10,000
MANSLAUGHTER AUTO - <u>192.3 P.C.</u>	2,000
ILLEGAL POSSESSION OF ANY NARCOTIC, NOT MARIJUANA - <u>11351 H&S Code</u>	1,500
POSSESSION FOR SALE OF ANY NARCOTIC, NOT MARIJUANA - <u>11351 H&S Code</u>	5,000
ILLEGAL TRANSPORTATION, SALE, FURNISHING ETC., ANY NARCOTIC NOT MARIJUANA - <u>11352 H&S Code</u>	10,000
USE BY PERSONS 18 YEARS OR OVER, OF MINOR IN SALE, TRANSPORTATION, ETC., OR SELLING, ADMINISTERING, GIVING, ETC., ANY NARCOTIC NOT MARIJUANA TO A MINOR - <u>11353 H&S Code</u>	10,000
USE BY PERSON UNDER 18 OF MINOR IN SALE, TRANSPORTATION, ETC., OR SELLING, ADMINISTERING, GIVING, ETC., ANY NARCOTIC, NOT MARIJUANA TO A MINOR - <u>11354 H&S Code</u>	5,000
SALE, TRANSPORTATION, FURNISHING, ADMINISTERING ANY SUBSTANCE IN LIEU OF NARCOTICS AFTER REPRESENTING IT TO BE NARCOTICS - <u>11355 H&S Code</u>	2,000
POSSESSION PILLS - <u>11377 H&S Code</u>	1,500
POSSESSION OF PILLS FOR SALE - <u>11378 H&S Code</u> -Small Small Amount	2,500
TRANSPORTATION, SALE, OR MANUFACTURE OF OF PILLS - <u>11379 H&S Code</u>	3,000
POSSESSION OF MARIJUANA - <u>11357 H&S Code</u>	1,000
PLANTING, CULTIVATING, ETC., MARIJUANA - <u>11358 H&S Code</u>	1,500
POSSESSION OF MARIJUANA FOR SALE - <u>11359 H&S Code</u>	2,000

FIRST REVISED FELONY BAIL SCHEDULE (continued)

Offense & Section	Amount of Bail
TRANSPORTATION, SALE, FURNISHING MARIJUANA, ETC., <u>11360 H&S</u>	3,000
USE BY PERSON 18 YEARS OR OVER, OF MINOR IN SALE, TRANSPORTATION, ETC., OR SELLING, ADMINISTERING, GIVING, ETC., MARIJUANA TO A MINOR - <u>11361 H&S Code</u>	5,000
NON-SUFFICIENT FUNDS CHECKS - <u>476a P.C.</u>	1,000
ORAL SEX PERVERSION - <u>288a P.C.</u>	2,000
PETTY THEFT - PRIOR CONVICTION OF FELONY - <u>667 P.C.</u>	1,000
PETTY THEFT - PRIOR CONVICTION OF PETTY THEFT - <u>666 P.C.</u>	1,000
PIMPING & PANDERING - <u>266h, 266i P.C.</u>	1,000
RAPE & UNLAWFUL INTERCOURSE - <u>261, 261.5 P.C.</u>	
a. <u>261(1), 261(4) & 261(5) P.C.</u> - Victim incapable of consent or unconscious or induced by artifice	2,500
b. <u>261(2) P.C.</u> - Force or violence	5,000
c. <u>261(3) P.C.</u>	3,000
d. <u>261(3) P.C.</u> - Physical harm	5,000
e. <u>261.5 P.C.</u> - Unlawful intercourse, arrestee under 21	1,000
f. <u>261.5 P.C.</u> - Unlawful intercourse (Defendant over 21)	1,500
RECEIVING STOLEN PROPERTY - <u>496 P.C.</u>	1,000
ROBBERY (First Degree) - <u>211 P.C.</u>	10,000
ROBBERY (Second Degree) - <u>211 P.C.</u>	5,000
THROWING MISSILES AT VEHICLES - <u>219.1 and 219.2 P.C.</u>	2,000

COMPLETE THIS SIDE
FOR ALL BOOKINGS.

COMPLETE REVERSE SIDE
WHERE APPROPRIATE.

AFFIDAVIT RE SETTING OF BAIL

Your affiant is a: Police Officer for the City of _____
Deputy Sheriff for the County of Santa Clara _____
Officer of the California Highway Patrol _____
Other (specify agency) _____

and is informed and believes and therefore states that: on _____, 1972, _____
(Defendant's name) was arrested and booked at the Santa Clara County Jail on charges as follows:

FELONIES: _____
MISDEMEANORS: _____
that the circumstances of the above offense(s) (case # _____) were as follows:

* * * * *

- I. Was the suspect ARMED during the commission of this offense? (Yes/NO). If yes, the suspect was armed with a: club knife handgun rifle shotgun other (describe) _____
- II. Was the suspect armed when apprehended? (Yes/No). If yes, the suspect was armed with a: club knife handgun rifle shotgun other (describe) _____
- III. Did the suspect RESIST ARREST? (Yes/No). If yes, describe the resistance: _____

- IV. Is the suspect, to the best of your knowledge, a habitual user of narcotics? (Yes/No). If yes, how has this been determined? _____

- V. IF AN ASSAULT IS INVOLVED, (complete the following):
 - A. Type of assault: (Describe) _____
 - B. Reason for assault (if known): _____
 - C. Victim(s) (age/sex/relationship to suspect): _____
 - D. Injuries sustained by victim(s): none minor moderate major
 - E. Weapon(s) involved: (Yes/No). If yes, the weapon was a: club knife handgun rifle shotgun other (describe) _____

If a firearm is involved, was it discharged by the defendant during either the alleged crime or during this apprehension? (Yes/No).

- VI. IF A THEFT OR STOLEN PROPERTY IS INVOLVED, (complete the following):
 - A. Type of theft: (describe) _____
 - B. Victim(s): Person Residence Commercial Establishment Other (describe) _____
 - C. Property taken or in possession and the approximate value: _____
 - D. Property recovered: none partial full recovery

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- VII. If "Controlled Substances" are involved, (complete the following):
 - A. Description and amount (s) of "Controlled Substances" involved: _____
 - B. Are "sales" of the previously described "controlled substances" suspected in the case of this suspect? (Yes/No). If yes, is the level of sales activity best described as:
 - MINOR (Small quantities sold on an irregular basis. No production or manufacture of "controlled substances" involved.)
 - MODERATE (Small to medium amounts of "controlled substances sold on a regular basis. Not involved in the production of manufacture of "controlled substances".)
 - MAJOR (Involved in the sales, production or manufacture of large quantities of "controlled substances".)
 - C. Approximate number of co-defendants involved in this case: . Have they, at this time, been apprehended? (Yes/No).

I DECLARE, UNDER PENALTY OF PERJURY, THAT THE FOREGOING IS TRUE AND CORRECT.

Signature of Affiant

Date

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APPENDIX B

INTERVIEW SHEET

Interviewer _____
 Date _____
 COUNTY OF SANTA CLARA
 PRETRIAL RELEASE PROGRAM

RELEASED: YES ___ NO ___
 CRT. RPT. YES ___ NO ___
 NEEDS DONE
 INTERVIEW: _____
 VERIP: _____
 REC. CHK: _____
 P.O. CWK: _____
 JUDGES O.R.: _____
 CODE: _____

SECTION 1 - IDENTIFICATION

Booking # _____ Booking Date _____
 Name _____ Age _____ DOB _____ SS # _____
 Charge _____ Agency _____ Ct. of App _____ Sex _____ W MA M I
 M F Other _____

SECTION 2 - RESIDENCE

Street address _____ City & State _____ How Long _____
 Can be reached by phone _____ Telephone owned by _____ Time/Day Area _____ Time/SC Co. _____
 Previous Address _____ City & State _____ How Long _____

INTERVIEW SCORE	Pres. res. 1 yr or more	Pres. res. 3 mos OR pres & prior 1 year	Pres. res. 4 mos OR pres & prior 2 months	5 yrs OR more	VERIFIED SCORE
	3 pts.	2 pts.	1 pt.	1 pt.	

SECTION 3 - FAMILY TIES

Client resides with relationship & name _____ Marital Status L M T LS S
 No Yes
 Spouse's Name & Address _____ Children Number _____ Ages _____ With _____ Other _____
 Relatives & References that keeps in close contact with: HOW OFTEN SEEN
 NAME ADDRESS PHONE RELATIONSHIP

INTERVIEW SCORE	Lives w/fam AND wkly cont	Lives w/fam OR wkly cont	Lives w/ nonfamily	VERIFIED SCORE
	1 pts.	2 pts.	1 pt.	

SECTION 4 - EMPLOYMENT (If housewife, refers to spouse.)

Present Employer _____ How Long _____ FT PT _____ May Contact _____ Do Not Contact _____
 Type of Work _____ Phone _____ Wages/month _____
 Previous Employer _____ How Long _____ FT PT _____ May Contact _____ Do Not Contact _____
 If unemployed How long _____ How Supported Welfare _____ UIB _____ Other _____
 Currently enrolled in school or training _____ No _____ Yes _____

INTERVIEW SCORE	Pres. Job 1 yr OR more OR FT Student	Pres. Job 4 mos OR pres/prior 6 mos	Current job UIB/W/F-S	VERIFIED SCORE
	1 pts.	2 pts.	1 pt.	

SECTION 5 - DISCRETIONARY

INTERVIEW SCORE	Pregnancy _____ Old Age _____ Medical Problems _____ pt.	VERIFIED SCORE
-----------------	---	----------------

SECTION 6 - PRIOR RECORD

Number of convictions: _____

DATE	PLACE	CHARGE (F/M)	DISPOSITION

INTERVIEW SCORE	No conv	1M/conv	2M/conv OR 1 felony conv	3 or more M/conv OR 2 or more F/conv	VERIFIED SCORE
	2 pts.	1 pt.	0 pt.	-1 pt.	

TOTAL INTERVIEW SCORE	TOTAL VERIFIED SCORE
-----------------------	----------------------

Other Charges Pending No Yes
 Holds No Yes
 ON PROBATION/PAROLE No Yes To _____ Officer's Name _____
 (NAME OF AGENCY)
 I voluntarily authorize the Pretrial Release Project to contact the people named above and to make any and all inquiries and investigation for obtaining information useful to the court in establishing my eligibility for being released on my own recognizance.

Signature _____ Date _____

PRIOR RECORD VERIFICATION

DATE	OFFENSE	DISPOSITION	FEL/MISD

PENDING CASES None _____ PAST B/W None _____
 COMMENTS: _____

BACKGROUND VERIFICATION

Name _____ Relationship _____
 Address _____ Phone _____
 Has known Δ for how long? _____ Sees Δ how often? _____

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DISTRIBUTION OF RELEASE CRITERIA ON POINT BASIS

<u>RESIDENCE POINTS</u>		<u>STANDARD</u>
3	Present residence 1 year or more	
2	Present residence 6 months <u>or</u> present and prior residence 1 year	
1	Present residence 4 months <u>or</u> present and prior residence 6 months	
1	5 years or more in the Bay Area	
<u>FAMILY TIES POINTS</u>		<u>STANDARD</u>
3	Lives with family <u>and</u> weekly contact with other family members	
2	Lives with family <u>or</u> weekly contact with other family members	
1	Lives with non-family	
<u>EMPLOYMENT POINTS</u>		<u>STANDARD</u>
3	Present job 1 year or more <u>or</u> full-time student	
2	Present job 4 months <u>or</u> present and prior job 6 months	
1	Presently employed or receiving financial assistance	
<u>DISCRETIONARY POINTS</u>		<u>STANDARD</u>
1	Pregnant, old age, medical problems, etc.	
<u>PRIOR RECORD POINTS</u>		<u>STANDARD</u>
2	No convictions	
1	1 misdemeanor conviction	
0	2 misdemeanor convictions <u>or</u> 1 felony conviction	
-1	3 or more misdemeanor convictions <u>or</u> 2 or more felony convictions	

County of Santa Clara
PRETRIAL SERVICES

RECOMMENDATION REPORT

Department _____
Docket # _____
Court Date _____

Defendant's Name _____ DOB _____ Age _____
Charge(s) _____ Date of Arrest _____
Booking # _____

Prior Record
Local CJIC history attached: yes no Comment _____

MII attached: yes no Comment _____

Currently on Probation: yes no Parole: yes no Drug Diversion: yes no

Officer's Name _____

Residence & Family Verified: yes no Source of verification _____

Address _____ Telephone _____

Length of time at this address _____ Time in County _____

Previous address _____ How long? _____

Marital status _____ Number of children _____

Resides with _____ Relationship to defendant _____

If appropriate, parent's names, address, and telephone _____

Employment or Support Verified: yes no Source of verification _____

Employer _____ How long? _____

In what capacity? _____ Full-Time Part-Time

Previous Employer _____ How long? _____

Source of support if not employed _____

If student, name of school _____

Supplemental Information (Holds, pending matters, etc.) _____

.....
RECOMMENDATION:

It is recommended the defendant NOT BE RELEASED O.R.

It is recommended the defendant BE RELEASED O.R.

It is recommended the defendant BE RELEASED SUPERVISED O.R. with the following special condition(s):

Submitted by _____
Pretrial Release Specialist

MISDEMEANOR CITATION RELEASE

GEN: _____

RELEASE UNDER SECTION 853.6 P.C.

The following person, arrested for a misdemeanor without a Warrant, is hereby released after having agreed to appear in court.

NAME _____ ADDRESS _____

OFFENSE CHARGED _____

ARRESTING OFFICER & AGENCY _____ DATE & TIME _____

I, the undersigned defendant, do hereby agree to appear in the Municipal Court, County of Santa Clara, State of California, _____ Judicial District,

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_____ on _____ (ADDRESS) (DATE)

_____ at _____ .M. to answer the above (DAY OF THE WEEK)

charge.

NOTE: Failure to appear in court, as agreed, will result in your being charged with a misdemeanor violation of 853.7 P.C. and a warrant issued for your arrest.

Dated: _____

DEFENDANT: _____ Signature _____

RELEASED BY DEPUTY SHERIFF _____ DATE & TIME _____

PRE-TRIAL RELEASE SPECIALIST _____

RELEASE TYPE
O/R-P

RELEASE TO: _____

COURT REPORT

PRE-TRIAL RELEASE PROGRAM
County of Santa Clara
Court Report

COURT: _____

BOOKING #: _____

DATE BOOKED: _____

AGE: _____

NAME _____

CHARGE _____

VERIFIED RESIDENCE - FAMILY:
Upon release defendant will reside:

YES at: _____

with: _____

Has resided above for: _____ County resident for: _____

VERIFIED EMPLOYMENT - SUPPORT:
Upon release defendant will be employed:

by _____

YES as _____ on Full-Time/Part-Time.

Has been employed above for: _____

OR

will be supported by _____

VERIFIED PRIOR RECORD:

YES _____

ADDITIONAL PERTINANT INFORMATION:

FELONY RELEASE

IN THE MUNICIPAL COURT FOR THE _____ JUDICIAL DISTRICT
COUNTY OF SANTA CLARA, STATE OF CALIFORNIA

THE PEOPLE OF THE STATE OF CALIFORNIA,)
Plaintiff,)
vs.)
Defendant.)
GEN No. _____
Docket No. _____
Release on Own Recognizance
Sections 1318-1319.6 Penal Code

CHARGE(S): (1) _____ (2) _____ (3) _____ (4) _____
(5) _____ (6) _____ (7) _____ (8) _____

I, the defendant in the above entitled matter, do agree that I will appear in the above entitled Court on _____ 19____ at _____ o'clock _____ M. and at all times and places as ordered by the Court or magistrate releasing me and as ordered by any Court in which, or any magistrate before whom, the charge is subsequently pending, and I further agree that if I fail to so appear and am apprehended outside the State of California, I waive extradition. Executed by me on _____ San Jose, California.

DEFENDANT

Good cause appearing therefor, and the defendant having signed the above agreement that he will appear, it is by the Court ordered that defendant be released from custody on his own recognizance.

Dated: _____ Judge of the Superior Court (Municipal)

DATE OF ARREST: _____

RELEASE TYPE
O/R-P

COURT OF CALIFORNIA, COUNTY OF SANTA CLARA

THE PEOPLE OF THE STATE OF CALIFORNIA,
Plaintiff

vs.

Defendant

CEN # _____

Docket # _____

Release on:
Supervised Own Recognizance
Sections 1318-1319.6 Penal Code
of the State of California

CHARGE(S): (1) _____ (2) _____ (3) _____ (4) _____

I, the undersigned defendant, agree to appear in the above entitled Court on _____, 19____ at _____ and at all times and places as ordered by the court or magistrate releasing me and as ordered by any magistrate before whom, the charge is subsequently pending. If I fail to appear and am apprehended outside the State of California, I hereby waive extradition. I understand that any court or magistrate of competent jurisdiction may revoke the order of my release hereunder, at any time, and commit me to actual custody, unless I give bail or other security as may be required.

I shall comply with the following GENERAL conditions of release as required by the court:

1. I shall report as required by the Pretrial Release Program.
2. I shall remain in Santa Clara County unless granted written permission to leave by the Pretrial Release Program.
3. I shall report any change of address immediately and in writing to the Pretrial Release Program.
4. I shall not violate any State or Federal laws.

I shall comply with the following SPECIAL conditions of my release:

5. _____
6. _____
7. _____

I fully understand that if I disobey any of the conditions of my release, I will be subject to immediate arrest by any peace officer. I also understand that my failure to appear in court, as agreed herein, will result in my being charged with an additional felony or misdemeanor violation, as the case may be, of Failure to Appear on my Own Recognizance.

Signed this _____ day of _____, 19____.

Defendant

Order For Release

The above-named defendant having executed the foregoing, and good cause being shown, it is hereby ordered that the defendant be released from custody on his own recognizance subject to the conditions set forth above.

Dated this _____ day of _____, 19____.

WHITE - COURT
GREEN - BOOKING
CANARY - JAIL
PINK - PRETRIAL RELEASE PROGRAM
GOLDENROD - DEFENDANT
4193 REV 1/78

Judge of the (Superior) Court
(Municipal)
Office of Pretrial Services
875 North First Street, #503
San Jose, California 95112
PHONE: 258-4091

END