The Collins Center for Public Policy

An Evaluation of Florida's Local Pretrial Detention Population

FINAL REPORT

August, 1994

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August 31, 1994

Mr. Matthew S. Tansey
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Post Office Box 1658
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Dear Mr. Tansey:

We are pleased to submit the final version of our report *An Evaluation of Florida's Local Pretrial Detention Population* performed under FSU Subcontract G04777.

We have enjoyed working with you on this project and particularly appreciate your help both in providing many valuable source materials and your incisive comments on the report draft. We look forward to our final presentation to the Task Force for the Review of the Criminal Justice and Corrections Systems and to learning of the outcome of their deliberations.

Sincerely,

David Moulton
Project Manager

The Collins Center for Public Policy

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GLOSSARY OF ABBREVIATIONS AND TECHNICAL TERMS

ALS	average length of stay (in jail)
ADP	average daily (jail) population
NTA	notice to appear, usually issued by the arresting officer
FTA	failure to appear in court as scheduled
Capias	warrant issued to arrest a defendant who has failed to appear
Add-on charge	a charge added after the original booking
Surety bond	a bond obtained by making a deposit with a bondsman
VOP	technical violation of probation (i. e., with no new criminal charge)
NIC	National Institute of Corrections
NIJ	National Institute of Justice
Profile study	study of the inmates present in jail at a given time
Tracking study	study of the inmates passing through jail in a given period
DUI	driving under the influence (of intoxicants, generally alcohol)
DWLS	driving while license suspended
ROR	non-financial pretrial release on own recognizance
No-bond order	judicial order forbidding any bail for a particular defendant
DOC	Florida Department of Corrections
OIG	Office of the Inspector General, DOC
ACIR	Advisory Council on Intergovernmental Relations
UCR	uniform crime reports
CJIS	automated criminal justice information system
CPSCC	county public safety coordinating committee
PTR	pretrial release
PTS	pretrial services
DLE	Florida Department of Law Enforcement
Big 7 counties	Dade, Broward, Palm Beach, Pinellas, Hillsborough, Orange, Duval: these hold 55% of the state's population, and there is a gap of over 250,000 to the next largest county (Polk).

1. Introduction

I. INTRODUCTION

A. BACKGROUND

Florida State University retained the Institute for Law and Policy Planning (ILPP) to review pretrial detention at the local level throughout the state of Florida. The specific charges were to:

- Construct a profile, from the public safety perspective, of pretrial inmates;
- Identify proven pretrial release options which could be used to manage jail populations;
- Estimate the numbers of pretrial detainees who might meet the release guidelines;
- Describe institutional barriers to implementing pretrial release;
- Summarize current pretrial detention practices in Florida; and
- Estimate the proportion of inmates falling into various security classifications and the corresponding percent of housing now available in those jurisdictions studied.

It was expressly understood that ILPP should not gather new data but should rely on existing studies prepared by itself or other entities, and on published materials by the Florida Department of Corrections and other state agencies.

B. REPORT ORGANIZATION

This review is divided into three sections. The first summaries studies of thirteen counties, including all but Dade and Pinellas of Florida's seven largest, plus information from the Office of the Inspector General (OIG) of the Department of Corrections and from the Advisory Council on Intergovernmental Relations (ACIR), an official agency representing the Legislature and five statewide associations of local government entities.[1]

1 The ACIR report entitled: "Intergovernmental Relations in Local Jail Finance and Management in Florida" (August 1993) covers a wide range of issues relating to jail financing and population management, and was of particular help to ILPP in preparing this review.

The second section of the report discusses proven modes of pretrial release and issues surrounding their implementation, including a sketch of their use in Florida as of 1992. The final section presents and analyzes the findings. It then attempts to answer questions of how the inmates match the numbers and types of existing facilities and how many of the pretrial detainees might be released. ILPP itself prepared five of the thirteen studies, and draws most heavily upon those in the analysis because of greater familiarity with the information.

C. SUMMERY OF FINDINGS

Florida's jails, though they attempt with various degrees of success to maintain programs of pretrial release, still hold many inmates whose personal and criminal characteristics suggest that they would neither constitute a serious threat to the public nor willfully fail to appear for adjudication of their cases. The primary reason for holding these inmates is the lack of a deliberate and coordinated pretrial release policy among the various circuit, county, and local officials who ultimately determine the jail population.

The current pretrial release system is dominated by two procedures: financial releases (bail) and Release on Own Recognizance (unsupervised release) for less serious offenders. In some counties, court orders to keep under a mandated population cap result in wholesale and somewhat indiscriminate releases which are resented by both the public and justice system officials.

ILPP delineates a number of pretrial release options, none of which are new to Florida, and discusses barriers to their adoption. Some costs of implementation are estimated, as well as one case where the cost of an existing program can be compared with the jail bed savings realized from its use.

2. Profile Summaries

II. SUMMARIES OF JAIL POPULATION PROFILES

There are two methods in common use for characterizing jail populations for policy planning. A **profile** describes the inmates of a jail at a particular point of time. A **tracking** study looks at the inmates entering and leaving the jail during a specified period. Although both measure many of the same variables (demographic and criminal characteristics) they give different results. The reason, of course, is that not all inmates stay in jail for the same amount of time. The majority of persons booked into a jail stay only a short time, usually leaving within a day or two. Since the tracking sample records all offenders who enter or leave the jail, it is dominated by that majority. The profile, by contrast, contains mainly those with longer terms.

- Suppose, for example, that each month a jail booked 90 misdemeanants who stayed just one day each and 10 people for felonies who stayed for 21 days. There are only one-ninth as many felony level detainees entering (tracking) but they stay 21 times longer (profile). The tracking sample would be 90 percent misdemeanors but the profile would show 70 percent felonies. This illustrates the relationship between profile and tracking studies: the tracking may be converted to a profile by weighting the inmates' characteristics by their individual lengths of stay.

- A further note on lengths of stay: most useful for many statistical purposes is the *average length of stay* (ALS). However because length of stay is a strongly skewed distribution, its average is much longer than the typical inmate stays. A rather extreme example: if there are in some particular category nine offenders who stay for one day and one who stays for 21, then ALS for this group is three days even though only one actually stayed that long and the *median* length of stay is one day only. Each of these measures has its own uses.

Both approaches are useful to the jail planner. Tracking helps point out the bottlenecks in system flow. The profile can help in determining the classification level of the inmates and serve as a guide to future jail construction. It will also indicate the presence of any inmates whose offenses and histories do not seem to warrant a long period of incarceration. In the current review the profile of pretrial inmates is the particular focus of attention.

The pretrial profiles are taken from a number of recent studies produced by ILPP and other contractors: see the appendix for the complete reference to each study. In accordance with the terms of the contract, no new data has been gathered. Further, ILPP is not, in general, evaluating the work of any of these other contractors, though in a few cases it points out useful information which does not appear in their reports. The summaries are intended to be true to the content of the originals. Comments by ILPP are presented in square brackets.

Although the focus of the review is on pretrial detainees, the existing studies covered both pretrial and sentenced populations. In general the numbers of pretrial detainees are given, but demographic and other characteristics are not always separately broken out for that segment of the population. The types and formats of data gathered are not necessarily consistent among studies. In this summary numbers are given exactly but percentages are rounded off to the nearest whole percent, so totals may not add to 100 percent. Some small categories are not listed.

In general the data presented below are taken from inmate profile analyses. However the information on pretrial release modes comes from inmate tracking analyses. The tracking studies do not distinguish male and female inmates.

INTRODUCTION TO THE PROFILES

A short digression on the nature of crime and criminals may serve to put the profile information into context. These observations are drawn from both statewide and national data, and reflect the thinking of a number of students of the criminal justice system.

In Florida, as in other states, the vast majority of arrests are not for murder, rape, or robbery, but for a host of less serious offenses. The 1993 Uniform Crime Reports compiled by the Department of Law Enforcement) show 654,000 arrests statewide. Of these, 181,000 are for serious offenses, defined as violence, burglary, and theft; and over half of those are for larceny, including vehicle theft. Another 241,000 are for seventeen other listed offenses, of which by far the commonest are simple assault, drug possession, and DUI (driving under the influence). Liquor law violation and drug sales are also substantial categories. Finally, 231,000 arrests are for unspecified "miscellaneous" causes.[1]

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[1] ILPP has queried DLE staff, but they have been unable to explain that very large number except to say that it includes DWLS (driving while license suspended) and arrests for violation of probation or failure to appear in court, all of which have occurred frequently in the studies reviewed in this report, as well as a very large group of much less common infractions such as violation of fish

The total number of arrests has dropped by nine percent since 1990, with most of the decrease being in the "miscellaneous" and "all other" categories. The arrests for serious violent offenses have shown little change.

Age, sex, and race/ethnicity are important correlates of criminality. The typical arrested offender in Florida is adult (88%), male (83%), and white (62%) (1989 figures). Criminal offenders are predominantly male in every jurisdiction and historical period which has been studied, regardless of age or ethnicity. The effect of age is complex: the probability of arrest rises very sharply from age 14 to 18 and then falls off more slowly. By the age of 30 it is down to what it was at 14, and continues to decrease. It should be emphasized that most of the arrests recorded are for "street crimes"; "white-collar" offenders are much more difficult to discover and apprehend, and are not separately identified in the tabulations.

Although African Americans account for only 38% of arrests, their proportion in Florida's total population is much smaller - just 14%. The percentage of Hispanics is close to this at 12%. Florida does not keep track of arrests by Hispanic ethnicity, but in states that do (e.g. California) the Hispanic male arrest rate is higher than that for whites. Much of the difference between ethnicities is attributable to the age difference; the black population, in particular, is much younger than whites (the median age is 12 years lower). The other important factor appears to be socioeconomic status. Lower status is strongly correlated with arrest rates for most offenses, and the status of minorities is typically lower than that of whites. Finally, differential or discriminatory treatment by law enforcement and the justice system overall is difficult to show statistically but is supported by extensive anecdotal evidence.

Being young and male are obviously unavoidable characteristics. Low socioeconomic status is avoidable only with great effort if one is born into it. Yet not all young males from disadvantaged families become criminals. The personal characteristics that cause one person to offend and another to abstain have not been explained adequately, but they appear to be related to a desire for instant gratification, a tendency to disregard uncertain future consequences, and a low level of self-control. Sometimes the thrill of the experience is as much of a motivating as any pecuniary gain. Their offenses, in consequence, tend to be opportunistic and spontaneous or poorly planned.

and game or business license laws. In view of the fact that it represents approximately one-third of all arrests, a more detailed breakdown of the "miscellaneous" category would be of use to students of Florida's criminal justice system.

Such characteristics seem to be rather deeply ingrained in a personality despite the fact that they are counteracted by maturing. Thus one of the best predictors of future criminal activity is prior offending. However one must be careful not to confuse arrests with offenses since individuals with the "right" age/race/sex may be arrested often on suspicion without ever incurring any convictions for their purported misdeeds.

It has been observed that persons who are mentally retarded or disturbed frequently end up in jail for disruptive behavior because a jurisdiction has no other way to deal with them. The emergence of large numbers of homeless, who often have substance abuse problems as well, increases the need to examine this use of jail beds.

Finally, the effect of drugs and alcohol: the current theory of "general deviance" holds that the personal characteristics which lead to criminal activity also tend to foster the use of both legal and illegal substances (tobacco, alcohol, and drugs) and to be correlated with other personal difficulties such as poor school performance, a tendency to accidents and an inability to keep a job or maintain close relationships with other people. A majority of criminal drug addicts claim to have engaged in some criminal activity before becoming addicted. It appears that drugs do not often turn a law-abiding person into a criminal, but that drugs or alcohol can increase the frequency and intensity of criminal activity in persons who already have tendencies in that direction.

These observations may serve as a background for understanding the profiles and how they relate to the possibility of pretrial release. First, most arrests are for less serious offenses. Many of the individuals who commit them are acting on impulse, implying that with some degree of supervision they might be persuaded to abstain. If drugs and alcohol increase the frequency of offending, then those who express a desire to overcome the habit - and many do - might need to be helped to do so; the same may be true for uncontrollable violence, especially in a domestic situation. "Stability factors" such as employment, continuous residence, and family connections imply that an individual, if released, will have an incentive to remain in the area and return for adjudication rather than becoming a fugitive.

Because of the lessening of criminal activity with age, it has become common to treat first-time offenders with some leniency (assuming their crime is not grave) in the hopes that they will come to see the folly of their ways. If they are living with their parents or other responsible adults it may be possible for those to assume a supervisory role. Likewise an older person with a clean record for several years may have suffered only a temporary lapse. On the other hand, some older inmates have a history of repeated offenses and can be expected to reoffend if released.

The issue of race and class is troubling and probably insoluble in the short run. Because race and socioeconomic status are intertwined it is difficult to separate their effects, but it is very likely that minority young men are treated differently from the majority by the justice system, and react differently to it. Poverty is also an issue; some persons remain in jail because they cannot make even a moderate bond while wealthier persons get out on much more serious charges. Public defenders are generally less experienced than private defense attorneys, too, and may be of less help in effecting a release.

A. LEON COUNTY: ILPP (1987)

The profile sampled 179 of the 400 adult male detainees on September 24, 1987. An astounding 95 percent of them were unsentenced, so the characteristics are essentially for the pretrial population only. Seventy-eight percent of the inmates were African American and 75 percent were residents of Tallahassee (the county seat and largest city), with six percent from other Leon County addresses, nine percent other Florida, and five percent each other states and transients. The age distribution was: 18 to 20, 13 percent; 21 to 24, 25 percent; 25 to 29, 21 percent; 30 to 39, 29 percent, and 40 and over, 12 percent. Nearly half (43 percent) were high school graduates with no college, and 30 percent had only a tenth or eleventh grade education. Surprisingly, the number who were employed full time and those who were unemployed were the same (46 percent each).

Nearly all of the detainees were charged with felonies (86 percent). Of the felonies, 29 percent were violent, 26 percent were property, 29 percent drugs, and 14 percent for probation or parole violations (VOP). Of felony detainees, 84 percent were black, but for murder and rape, whites were five of the twelve being held. The percentages of blacks were especially high for drug and probation violations.

By contrast, for those charged with misdemeanors, the numbers of whites and blacks were equal. Half of the misdemeanor detainees were held for probation violations or a failure to appear (FTA) as scheduled in court.

Over half (58 percent) of the detainees had no bail set. The arresting officer had the ability to prohibit bond or other pretrial release by so indicating on the arrest affidavit. For the Leon County Sheriff's Office, the principal reason was the existence of a warrant, FTA, or VOP, while for the Tallahassee Police other reasons were equally important. However both agencies in a number of cases gave no reason for the denial. Overall the police denied release in about 40% of their cases while the Sheriff's deputies were about 45%. Eleven percent of the detainees had bail amounts set under $5,000, and 16 percent had bail over $10,000. Lengths of stay were long for a pretrial population: half had been in custody over 30 days, and almost ten percent over five months.

In the tracking study it was found that 63 percent of felony arrestees were released pretrial. More than half of these (52 percent) were released through financial modes (bond or cash purge). By far the commonest way was through a bail bondsman (46 percent, with an average time to effect of 11 days). The next commonest mode was court-ordered Release on Own Recognizance (ROR) (40 percent), the ALS in that case being 19 days. Most misdemeanor detainees (83 percent) were released pretrial, in several ways: bail bond (40 percent, ALS = two days), the pretrial release unit (20 percent, ALS = .5 days), court-ordered ROR (19 percent, ALS = 1.5 days) and self-bonding (14 percent, ALS = about 8 hours). Self-bonding was especially used for DUI.

Thirty percent of the inmates had no prior adult convictions, but 35 percent had first been convicted before the age of 21, and another 19 percent by 25. Most of those priors were felony convictions, with violence being the most common type, and 15 percent of the inmates had a history of institutional violence.

Leon County authorities, using their own classification scheme, divided the population almost equally among maximum (32 percent), medium (30 percent) and minimum (37 percent) security levels. ILPP completed an independent classification using an objective scheme devised by NIC (the National Institute of Corrections) and found very close agreement.

B. PALM BEACH COUNTY: ILPP (1990)

ILPP did not construct a profile of jail inmates in Palm Beach County. It did, however, carry out a tracking study in which the flow of inmates through the system was measured. From the characteristics of jail entrants and their average lengths of stay it is possible to gain some profile information.

Palm Beach County has three jails. The main jail and the Stockade are near the populated center of West Palm Beach and other ocean side cities where most of the population resides. The Belle Glade jail is in the western (inland) section, comparatively isolated, where the principal industry is sugar cane refining. The sample was of 2,184 bookings into the main jail and 233 into Belle Glade in August and October 1988 and January and April 1989. (Because of insufficient data, no analysis could be made of bookings at the Stockade, where women are usually booked.)

Bookings into each facility were discussed separately as the socioeconomic conditions in the two regions were very different from each other.

[The following demographic characteristics are for the tracking sample since no lengths of stay are recorded for those variables which would allow conversion to a profile.]

In the main jail, where nearly all of the bookings were of males, the average age was 31. Eight percent were under 20; 20 percent were aged 20 to 24 years; and 26 percent were aged 25 to 29 years. Thirty-one percent were aged 30 to 39, and 15 percent over 40 years. Fifty-seven percent were white and 38 percent black, with the rest primarily Hispanic. [2] All but 11 percent were Palm Beach County residents.

At the Belle Glade jail the age distribution was younger: 10 percent under 20; 27 percent aged 20 to 24 years; 25 percent aged 25 to 29 years; 28 percent 30-39; and only nine percent over 40 years. Ten percent were women, but the women were not distinguished in any other statistics. Over 70 percent of those booked were black, with whites and Hispanics in equal numbers constituting the balance. Again, nearly all were county residents, about three-quarters of them residing in the immediate vicinity of Belle Glade.

The criminal characteristics and legal status of the inmates can be derived approximately from lengths of stay. In the main jail, felonies constituted about 78 percent of the population. Of these felons, 24 percent were violent, 40 percent property, 29 percent drugs, and six percent probation violations. Eleven percent of the population were pretrial felons and 29 percent were adjudicated felons, but these cannot be further broken down by the type of charge. In addition 35 percent of the population were felony level detainees awaiting transfer to another jurisdiction, and the great bulk of these were to the Department of Corrections, so appear to have been sentenced to prison.

Twenty-two percent of the inmates sampled were misdemeanor level, and of these 72 percent were detained on FTA charges or probation violations. Half of the misdemeanants were released before adjudication. DUI offenders were nearly all released within twelve hours.

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[2] In 1990 Hispanics made up over twelve percent of Florida's population, only slightly behind African Americans. Yet Hispanic/Latino ethnicity is reported inconsistently in Florida county jail statistics, and is not reported at all by the Department of Corrections. ILPP has not examined the issue thoroughly, but has observed that some persons with clearly Hispanic names, presumably those primarily of European ancestry, are recorded as "white." Sometimes, indeed, it appears that anyone not black is recorded as white. The number of Hispanics is therefore almost certainly underreported, probably by a substantial amount. In view of the size and importance of the population and of its special needs it would seem advisable to adopt a uniform and inclusive policy of identifying Hispanics.

Sixty percent of felony arrestees were released pretrial. Such release came about through surety bond (34 percent, ALS = 4 days), unsupervised ROR (23 percent, ALS = 5.5 days), and bail bond (19 percent, ALS = 5.5 days). Only 52 percent of misdemeanor detainees were released pretrial and 40 percent were released after about a week with "time served." The average time for the pretrial release of misdemeanants was only about 20 hours, and it was rare for a stay to exceed two days. ROR was the commonest form of misdemeanor pretrial release (52 percent), followed by cash bail (36 percent).

The information for Belle Glade is even more sketchy, but it appears that over three-quarters of the inmates were booked on felonies, with detainees booked on drug sales offenses constituting almost 30 percent of the total population. Violent offenders and burglars were also significant (about 15 percent each). FTA made up a much smaller fraction than in the main jail. Pretrial inmates accounted for only about 11 percent of the total population, with the great bulk of these being felony level detainees.

The proportions of arrestees released pretrial at Belle Glade were about the same as at the main jail, but there was a higher reliance on surety bonds (75 percent) for felony level detainees and they take a day longer. The pattern of misdemeanor pretrial releases was very similar to that in the main jail.

C. POLK COUNTY: ILPP (1993)

Profile data were collected for all 134 women and 31 juveniles being held as adults in custody and 357 men (a one-third sample) between October 20 and October 22, 1992. Polk County had two jails, but they did not serve different geographic areas and were combined for the study.

The male inmates were 54 percent white, 42 percent African American, and four percent Hispanic.[3] All but 15 percent were county residents, and 62 percent were unemployed. [Compare with 46 percent in Leon County. Polk County had a high rate of unemployment and Leon County, a low rate; and the Florida economy had worsened from 1987 to 1993, when the Leon County sample was obtained.] The average age was 30, but the highest numbers for individual years were between 18 and 22.

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3 See previous note on under reporting of Hispanics.

Two-thirds of the inmates had at least one charge still pending. More specifically, 57 percent had a felony charge pending, 11 percent had a pending misdemeanor as the most serious charge, and 14 and 18 percent, respectively, were sentenced detainees charged with felonies and misdemeanants. The major group in the jail was unsentenced felons, with the next largest being sentenced misdemeanants. Among the felons (and there is once again no breakdown between sentenced and unsentenced), violent offenders were 35 percent and probation violations and FTAs, 15 percent each. Drugs, surprisingly, accounted for only ten percent of the felony charges. For misdemeanors, FTAs and violent offenses were three-quarters of the total.

In addition to those booked on FTA alone, there were many others who had a hold or an FTA capias in addition to their primary charge, which greatly decreased the likelihood of pretrial release. In all, 44 percent of the sample had some sort of detainer or probation violation.

Forty-five percent of the sample had either no-bond orders (the commonest) or bonds at $6,000. No-bond was used for first degree felonies and probation violations, and $6,000 for FTA capiases (both are local practices.)

Fifty-five percent of felony arrestees and 65 percent of misdemeanants were released pretrial. For both the overwhelming volume of releases (over 80 percent) came about through ROR, and of these, two-thirds were the result of a court-ordered release procedure to keep the jail population under the mandated cap. The time for such releases was very short (a day for felonies, an hour or two for misdemeanors). "Regular" ROR through the pretrial unit took much longer: 20 days for felonies, eight days for misdemeanors. Cash or surety bonds, though less used, required less time for release than unmandated ROR, and for this reason in the absence of the court order they might become the predominant mode of pretrial release rather than ROR.

ILPP, using the NIC classification system, concluded that 60 percent of the males had a comprehensive classification score which would put them into minimum security, and another 32 percent would be medium. The classification included consideration of prior felony convictions (61 percent), institutional disciplinary problems (eight percent), and substance abuse (seven percent).

The female population consisted of a higher percentage of black detainees than the male population (57 percent). Only six percent were not county residents. The average age was 29, but ages were evenly distributed up to 40.

Felonies were 66 percent of the total, and most of these were drug violations, FTAs, or VOPs. Among misdemeanants, over 40 percent had property violations. FTAs were also significant (22 percent) but probation violations as the primary charge (i.e. technical violations) were small. In contrast to the men, only 37 percent had FTAs, hold, or probation violations, most of the last being as add-ons. Yet 48 percent had no-bond orders or $6,000 bonds, reflecting the influence of such administrative charges.

Like the men, the women were classified by ILPP as primarily minimum (75 percent) or medium security (20 percent).

The sample of juveniles held as adults was too small to be as extensively analyzed. All were males detained on felony charges, with the commonest being murder or attempted murder, armed robbery, and burglary. Over two-thirds were black, and only one was not a county resident. Nearly all were 16 or 17 years old. Only eight of the 31 were in school or held jobs. No classification scores were calculated for this cohort.

ILPP compared its findings with an earlier profile taken in 1983. The proportion of African Americans overall had risen by 35 percent, and there was a shift in ages: the group aged 21 to 30 years was significantly smaller in 1993 and those from 31 to 40 was higher grew. The age shifts undoubtedly reflect the aging of the "baby boomer" generation born between 1947 and 1964.

D. ORANGE COUNTY: ILPP (1993)

Orange County has by far the highest incarceration rate of Florida's seven largest counties. Because of this it has the largest jail system of any covered in this review even though Broward, Palm Beach and Hillsborough Counties have larger populations. The Orange County detention system comprises eight jail facilities, but analyses of inmates at each were combined for this study. Using computer-generated data, ILPP was able to obtain a usable sample of 2,512 inmates, five-sixths of the entire population on October 8, 1993. Inmates were predominantly male (88 percent). Ethnically they were 43 percent black, 36 percent white, three percent Hispanic, and 17 percent unknown.[4] The male sample was essentially the same. Women were similar: 45 percent black and 34 percent white. However of the 50 juveniles being held as adults, 82 percent were black, 14 percent white, and four percent Hispanic; there were only two female juveniles.

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[4] See previous note on under reporting of Hispanics.

Among the men, 22 percent were aged 18 to 24, 18 percent 25 to 29, and 20 percent 30 to 35. Women were slightly older: 18 percent 25 to 29, but 27 percent 30 to 35.

There were 1,522 inmates accused of felonies and 899 with only misdemeanor charges. (The balance of 91 inmates was held on ordinance violations and holds for other jurisdictions.) The charges were not broken down by adjudication status. However 79 percent of those accused of felonies had pending charges and 45 percent of those with misdemeanors likewise were pending. In other words, only 34% of the overall jail population was totally sentenced.

Among felonies, the most common were violent offenses (30 percent) and drug law violations (25 percent). Probation violations accounted for 17 percent, but parole violators were insignificant. Theft and burglary were also significant felony categories. There were six important misdemeanor categories, ranging down from 18 to ten percent of the total; in order they were violence, theft, DUI, DWLS (driving while license suspended), probation violation, and RAWOV (resisting arrest without violence).

ILPP recorded subcategories among some of the felony groupings. Among violent offenses the percentages were aggravated assault (28 percent), robbery (24 percent), resisting arrest with violence (18 percent), murder (10%), and sexual battery (9%). Of the drug charges, nearly half were for possession only (45%). Fifty-five percent of the property charges were for grand theft, and of this 55 percent, 40 percent were third degree felonies and twelve percent were vehicle theft.

The charges against women were less serious: 51 percent felonies and 44 percent misdemeanors. Violence was 23 percent of the felonies and 11 percent of the misdemeanors. Drug violations were the largest felony category. Probation violations and property/theft each accounted for 20 percent of the felonies. Misdemeanors were primarily prostitution and theft (21 percent each), with most of the balance accounted for by DUI and traffic offenses.

The juveniles held as adults were different: 70 percent of all charges were for violence. There were a few cases of property and drug violations.

Over half the population had been arrested on a local warrant, which encompasses probation violations and FTAs. It appeared that the FTA rate for those released pretrial on bond was very low, but there is little direct information on this point. The average bond was $18,000, and 58 percent of the sample had no-bond orders. The principal reasons for no-bond orders were domestic violence and felony VOP. Burglary, felony drug, And misdemeanor VOP also frequently had no-bond orders attached. Orange County allowed the simultaneous setting of a bond amount and issuance of a no-bond order which nullified it.

ILPP was able to obtain release data and modes for over 2,000 inmates. By far the commonest methods of obtaining pretrial release were time served and transfer to the DOC. When comparing pretrial release modes in terms of the time it takes to effect them, the review found that most of the persons who were not released pretrial within the first 48 to 72 hours of arrest stayed in jail until their charges were adjudicated.

The pretrial release rate was 53 percent for felonies and 67 percent for misdemeanors. Orange County also operated under a federal population cap and had mandated "population control releases" which are a form of ROR in order to comply with the consent decree. These accounted for 17 percent of felony pretrial releases and 55 percent of misdemeanor releases (ALS = 8 hours in both cases). Surety bonds were two-thirds of felony releases (ALS = 10 days) and one-third of misdemeanors (ALS = 3 days). Ordinary ROR was less than eight percent of pretrial releases for either charge level and took many days, indicating that it was probably ordered by the court.

Public nuisance and public alcohol offenders had relatively low rates of pretrial release; they tended to stay until their time had been served (three weeks or so) when the State Attorney's office bothered to file charges against them, which it did not do in about a quarter of such cases. ILPP did not uncover the reason for this practice, but speculated that in this county with its reliance on a "clean-cut" tourist industry the authorities may wish to keep unsightly and disruptive individuals off the street and out of public view even though their offenses are not serious.

Orange County, with an explicit commitment to rehabilitation, has a graded system of detention options. It depends upon carefully classifying inmates to see where they would best fit into its "continuum of care." Because of the complexity of the classification process it does not collect the appropriate information for persons detained less than 24 hours, and ILPP was not able to obtain such information independently. Therefore the classification may be skewed slightly high (i.e. greater proportion of maximum or medium security than is really merited). Nevertheless ILPP found that for the men, 20 percent were minimum, 52 percent medium, and 29 percent maximum. For women the corresponding figures were 35 percent, 52 percent, and 13 percent.

E. HILLSBOROUGH COUNTY: ILPP (1993-1994)

ILPP performed a corrections population study for Hillsborough County in the spring of 1993 and a full scale criminal justice system assessment in the autumn and winter of that year which also included a population profile and tracking study. In general the findings were consistent between the two. The profile sample in the latter study was larger and included more information. However some of the recommendations of the first study had already been implemented by that time and the profile information had changed in a few subjects. Hillsborough County had two jails which are combined in the figures.

The first study examined 296 male and 293 female inmates of the jail on March 18, 1993. The second study was made on October 8 and included 608 men (about 1/3 of the total) and all of the women (264).

There was agreement between the two samples in most subjects. The average age was a little over 30, but the commonest group was 18 to 24. A little over half of both men's and women's groups were black, with Hispanics being seven percent of the men in the latter study.[5] It might be noted that these proportions differed substantially from those at the booking desk where whites outnumbered blacks by 57 to 36 percent. The disparity may be due to a differential in the effectiveness of the pretrial release mechanism or may reflect the fact that more than half the blacks but only a third of whites were booked on felony charges [reanalysis of the original data, not in the report]. Unemployment was very high: 85 percent of the men and 65 percent of the women. Ten percent of the inmates apparently had no permanent home address.

About three-quarters of the men and two-thirds of the women had felony charges (the figure for women having increased slightly between the studies).

Violence was the most serious charge for a third of the male felons; property offenses were 25 percent, drugs 20 percent, and probation violations 17 percent. Misdemeanors were 33 percent traffic, and a quarter each were battery and probation violations.

For women, a quarter of the felonies were violent, but drug and probation violations were each a quarter to a third of the total. Prostitution was by far the commonest misdemeanor: almost half of the first sample and about a quarter of the second. Property and probation violations were also appreciable misdemeanor charges for women.

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5 See previous note on under reporting of Hispanics.

Between the samples there were some changes in the patterns of holds, FTAs, and bond assignments. The number of men with holds dropped from 30 to 19 percent between the studies, but the number for women stayed at around 20 percent. FTAs were not a significant factor in continued detention. Bond amounts in the October study were limited to the presentenced population; 31 percent of the men and 20 percent of the women had no-bond orders. Violations of probation, controlled release, or community control were the primary reason (over half of the men with no-bond orders). "Violation of controlled release" refers to state inmates released early to reduce prison overcrowding.

The proportion of pretrial inmates was one of the factors which changed after submission of ILPP's first report to the County. For men the proportion who were pretrial on their primary charge dropped from 72 percent to just over half; for women, from 71 to 55 percent. ILPP had targeted pretrial release as an area where the County might make greater efforts.

The presence of additional charges made the distinction of pretrial and sentenced somewhat less distinct. Of men, 45 percent were unadjudicated on all charges and 19 percent on some charges. Thirty-six percent of women were fully and 33 percent partially pretrial. Probation violations are one type of charge which were adjudicated relatively quickly.

The pretrial release rate for felonies was about 60 percent and for misdemeanors about 70 percent. Surety bond was by far the commonest mode of pretrial release, about two-thirds of the total for either felonies (ALS of 4 days) or misdemeanors (ALS = 4 days in February, one day in August). ROR, apparently court-ordered, was also used for felonies (ALS = 11 to 12 days), and cash bond is frequent for misdemeanors (25 percent; ALS varied greatly, from nine days in February to less than one day in August).

ILPP performed a classification analysis on the male and female populations in each study. Maximum custody was found most appropriate for 15 to 25 percent of the men, and medium for 75 to 82 percent. About a third of them had a clear history of substance abuse, and two-thirds, prior felony convictions.[6]

Maximum security women were few: 12 percent in March and only five percent in October. Forty percent had a substance abuse history, and 60 percent, prior convictions.

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6 ILPP completed a sub-study to evaluate the actual extent of a substance abuse problem among the jail population. Based on a review of prior histories and participation in a substance abuse program, closer to 75 or 80 percent had some substance abuse issue.

F. ESCAMBIA COUNTY: BUREAU OF CRIMINAL JUSTICE ASSISTANCE (1984)

[The Bureau of Criminal Justice Assistance (BCJA) was part of the Division of Public Safety Planning and Assistance, Department of Community Affairs. It seems to have been succeeded a few years later by the Office of Jail Assistance (OJA), an agency of the Florida Department of Corrections, which itself was disbanded in FY 1898-90.]

[The study was actually completed in 1982. In view of its age, only its highlights are presented. Despite being presented as a profile, it was more what would here be designated as a tracking study.]

The jail population at the time of study ranged from 443 to 559. [In March 1994 it was 1,059.] The "typical" arrestee was a white male, aged 18 to 29, employed, a county resident, with slightly more than a 50 percent chance of having been arrested previously, but generally not for a violent offense. Just half of the inmates were pretrial.

Of felony arrests, 31 percent were for violence, 52 percent for property, and 12 percent for drugs. Property offenses were 47 percent of the misdemeanors and public order offenses were 35 percent.

Eighty percent of misdemeanants were released pretrial and 81 percent of the felons, though misdemeanants were more likely to be released even before their first appearance. Of those released pretrial, 77 percent of felons and 95 percent of misdemeanants were released within two days. Non-monetary release and bail were each used in about 40 percent of the releases.

A detailed analysis was made by BCJA of the factors associated with felony, misdemeanor, and DUI pretrial release decisions. A number of relationships were postulated. However it is not certain whether the relationships indicate a causal relationship or mere correlation. Some were not surprising: pretrial release for persons charged with felonies, for example, is less likely as the offense is more serious or when the arrestee has a prior record. Others were harder to explain, such as being arrested by the Sheriff rather than by the police. Pretrial release rates varied with age, race, and sex, [indicating perhaps a subjective bias in the release decision, or a spurious relationship where the true cause was another factor such as ability to post bond or socioeconomic stability].

However the pretrial release process was successful in that the FTA rate was low, only seven to eight percent for either felonies or misdemeanors. Similarly, rearrest rates were eight percent for released felony suspects and five percent for misdemeanants, and the new charges tended to be at the same level as the original.

As this was primarily a tracking study there was no information on the classification status of the inmates.

G. GADSDEN COUNTY: OFFICE OF JAIL ASSISTANCE (1987)

[As with Escambia, this is a combined profile and tracking study.] At the time of the study the jail capacity was only 71 inmates, so to get a larger sample the data was collected over a whole year, between July 1985 and June 1986. The sample consisted of half of the 1,400 persons who passed through the jail during that period.

Males were only 77 percent of those arrested, and even this figure is high because of the predominance of males in DUI cases. For felonies and other misdemeanors, women were about 25 percent of the arrestees. The highest proportion of women - 41 percent - was in misdemeanor property offenses.

Seventy-eight percent of the arrestees were African Americans. [This high number is partially explained by the fact that the whole county in 1984 was almost 60 percent black.] Whites had a much higher rate of DUI and a lower rate of felony personal offenses. Seventy-five percent of the arrestees were under 35 years of age, and the average age of women was 32, compared with 29 for the men. DUI offenders were significantly older, averaging 37 years old.

Nearly all of the arrestees were Gadsden County residents (85 percent), with almost half of the remainder from Leon County, which is adjacent and has about five times the population of Gadsden. Half were unemployed, and nearly half of those employed were laborers. Only a little over a third of the women were employed. By contrast, DUI defendants had an employment rate of almost 80 percent.

Seven offenses made up almost 60 percent of arrests; in order, they were probation violations, petty theft, battery (including battery on a law enforcement officer), DUI, grand theft/stolen property, burglary, and worthless check. Drug offenses were minor (three percent), and nearly all were for marijuana. For women, petty theft, welfare fraud, and bad checks were nearly half of all charges. White defendants were arrested for DUI and drug offenses; black defendants, for VOP and personal crimes; and both for property crimes.

Eleven percent of those released pretrial were rearrested for an offense committed after the release. Almost half of these were for FTA, and an equal number also failed to appear but were not rearrested.

Prior convictions were determined using local, state, and national records. Half of the arrestees had no prior convictions and a quarter had one or two. However there was a group making up thirteen percent of the total who had at least five prior convictions. Felons, blacks, and males were the most likely to have priors. About ten percent of those with at least one prior arrest had a subsequent arrest for FTA.

Some pretrial release information was obtained. Of a small sample of DUI arrestees (56 persons), three-quarters were released before first appearance on ROR (52 percent) or bond (23 percent). All but one of the others were allowed bond but could not raise it, and half of them were released after the first appearance. Even more were released after further processing for a total pretrial release rate of 96 percent. ALS for those released pretrial was 1.5 days.

Similar proportions were found for misdemeanor pretrial release, though the overall rate was lower because of a larger fraction who could not raise bond. The median bond for those released was $225, while the median for those who could not raise it was $350. Ninety percent of the misdemeanants were eventually released pretrial. ALS for those released was 2.2 days.

Not surprisingly the pretrial release rate for felonies was lower (74 percent). Inability to raise bond was a major factor both at booking and at first appearance, and bond was denied in 15 percent of the cases. The median bond for those released was $1,500, while the median for those who could not raise it was $6,750, suggesting a substantial difference in the charges for the two groups. As with the lesser offenses ROR was the most important form of release, especially at the booking stage. ALS here was longer – 5.9 days.

Some of the factors which appeared to influence misdemeanor pretrial release were the type of offense (personal offenses were the *most* likely and victimless crimes the *least* likely to lead to pretrial release). Victimless crimes also had a lower probability of obtaining ROR and had to resort to bail. Being white, female, or over 40 led to an earlier pretrial release at booking though only sex influenced the overall release rate.

Among felonies, age was a major factor in pretrial release: 33 percent of arrestees between 16 and 24 were detained, compared with only ten percent of those over 40. Again those charged with victimless crimes had the lowest chance of pretrial release, though prior arrest records appeared to play a part here. Having four or more priors decreased the likelihood of pretrial release.

No classification information was available.

H. BROWARD COUNTY: CORRECTIONAL SERVICES GROUP (1988)

In 1988 Broward County had three jail facilities which were combined for the study. The jail population was 2,642 on the sample date, May 25, 1988, and it was at 100 percent of its rated capacity. Nearly 1,000 records were used to create the sample.

Seventy percent of inmates were unsentenced, including probation violators charged with a new criminal offense. Adult males were 88 percent, adult females ten percent, and juveniles held as adults, two percent. Slightly over half of the adults were between 21 and 30 years old, with 13 percent under 21 and 17 percent between 31 and 35. Sixty percent were "non-white" with no further breakdown.

Unemployment was high: 56 percent of men and 79 percent of women. (Statewide averages were about 5 to 6 percent in that year.) Eighty percent had been local residents for at least two years and 14 percent were transients. Eighty percent were also able to supply the name of a contact person; interestingly, the most common contact was a parent and the least common, a spouse.

Charges were determined separately for the sentenced and unsentenced inmate populations. Forty percent of pretrial inmates had a violent charge, a quarter of them murder or manslaughter. However domestic violence was very low. Drug charges were 29 percent and property offenses 21 percent. Probation violation was not listed as a pretrial charge, but six percent of inmates were probation violators and seven percent were violators with additional new charges. Ninety-five percent of inmates were charged with felonies.

A study conducted at about the same time by NIJ (National Institute of Justice) found that 71 percent of adult males tested positive for drugs at the time of booking.

Prior arrest histories were obtained for all felony suspects. Three-quarters had prior felony arrests and two-thirds had prior misdemeanor arrests. The average was about three priors. No information was given on prior convictions, nor on whether the prior arrests were local or statewide.

Though 82 percent of felony drug violators in the profile had criminal histories, in a drug sweep of August 1988 a majority of those apprehended had no prior arrests, indicating that a very different population was being targeted.

Initial classification gave ten percent minimum, 74 percent medium, and 18 percent maximum custody.

The juvenile population (being charged as adults) was, as expected, much more violent than the adults: 30 percent arrested for murder and 54 percent for other violent offenses. 27 percent were classified as maximum security risks and 71 percent as medium.

Not much information is given on pretrial release except to say that the existing community release program was little used; CSG estimated that the number could be at least tripled. Of a sample of 578 felony arrestees in 1988 they found that 46 percent would not be eligible for pretrial release, eight percent bonded out within 48 hours, and two percent were released in other ways. However the study excluded anyone who was released immediately after booking, so the percentages do not encompass all pretrial releases.

About 35 percent of felony arrestees were released on bond prior to first appearance in 1986, but this fell to about 20 percent in 1987 and 1988. Probation violators were generally not eligible for pretrial release. A large number of misdemeanor arrestees were released with credit for time served.

I. ALACHUA COUNTY: CARTER GOBLE ASSOCIATES (1988)

[The report is undated but appears to have been written in late 1987 or early 1988. This is primarily a facilities master plan but it contains a small amount of information on the jail inmates.]

The Alachua County jail was in a condition of constant severe overcrowding, which affected the composition of its population. By October 1987 71 percent of the inmates were pretrial felons, ten percent sentenced felons, 13 percent pretrial misdemeanants, including traffic, and six percent "others," which included sentenced misdemeanants. The population had grown from 186 in 1980 to 312 in 1986, almost entirely because of an increase in admissions. There was a pretrial services unit, for which the caseload had grown substantially, but there is no description of its role in pretrial release.

In the ACIR report on jail finance and management ("Intergovernmental Relations in Local Jail Finance and Management in Florida", ACIR, August 1993) there is more information on Alachua County. By 1989 the jail population had risen to 438, but this was slower growth than in most counties of similar size even after discrepancies in population growth were taken into account. In 1990 and 1991 the jail population finally fell below the rated capacity. ACIR characterizes Alachua County as successful in controlling jail population growth and spending. Much of the success was attributed to a combination of factors: aggressive law enforcement diversion (diversion of inebriates and the mentally disabled, field citations, and the use of summonses – rather than warrants – and reminders of appearance dates); an improved criminal justice information and jail case management system; expedited procedures by both prosecution and defense; and, improved pretrial release.

J. COLLIER COUNTY: CSG (1991)

Collier County had two jail facilities at the time of this study. The Naples Jail Center (NJC) had 450 beds and was used for general populations, while the Immokalee Jail Center (IJC) was a smaller facility (80 beds) used primarily for low risk inmates. The total system capacity was 530 beds, though there were an additional unused 92 beds at IJC for which no staffing could be supported.

Forty-four percent of the inmates were unsentenced and 14 percent were being held as probation violators. The demographic distribution was 88 percent adult males, 11 percent adult females, and one percent juvenile males. Thirty-one percent of adults were under 25, 21 percent were 26 to 30, and nineteen percent were 31 to 35 years old. Seventy percent were white, 29 percent black, and one percent Hispanic, but CSG believed that Hispanics were likely to be undercounted.

Three-quarters of the inmates were residents of Naples or Immokalee, which are the major population centers. [It is not clear whether "Naples" refers to the city of Naples only or surrounding unincorporated areas such as North Naples, East Naples, and Naples Park. If the latter is the case it represents about half the County's population, and the large number of inmates (34 percent) from the small area of Immokalee is surprising.] About a third were born in Florida, half in other states, and 18 percent in other countries, primarily Latin America; that is why the figure of only one percent Hispanic inmates was probably wrong.

Seventy-three percent of inmates were charged with felonies. The charges were 31 percent property offenses, 27 percent drug violations, 15 percent crimes against persons, 13 percent traffic and alcohol-related, and 14 percent weapons and other offenses. Probation and parole violations were excluded from these figures. One-quarter of the inmates had been admitted to the Collier County jail within the preceding twelve months. No longer-term or statewide data is presented, except that 12 percent of the inmates were classified as "career criminals" with at least two felony convictions.

An analysis was made of the bonds set for the inmates. [Oddly, no figure is given for the number of inmates eligible for bonds.] For 14 percent the bond amount was under $1,000, and for 39 percent it was between $1,000 and $2,500. Only 25 percent had bonds set at over $5,000. Yet many inmates were apparently unable to post bond. Almost half of the bond-eligible inmates had been detained for at least five days at less than $2,500 bond.

No data is presented on the percentage of inmates released pretrial, nor of the pretrial release mechanisms in use. However the Twentieth Circuit, which includes Collier County, was the only one in the state which did not have a state-supported pretrial intervention program. There was a pretrial services employee within the Sheriff's Office operating a supervised release program that seemed to have very little use.

Most of the NJC inmates were identified as having special problems: 67 percent drugs, ten percent alcohol, and six percent mental health. Only 17 percent had none of these problems.

The custody level at NJC was 55 percent maximum, 16 percent medium, and 15 percent minimum; 15 percent also were "special management", which includes intake, protective custody, and administrative segregation. The custody distributions for men and women did not vary appreciably. CSG notes that the overall custody levels were much higher than those generally found in other jail systems. The origin of the county's classification system is not given, and it is described only sketchily. CSG made inmate population forecasts in which it modified these numbers substantially: 12 percent maximum, 33 percent medium, 32 percent minimum or trusty, and 23 percent special (including medical).

K. VOLUSIA COUNTY: ACIR (1993)

The material on Volusia County was taken from "Intergovernmental Relations in Local Jail Finance and Management in Florida" (ACIR, August 1993) which draws heavily upon studies by C. E. Edelstein and the EMT group in 1990 and 1991.

This study is primarily concerned with how the county mobilized itself to manage its jail population. Only a little data is presented: prior to reform (in 1990-91) jail population grew rapidly, with especially high arrest rates of non-residents for minor nuisance-type offenses. Monetary bail was the primary release mode and the pretrial release program was understaffed. The high rate of non-resident arrests lowered the possibility of ROR for this group, but other counties had more non-resident arrests and yet a lower incarceration rate. The implementation of a strong pretrial release program was one factor in bringing a runaway jail population under control.

L. LEE COUNTY: ACIR (1993)

Lee County information comes from the same ACIR report described for Volusia County above. The Lee County jail grew rapidly in the late 1980s, with ADP nearly doubling from 1985 to 1989, when it reached 718. Lee County in 1985-89 had a higher incarceration rate but a lower crime rate than counties of similar size. In 1988 a study found that three-quarters of the bookings were of misdemeanants, and two-thirds of them were released within a day. There was no effective citation or other pretrial diversion program, even for inebriates or those with mental health problems. Little information other than the booking charge was available to the first appearance judge.

Also faced with a runaway jail population, the County set up a population management plan including a Court Investigations unit which provided pretrial release information and supervised releases. As a result, the jail population rose to 773 by 1991 but then dropped to 712 in 1993, 100 beds below the rated capacity.

No inmate profile information was given in this report.

M. DUVAL COUNTY: JEROME G. MILLER (1993)

[Jerome Miller served for three years as the federal monitor to the Duval County Division of Corrections, and was able to devote an unusual length of time and volume of effort to the preparation of his report. The report contains both profile and tracking information, though those specific terms were not used to describe them. It is more of an interpretive study on the reasons for jail overcrowding than a mere compilation of data. The data was gathered at various times during the three-year period and was presented at various places in the report. ILPP reviewers had to compile and interpret the information in order to make it fit the requirements of the current project. There may be inconsistencies among the figures because of the time differences.]

[Duval County had three jail facilities with a total rated capacity (1993) of 3,193 inmates, but ADP in that year was only 2,347.] A census taken in 1989, when the population was 1,947, showed that 33 percent of the inmates were between 18 and 24 years old and 44 percent were 25 to 34. In 1993, 62 percent of the inmates were black, though the County's population was about 25 percent black. Women were 12 percent of the jail's inmates.

Although the Sheriff at that time is quoted as having said that 95 percent of the inmates were felons and almost all of the felons in the jail were violent, Miller claims that this is not the fact. The proportion of pretrial misdemeanor detainees between 1990 and 1993 hovered around 30 percent. About 25 percent of inmates had either violent charges or had records of institutional problems. In the 1989 survey, the charges were 18 percent for violent offenses and 26 percent for drug violations.

In the absence of an actual profile, Miller uses known inmate characteristics to estimate the number of violent felons in the jail. On a typical day when there are 2,000 inmates, about 950 will be pretrial felony detainees. A third of these (316) will not yet have had charges filed against them, and for 130 of that group the charges will ultimately be reduced to misdemeanors or dropped altogether. In addition there will be another 82 arrestees who are charged but who will not be convicted as felons. Of the remaining 738 felony suspects (900 - 130 - 82), 111 will be sentenced within the jail system because they have been convicted of lesser felonies. This leaves 600 of the typical day's inmates who will be treated as first degree felons, and a little over half of these are violent. By UCR definitions the percent of violent inmates comes to about 18 percent of the total - far from the nearly 95% reportedly claimed by the Sheriff.[7] The remaining 82% can at least be considered for some type of pretrial release or sentencing alternative.

It is difficult to determine from this report the exact numbers of sentenced and unsentenced inmates in the jail as the figures occur at various places and are not entirely consistent with each other. ILPP interprets them as follows: pretrial felony detainees, 50 percent; sentenced felons 20 percent; pretrial misdemeanor detainees, 10 percent, sentenced misdemeanants, 20 percent. According to the Inspector General's Reports for April 1993 and March 1994 the population of the entire system (three facilities) averaged 38 percent pretrial felons and ten percent pretrial misdemeanants, all of them at the main jail.

However it was found that nearly half of the felony arrestees had their charges reduced or dropped, or were sent to diversion programs.

About a third of the inmates in 1992 were those sentenced to county time, but this figure rose sharply to 53 percent in 1993 as jail sentences were substituted for prison sentences. Practically all of the county sentenced inmates were assigned to work furlough or as trusties. Miller was not able to determine the exact number of inmates charged with probation or parole violations.

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7 Duval report, p. 48

A 1990 sample of 995 pretrial inmates showed that 259 (26 percent) had bond amounts under $5,000. It had been 90 percent in 1980. [Miller did not take into consideration the rise in the consumer price index over this period, which was 59 percent, so that a $5,000 bond in 1980 was equivalent to $8,000 in 1990. However in the 1980 survey 57 percent of inmates had a bond of under $1,000, which was worth far less than $5,000 in 1990.] In the city of Baltimore in 1988 the proportion of inmates with bond under $5,000 was about two-thirds. It appears that the bond schedule was unusually stringent. Miller estimated that about 150 of the inmates at any time would be those who had been detained for at least two weeks on bonds of under $2,500.

In 1990, 76 percent of the inmates had prior arrest records. Of misdemeanor arrestees in 1988, 76 percent had prior misdemeanor arrests but only five percent had prior felony arrests. Miller estimated that, countywide, more than two-thirds of African American males were arrested at least once. In the population of 670,000, at least 75,000 individuals will eventually have arrest records.

Over a third of the releases received credit for time served and were set free at adjudication. Half of these had stayed no more than a day, and most, less than a week. They appeared primarily to be those who could not make bail, which was the primary release mode.

There is no description of the classification level of inmates, but about 25 percent of the inmates were characterized as violent or with institutional risk factors. Perhaps 15 percent had mental health problems, a third of them serious. A survey in 1984 -- before crack cocaine -- showed that a quarter of inmates had mental health or substance problems, or had attempted suicide, and these figures were self-reported so they were probably low. There were also some terminally ill inmates [no numbers given.]

Duval held a remarkably high number of juveniles to be tried as adults, and they were overwhelmingly black. Miller estimated that at one point they constituted ten percent of all such black juveniles in the United States. The Florida Supreme Court commissioned a study in 1990 which found that minority youth were more likely to be sent to adult court than whites with the same offense and criminal history.

Furthermore, juveniles are supposedly assigned to adult jails only when they have compiled serious criminal records. This implies that they will be in jail pretrial and will be sent to prison when sentenced. Yet at one point nearly half of the juveniles in the Duval County jail had been sentenced, virtually all of them to county time. Their charges were not specified, but county time is normally used only for lesser offenders, chiefly misdemeanants.

N. OFFICE OF THE INSPECTOR GENERAL, FLORIDA DEPARTMENT OF CORRECTIONS (1993, 1994)

OIG publishes both monthly and annual reports. Information here comes from the 1993 annual and the May 1994 monthly, which were the most recent available at the writing of this review.

In 1993, the state's total jail population had the following average composition:

- Total inmates: 34,530
- Pretrial male felons: 14,440 (41.8 percent)
- Pretrial male misdemeanants: 2,696 (7.8 percent)
- Pretrial female felons: 1,447 (4.2 percent)
- Pretrial female misdemeanants: 441 (1.3 percent)
- Pretrial juvenile felons: 742 (2.2 percent)
- Pretrial juvenile misdemeanants: 54 (0.2 percent). Males made up 98 percent of all juveniles.

From 1991 to 1993 there was strong growth in the juvenile male population and a slight decrease in all other groups. The total of all inmates did not change appreciably, in contrast to the rapid growth in the mid-1980s.

The total jail population in May 1994 was 37,251, having risen sharply from 34,418 in April 1994. Practically all of the growth was in male felons, either pretrial or sentenced to less than a year of jail time. Combining all groups, the May 1994 pretrial population was: felony level, 47.9 percent; misdemeanor level, 8.8 percent. The proportions varied widely among the large and medium counties: Sarasota had the lowest percentage of pretrial felonies (26.0 percent), and Lake County had no pretrial misdemeanors at all even though its jail with 410 inmates was far from full. On the other end of the scale, Dade had 62.3 percent pretrial felony detainees and Collier County had 24.5 percent pretrial misdemeanants.

O. SUMMARY

The jail population in each of the studied counties has its own peculiarities, and these presumably change over time. Nevertheless there are common features which can be discerned in many of them:

- In eight of the thirteen counties, pretrial misdemeanor detainees accounted for more than ten percent of the total population (May 1994).
- Inmates were overwhelmingly residents of the county or of a neighboring county. However except for Leon County they were mostly unemployed.
- African Americans were detained in numbers considerably higher than their proportion in the county population. The number of Hispanic inmates was not recorded consistently and was almost certainly underreported.
- There was heavy reliance on bail for pretrial release. Unsupervised ROR was used much less, and when it was, the long length of stay implies that it was court-ordered rather than being effected by a pretrial unit.
- A high proportion of detainees had "no-bond" orders, and many others were unable to make the bail set for them, even when it was quite low.
- Felons were about three-quarters of the total population. Of the felons, a quarter to a third were charged with violent offenses. Drug charges were equally common in most of the jurisdictions.
- Many inmates had prior arrest records. (ILPP recorded prior convictions, which are a more reliable measure of criminal tendencies.)
- Pretrial release rates ranged from 53% to 80% for felonies. The range for misdemeanors was wider (52% to 90%). In some counties there was a tendency to give misdemeanants credit for the time served before adjudication and then release them.
- Failures to appear and probation violations were the reasons for many of the misdemeanor detentions and for the denial of bond.
- In Collier County, 83% of inmates had either a substance abuse or a mental health problem. Corresponding figures were not obtained in any of the other studies.

- Women were about ten percent of inmates. They differ from the men in having a somewhat lower proportion of felonies overall and of violent felonies. Drug-related felonies were the largest felony category. Theft and prostitution were the predominant misdemeanor charges, and probation violation was also common. There appeared to be a higher proportion of minority females.

- Juveniles held as adults were in most cases pretrial inmates charged with violent felonies. However there were a significant number of sentenced juveniles in the Duval jail, implying that they wee misdemeanants.

All types of people come into Florida's jails, from violent and dangerous predators to simple public nuisances. At admission there are many more of the latter, though they do not stay as long. At an earlier period of history such minor offenders might have wandered off to the frontier, or have been handled or even ignored by their neighbors. This is no longer the case. Law enforcement and incarceration is seen as the solution to both small and large problems.

The counties studied appear to have been holding significant numbers of non-violent minor offenders. The data do not show how many of these were pretrial, but most of the studies stated that pretrial release could be used more effectively, suggesting that some of the "lightweights" were being detained unnecessarily.

The Inspector General's report for May 1994 shows that only seven of Florida's counties were exceeding their rated capacities. Taken as a whole, the system was 88 percent full, and has been below capacity at least since January 1991. The total population in December 1993 was very close to what it was in January 1991. Only four of the studies reviewed here were completed after 1991. Does this indicate that the jail crisis is over and that more and more counties are managing their populations effectively?

Probably not. There was strong growth (4,000 more inmates) in the first part of 1994. More jail beds were being added and filled even as the total number of arrests in Florida fell from 756,000 in 1990 to 654,000 in 1993. The overall picture - detention of non-dangerous minor offenders, heavy reliance on bail, an uncompromising view of offenders' functional shortcomings - has not changed much. As the population continues to grow, the beds will be filled. The cost of operating the system places a heavy burden on Florida's citizens. More effective population management would allow diverting that burden to more productive uses or back into the taxpayers' pockets.

3. Pretrial Alternatives

III. ALTERNATIVES TO PRETRIAL INCARCERATION

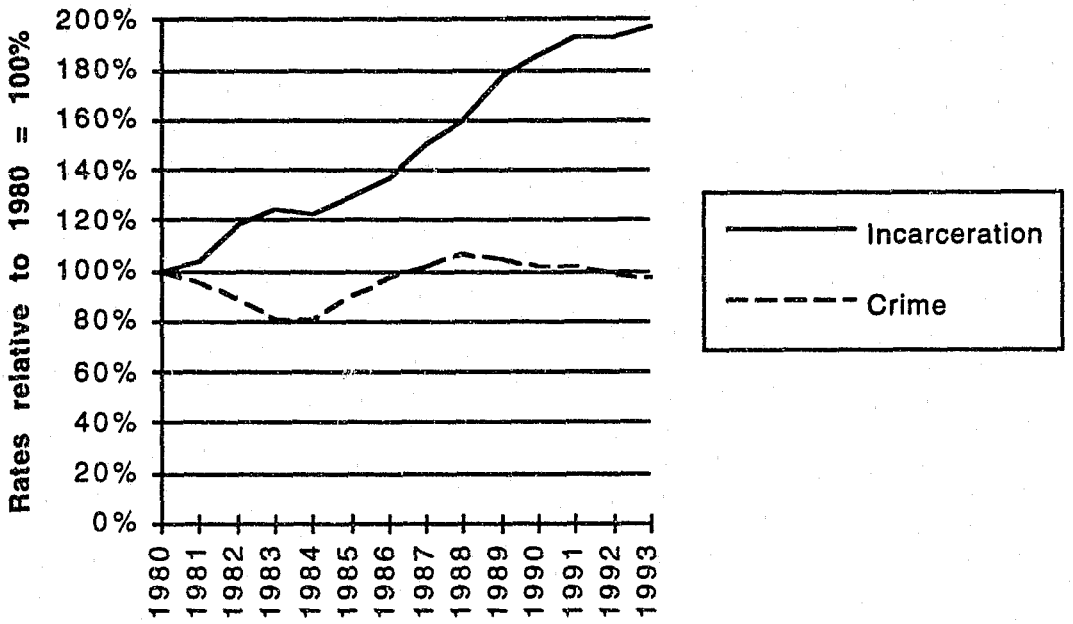
A OVERVIEW

Why should arrestees be released before they are tried? It is principally a matter of economics, in the broad sense of efficiently allocating scarce resources such as jail beds. Incarceration in a secure detention facility is the most expensive tool local governments have in holding accused and sentenced offenders. No county can afford enough jail space to hold all new arrestees until they are adjudicated. If jail costs are not to dominate all other expenditures, counties need to develop a mechanism for releasing those who seem likely to return and to pose a low threat of reoffending during the waiting period. The public must decide at what point the cost of more jail space exceeds the additional benefits.

In the second place, court proceedings take a long time. It may require ten days or more just for the case to be filed. Holding an inmate for several weeks constitutes a penalty in itself, one which can be very disruptive to employment and personal or family relationships. If a defendant is acquitted or the charges are dropped he has been punished for nothing. The U. S. Supreme Court has made it plain that pretrial detention may not be used as punishment (Bell v. Wolfish, 1979). Even with a conviction the loss of a job and income may exceed in seriousness the nature of the offense.

Finally, the use of secure detention facilities has at best limited success in discouraging future criminal behavior, and at worst can exacerbate criminal tendencies by putting the detainee into contact with seasoned offenders and by reducing the opportunity for honest employment after release. Figure 3.1 shows that the total incarceration rate (prison plus jail) in Florida has doubled since 1980 while the crime rate has not shown an appreciable change other than a short dip from 1982 to 1985.

FIGURE 3.1 CRIME AND INCARCERATION RATES IN FLORIDA 1980 - 1993



Recognizing the necessity of pretrial release, the Legislature has authorized its use (constitution, Article 1, Sec.14; F. S. chapters 903 and 907). Persons who have committed a serious offense, who pose a threat to the public, or who are likely to fail to appear as promised shall not be released; for all others there is a right to bail.[1] Furthermore the Statutes include a presumption in favor of non-monetary release. However anyone who is guilty of "willfully and knowingly" failing to appear is not eligible for ROR and may be subject to increased bond amounts. The Statutes specify some of the conditions for bail but appear to leave much to the discretion of the court circuits.

Alternatives to detention for appropriate pretrial defendants can provide decision makers with a range of procedures in meeting their criminal justice needs more effectively and at less cost. Pretrial alternatives are mechanisms both for controlling jail population and for allowing certain defendants to maintain a semblance of a normal life while awaiting adjudication. Conditions for the release are set at booking or by a judge, and some inmates will not be released under any conditions.

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1 "Bail" and "bond" are defined identically in the Statutes as any type of pretrial release, financial or non-financial.

There are three types of alternative covered in this chapter. First, there is **pretrial release** which allows accused offenders to await court appearance outside of a secure detention facility. As a substitute for pretrial release there is **pretrial intervention** which diverts appropriate offenders away from the adjudication process and into a program; if they succeed they do not return for trial. Finally, there is a brief discussion of **sentencing alternatives** to traditional jail or prison confinement.

B. THEMES

There are three aspects to the issue of pretrial alternatives. First is the question of what mechanisms have been tried and shown to be effective. Then there is the important matter of how the alternative programs should be organized and managed, and in particular what group or agency should operate them. Finally, ILPP has seen numerous situations in which the mechanism existed yet appeared to be underutilized, very often because of some informal reason such as a lack of program advocacy rather than a legal or institutional barrier.

Whatever its structure and activities, a pretrial release system will be far more effective if it is coordinated and internally coherent. In a jurisdiction without a coordinated release system, decisions are subjective, placing major responsibility on individuals. In such cases the tendency is to restrict nonfinancial forms of pretrial release, creating, in effect, an unwritten policy that relies on the most conservative and most expensive option, pretrial detention. Unfortunately, "conservative" is not the same as "secure" as dangerous offenders may be able to obtain financial release. In this case, "conservative" means little risk to the decision maker.

It appears that the use of release programs is limited in many Florida counties not so much by overt opposition to release, nor by the absence of available mechanisms, but rather because of fragmented placement procedures and a lack of outcome-oriented program management which could demonstrate a given program's impact. Contributing to the fragmentation of program use is the fact that programs are operated by a variety of agencies and funded through different sources, meaning there is no single point of accountability for evaluating program effectiveness.

To make maximum use of pretrial alternatives, each county should create a system for using and managing alternative programs with a clear point of accountability. All options should be evaluated in context with one another, guided by the following questions:

- What is the level of use of alternatives?
- Is there an adequate variety of alternatives and do they meet the needs for the population and the commonest offenses in the county?

- Are key system players supportive of the alternatives and involved in establishing the criteria for using them?
- Does each alternative have someone actively serving as an advocate for its use?
- Is the process of placing offenders in appropriate programs timely and well-defined?
- Are there mechanisms in place to measure program effectiveness? How is program success defined?

An alternatives system should encourage use of effective alternatives and modify or discontinue use of ineffective ones.

C. PRETRIAL RELEASE MECHANISMS

Pretrial release is one of the most powerful tools in managing a jail population. It is also one of the most controversial because there is inevitably the possibility that a release decision will result in a violent repeat offense. Most authorities, especially those who are elected, are extremely wary of such disastrous releases even though they are relatively uncommon. This fear translates into a reluctance to release that is seen at every point in the criminal justice process. Sometimes no more releases will be made than are absolutely necessary to avoid court orders on overcrowding. Then when the jail is about to overflow there may not be time to select the safest candidates for release.

Two mechanisms can support the use of pretrial release. The reluctance of individuals to authorize pretrial release appears to be lessened by having a set of guidelines because the responsibility is partially removed from the individuals' shoulders. Accurate and timely information on the detainee allows the first appearance judge, for example, to be more confident in making a release decision. The challenge for local policy makers is to create a system that consistently minimizes risk to a negligible level, yet ensures court appearance and cost-effectiveness.

Commonly used pretrial release modes are the following. All require the arrested suspect to promise to return for adjudication, with penalties for noncompliance.

- Citations (Notices To Appear) are given by the arresting officer; the suspect is not taken into custody
- Book and Release at the jail: the suspect is released immediately after booking and does not occupy bed space

- Bonds or bail: a deposit of money which is forfeit if the suspect fails to return: usually given after booking.

- Release on Own Recognizance: non-financial release after a short investigation of the suspect's background.

- Conditional Release: like Own Recognizance, but the suspect must agree to observe certain restrictions. Requires investigation, and is used for more serious offenders.

Florida statutes (F.S. 907) create a presumption favoring non-financial over monetary release for anyone who is eligible to be released.

1. Citation Releases/Notices to Appear

Law enforcement can have the authority, and in some cases is required, to issue citations (notices to appear or NTAs) instead of making an arrest in certain cases, primarily minor misdemeanor and traffic incidents. Law enforcement citation can weed out the least serious cases before they ever get to the jail and save the time and expense of booking. The use of NTAs for misdemeanors or infractions is recognized by statute (F. S. Ch. 901) but not required. The extent of use of NTAs in Florida counties is spotty, though in many jurisdictions in other states nearly all non-violent misdemeanor cases are cited in the field or at the booking desk.

NTAs are necessarily limited to less serious offenses because officers do not have the time or resources to make a thorough determination of the likelihood of court appearance. State law and local orders may restrict the exercise of an officer's discretion regarding continuing criminal behavior or propensity of the accused to appear, and officers are reluctant to assume the responsibility on their own initiative. However information such as the validity of the name or address given by the arrestee or the existence of an outstanding capias can be verified through a radio call or computer query from the patrol vehicle. Not far in the future it will be possible to take a suspect's fingerprints electronically in the field and compare them with the county's criminal records.

Law enforcement agencies can establish policies to promote the use of citations. Clear guidelines and precise regulations on issuing a citation would contribute by relieving officers of the responsibility of making a field decision. Citations have been greatly encouraged in urban California counties by charging police departments a booking fee, of the order of $100, for each arrestee brought to the jail.

2. Jail Book and Release

Book and release authority, sometimes called sheriff's citation, allows the release an offender without tying up jail resources. An arrestee is brought to the jail where fingerprints can be taken, and the offender is released with a notice to appear in court. The sheriff's office can be given the authority to make limited pretrial releases of offenders who meet certain criteria that can establish a likelihood to appear in court and not be a threat to community safety. This authority creates a fallback to law enforcement's use of citations. If the arresting officer is unwilling to issue a citation, the jail has the power to override this choice and effect a release on a notice to appear in court.

3. Cash and Surety Bond

Florida jails rely heavily on surety bonds for pretrial release. These generally require the arrestee to pay ten percent of the bond amount to a bondsman who then pledges the full amount to the county. Frequently the defendant must put up property such as real estate or an automobile as collateral to the bondsman as well; the value of the collateral can easily exceed the required cash deposit. In theory the bondsman must forfeit the bond if the suspect fails to appear as required. However the amounts forfeited are relatively small; according to data from the Florida Department of Insurance in 1987 - 1989, the forfeited bonds were less than ten percent of the total bonds, and over half of the forfeitures were ultimately discharged. Losses to the bondsmen averaged about three percent of the original bond value.

Surety bonding can be one of the fastest means of obtaining pretrial release. Wealthy defendants can be released almost immediately and even those of modest means may get out within 48 hours. Bonds tend to be set on the basis of the current offense without consideration of criminal histories, though it is possible to use the prior record and personal characteristics to modify the bond amount. Sometimes there is supervision of persons released on bond or other conditions of release beyond simply appearing at the next scheduled court appearance. However it is not usual for the bondsman to perform this supervision.

While the judge or the jail sets the amount of the bond it is the bondsman who actually makes the decision to accept the client or not. Public opprobrium therefore falls partially on the bondsman if the suspect refunds. This is one reason that courts like to use bail. Another is that bondsmen have organized themselves into influential associations which work to persuade judges and sheriffs that bonding is the cheapest and safest way of allowing pretrial release.

A less-used alternative is the direct ten percent deposit bond. The arrestee must deposit the same amount, but in this case directly with the county. Most of the deposit is returned when the defendant appears as scheduled. (This type of bail is not available under Florida law at present but may become authorized in 2000.) Cash bonds and cashless bonds are still less frequently encountered.

Persons in jail on violent and serious felony charges understandably have high or no bonds. However there are also some detainees with non-violent charges who are prevented from obtaining pretrial release because of no-bond orders or prohibitively high bonds.

There are three main categories of offenders who often are unbondable despite non-violent, non-serious charges. These categories are: persons in jail for a failure to appear in court (FTAs), persons who have technical violations of probation (VOP), and persons charged with a large number of similar offenses (e.g. drug possession related charges). Bond for a first time failure to appear in court can be set by administrative order at a high level.

Persons with more than one FTA can be unconditionally excluded from consideration for nonfinancial release, regardless of the nature of the offense or when the FTA occurred. "Knowing and willful" failure to appear renders a defendant ineligible by law for ROR and subject to increased monetary bail, but many cases of FTA are due to oversight, confusion, or mere wishful thinking rather than a deliberate attempt to flee. The situation with regard to no-bond orders because of FTA or VOP appears to be changing piecemeal in various Florida jurisdictions; fuller treatment is beyond the scope of this review, but will be covered in a forthcoming publication from the Collins Center.

Many persons in jail for a technical felony VOP are found to have no-bond orders. While there is no entitlement to bond for this category of offense, some courts have an informal policy of setting bond. The blanket use of no-bond orders in VOP cases does not discriminate between serious probation failures, such as absconding, and others resulting from the inability to keep appointments or pay supervision fees, nor does it differentiate those who are likely to appear in court at a revocation hearing.

Finally, it is the current practice of some counties studied to total the bond amounts for all charges at the time of arrest. Such bond aggregation exacerbates the impact of overcharging, particularly in non-violent drug use cases, and further limits the ability to obtain pretrial release. It also creates undue emphasis on the power of law enforcement to determine whether to incarcerate or not, in lieu of the Court's authority in this area. In other Florida jurisdictions and nationally, bond is set at the amount for the most serious charge only.

All types of financial security suffer from the same problem: they require that the defendant have enough cash available to make bail. It is also of help to have some assets that can be pledged as security. Yet many jail inmates are unemployed and do not have these assets, whereas a wealthy enough suspect can always be released except for the minority of cases where bond is denied altogether. Exclusive reliance on bonds discriminates against poorer suspects whatever the offense, and often does not do enough to reduce jail crowding. Surety bonds, in particular, are in effect a fine imposed before adjudication and regardless of its outcome.

4. Release on Own Recognizance

After citations, release on own recognizance (ROR) is the least restrictive form of release. It requires a background investigation and therefore can be used for somewhat more serious offenders than citation. ROR allows detainees who can demonstrate that they are likely to make court appearances and not be a threat to the safety of the community to be released from custody simply on a promise to reappear as scheduled. ROR is most commonly used for persons who have work or community ties that would be jeopardized if they failed to reappear. The rationale behind ROR is that it is not worth it for the defendant to give up normal life, become a fugitive, and risk a prison sentence just to avoid a comparatively minor penalty.

To assure the safety of unsupervised ROR decisions, counties typically rely on objective release criteria which may be based on a national model. After confirming a detainee's score in the areas of criminal history, violent tendencies, ties to the community and other determining factors, staff can in some jurisdictions make the release themselves, and always can submit information to the judge for ROR consideration. The judges, however, are not required to grant releases or, if they do, to base them on the established criteria.

5. Conditional Release

There are a number of types of conditional release. An inmate may be released into the custody of another, presumably responsible, person such as a parent. This is essentially the same as ROR except for the involvement of the third party. Then there are supervised releases. These resemble supervised probation: the defendant is restricted from certain activities and must report periodically to a supervisor. While they are more expensive to administer, conditional releases can be used for arrestees who would not be eligible for an unsupervised release.

Supervised release uses physical and telephone supervision of pretrial defendants by field officers. It can involve house arrest or electronic monitoring, and the suspect can be required to pay a supervisory fee. Determination of eligibility is through classification data, as is currently used to make unsupervised ROR decisions. Supervised ROR programs, according to the 1990 National Pretrial Reporting Program, have a failure to appear rate of 14 percent.

Supervision is used for inmates who are in a higher category of risk than those who could be let go on ROR. It provides an intermediate option between an unconditional release back into the community and the high cost of incarceration. The potential for impact on jail bed savings is consequently great, as effective supervised ROR programs considerably reduce the fear of making a bad, unsupervised release by maintaining a large degree of offender control without the cost of offender housing and services.

D. PRETRIAL INTERVENTION

Diversion is really an alternative to the traditional judicial process. An arrestee who is diverted is sent to an established program such as a drug or alcohol treatment program and is required to attend in lieu of going to court. Pretrial diversion is authorized under Florida statute (F. S. 948.08). It is in some ways similar to conditional pretrial release insofar as it reduces the jail population, but differs from it in that successful termination from the diversion program may result in the dismissal of charges.

Many such programs exist, most of them run through probation departments or private non-profit agencies. One which is run by the courts and has been successful in Dade and Hillsborough Counties is the drug court where a judge monitors users' progression through an extended period of treatment.

1. Probation Intervention

A probation intervention program can be run by the local misdemeanor probation agency or by the local office of the Florida Department of Corrections' (DC) Probation and Parole Services. The diversion program is the same as sentenced probation, with monthly check-ins, restitution, fines and relevant conditions (drug testing, community service, etc.).

2. Drug Diversion Court

The drug diversion court in Hillsborough County served long-time drug users with no more than minor criminal records. The program involved voluntary commitment to intensive treatment requiring periodic check-ins with the court and frequent visits for drug testing, acupuncture, counseling and education. Admission to the program was granted by the courts and the State Attorney. There was a fee, and participants waived their right to speedy trial.

Hillsborough's drug court informally excluded persons in custody at the time they were selected, so it had little impact on alleviating jail crowding in the short-term. Yet many inmates who could not bond out were in custody on charges of possession of cocaine. The lack of non-financial pretrial release options combined with an inability to pay high bond amounts resulted in disproportionate representation in Drug Court of those who were different from jailed defendants only in their ability to make bond.

The Dade County Drug Court has been reviewed by NIJ; the reviewers found that participants had lower drop rates, lower incarceration rates, less frequent rearrests, and longer times to rearrest than similar defendants not in the program. Their FTA rate was higher because the Drug Court required more frequent appearances.

3. Other Diversion

Other types of pretrial diversion program can be added. Many of these are typically provided by private agencies or other branches of government. They can include domestic violence/anger control, remedial education and job skills training. Offenders whose behavior is governed by mental health problems do not generally belong in the criminal justice system anyway and should be moved out. Another example is the Citizens' Dispute Settlement program in Polk County; the offenses are minor enough that it does not have a direct effect on the jail, but it has freed up judicial resources for the more important matters by diverting nonviolent misdemeanors such as passing bad checks.

E. RELATION TO SENTENCING ALTERNATIVES

1. Pre-Sentence Investigations

Many felony level offenders have a pre-sentence investigation (PSI) prepared for them. This investigation provides information on characteristics of the offender that are relevant to making a sentencing decision and assigning conditions of probation (restitution, drug testing and treatment, etc.). Information obtained by the pretrial release agency can greatly reduce the time and effort required to prepare a PSI.

2. Probation

In supervised programs, probation officers spend many hours per month in the field checking on probationers at random times all day and at night. At specified intervals the offenders report on compliance with their probation conditions – restitution, fines, counseling, and community service. These procedures can be adapted to supervised pretrial release as well. It is important to include some outcome oriented measures to evaluate the effectiveness of the program rather than merely specifying inputs (so many cases per officer, so many conditions and requirements to be administered). If there is a larger goal, such as having a long-term impact on offender behavior, additional program definitions of success and goals are needed.

3. Drug Offender Probation (DOP)

Created by the Community Corrections Partnership Act (CCPA) in 1991, Drug Offender Probation is run by DC Probation and Parole Services to provide more intensive supervision of offenders with clear substance abuse problems and history than standard probation through increased home checks and random drug testing. The DOP caseload is by officers who handle only these cases and so ideally can specialize in the needs of the drug offender. Again these techniques are applicable to a pretrial population

4. House Arrest (Community control)

House arrest programs require the offender to stay in his or her home, perhaps with scheduled release for work or school. The programs can work in several ways. Some use electronic bracelets to monitor offenders. In others the offender is required to answer phone calls which come at random times and provide positive identification. Either procedure could be used for pretrial release.

F. USE OF PRETRIAL RELEASE NATIONALLY

The U. S. Bureau of Justice Statistics has summarized pretrial release patterns for 54,000 felony arrests in 39 of the 75 largest U. S. counties in May 1990, as found in the 1990 National Pretrial Reporting Program. All but Orange County of Florida's big seven were included. The 39 counties had a population of about 60 million in 1990, of which the Florida counties represented just over ten percent. No individual county findings were presented in the BJS summary, but a little such information is given in the appendix to the site reports.

The results are based on a survey of felony filings for five days in May 1990. Briefly, 65% of felony defendants were released pretrial, about three-fifths of them (39% of the total) by nonfinancial release, including unsecured bond, and two-thirds of those were ROR, though 14 of the 39 counties used this mode to a very limited extent or not at all. Conditional releases, in most cases requiring regular contact with a pretrial program, was the next commonest mode.

One quarter of the defendants were released via some sort of financial release, of which 60% were surety bonds. Another 28% had bail set but could not meet it, and six percent were held without bail. Not surprisingly the number who could not make bail increased as the bail amount rose. A third of those granted bail had bonds under $2,500 and another third fell between $2,500 and $10,000. High bonds were common for murder, rape, and to a lesser extent robbery, but for other offenses most of the amounts were below $10,000.

Being on pretrial release or having a prior felony conviction when arrested lessened but did not eliminate the possibility of a second release. A little over half the pretrial releases occurred within one day and 80% within a week.

About a quarter of all defendants failed to reappear as scheduled, and a third of those were still fugitives after a year. The FTA rates were highest for property and drug offenders. As a function of release type, the highest FTA rates were on emergency (population control) and unsecured bond, while the lowest were surety bonds and conditional releases, followed closely by deposit bonds. However the emergency releases were the least likely to remain as fugitives after a year and deposit bonds were the most likely. It is not specified how many of the returns were voluntary.

Eighteen percent of those released were rearrested while still on pretrial release. Roughly 60% of rearrests were for new felonies. The rearrest rates were highest for those whose original charges were property or drug offenses. The new offenses was most likely to be of the same type (violent, property, drug, public-order) as the original. About a quarter of the rearrested violent offenders were charged with a new violent felony; about half of them were charged with a misdemeanor (type unspecified). By release type, those released on emergency orders had by far the lowest rearrest rate, followed by conditional releases. Unsecured bonds and ROR had the highest rearrests. A release on deposit bond carried the highest chance of rearrest on a violent felony.

To summarize, the largest jurisdictions in the U. S. release a substantial fraction of felony defendants. If bail amounts over $10,000 are taken as prohibitive, then the approximate percentages of releasable inmates (those released pretrial and those with nominally affordable bail) are:

- Murder, 21%
- Rape, 49%
- Robbery and unspecified violence, 62%
- Assault, 77%
- Burglary, 74%
- Other property, 87%
- Drug sales, 70%
- Drug possession, 87%
- Public-order, 88%

Of course that fact that bail is below $10,000 does not mean that the arrestees will be able to meet it. In fact 45% of those with bond amounts between $2,500 and $10,000 could not make bail, and even 31% of those below $2,500 were in the same predicament.

The report gives a confusing picture as to what is the best pretrial mode in terms of ensuring return and no further offenses. Release failure varies with other factors, especially race and prior criminal history, but age and sex made no difference to the likelihood of FTA and only a little to rearrest.

G. USE OF PRETRIAL RELEASE IN FLORIDA COUNTIES

Of the eleven counties for which ILPP was able to obtain information, nearly all relied on some form of bond as the primary release mechanism. The exception was Polk County which released most of its arrestees within a day pursuant to a court order to prevent overcrowding.

The report "Intergovernmental Relations in Local Jail Finance and Management in Florida" (August 1993) by the Advisory Council on Intergovernmental Relations (ACIR, an agency of the Florida Legislature) contains a great deal of useful comparative information on jail population management in Florida counties. ACIR's survey of all twenty court circuits showed wide support among State Attorneys, Public Defenders, and Chief Judges for a number of non-financial pretrial release policies such as Notices To Appear, ROR, and supervised or conditional release. Support was greatest for misdemeanors and third degree felonies but fell off sharply for more serious offenses.

The degree of implementation of such policies was somewhat lower. In eight of nine responding circuits the issuance of NTAs by law enforcement was authorized, but percentage bail was allowed by none, non-financial release for drug abuse/mental health populations by five of eleven, ROR by all eleven, and conditional release by seven of nine. Only three of eleven circuits had delegated release authority to pretrial services staff.

Within the counties, 55 had some form of NTA in use, but the degree of usage varied; in some both the sheriff and the police forces could cite, while in others only one of these could do so. Some counties cited only selected misdemeanors, some all misdemeanors, and some allowed certain felonies. Eleven small counties did not issue citations at all.

Twenty-four counties, including all but Duval of the big seven, had pretrial service agencies, mostly operated by the courts or the Sheriff. However the sizes of these varied considerably; pretrial services in Monroe County had a considerably larger budget than that in Polk, with five times its population, and Alachua County's agency was nearly as large as that in Palm Beach. Most of the agencies made release recommendations to the courts and supervised released defendants. Half had some limited release authority, and most of those could release some third degree felons. Less than two-thirds notified defendants of court dates or operated case tracking systems, which would seem to be noncontroversial activities. Failure to appear rates in eleven counties ranged from 4.1 percent (Bay) to 16 percent (Monroe), but most were below ten percent. ACIR calculated that for five counties in 1990 the jail cost avoidance was between 1.8 and 34 times as much as the funding cost of the pretrial service agencies (the spread was very wide).

ILPP's own conclusions on the use of pretrial alternatives were that, at the time of its studies, none of the five counties (Leon, Palm Beach, Polk, Orange and Hillsborough) had fully taken advantage of the possibilities of pretrial release. All but Polk[2] depended heavily on some sort of financial release, and bond amounts were aggregated over all charges, putting them out of the reach of poorer defendants. Supervised release was practically unused. Pretrial release agencies did exist but were not active.

The reports by other observers did not devote as much attention to pretrial release, but what findings do emerge were consistent with those of ILPP: bond of some type is the principal release mechanism, and inability to make bond keeps many arrestees in jail. However in two counties (Gadsden, and Escambia in 1982) there was substantial use of nonfinancial release as well. Misdemeanants who cannot make bond and plead early are given credit for time served and are released only at that point. Duval County was cited as having an unreasonably high bond schedule and being particularly lacking in both release and diversion mechanisms. It was estimated that the number of inmates in Broward County on community release could be tripled.

A small amount of information on six counties (Broward, Dade, Duval, Hillsborough, Palm Beach, Pinellas) can be gleaned from the site reports on the 1990 National Pretrial Reporting Program. The pretrial release rates and the percent of financial releases are shown.

County	Released	Financial
Broward	55.6%	82.4%
Dade	66.1%	11.9%
Duval	35.2%	57.1%
Hillsborough	54.6%[3]	69.2%
Palm Beach	62.7%	75.7%
Pinellas	69.9%	47.1%

FTA rates were low compared to the national sample: the highest was 15.6% in Hillsborough and the lowest was 8% in Broward (the second lowest of all 39 counties). Rearrest rates were also low, ranging from 0 (Broward, Duval) to 11.3% (Pinellas).

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2 Polk County operated under a court order which required the release of **all** arrestees in inverse order of the seriousness of their offense through second degree felonies in order to prevent overcrowding.

3 Plus 14.3% "not known" releases in Hillsborough

It should be noted that the individual county samples were small (e.g., 119 filings in Hillsborough) so that any observed differences among counties could be due solely to statistical fluctuations.

4. Profiles and Pretrial Release

IV. COMPARISON OF PROFILES AND PRETRIAL RELEASE MODES AND CRITERIA

A. INTRODUCTION

Most arrestees are misdemeanants or low-level felons. In many cases -- not all, by any means -- they are people who have acted on impulse, without much calculation as to the impact of their offenses. Some try to lead relatively normal, if disorganized, lives. Some have jobs or families. Many have their judgment dulled by alcohol or drugs.

While their criminal behavior is not to be tolerated, many of them do not pose a great threat to the public, probably no more than those of their neighbors and associates who have managed not to be arrested. But there are not enough jail beds to hold all the arrestees. In view of the considerable expense in detaining persons arrested for lower-level offenses, and of the threat posed by long pretrial incarceration to their already somewhat shaky socioeconomic situation, the county has an interest in releasing them with a promise to return for adjudication.

Of course there is always a risk in making releases. The defendant may abscond or may commit a new offense, or may violate the terms of the release or a previous probation. (For some reason the public seems to view it as more serious if a released defendant reoffends than if the same act is committed by someone who is not under control of the criminal justice system at the time.) Nevertheless releases must be made. The trick is to determine who will be a good release and who cannot be let go.

Sometimes the choice is obvious. Those accused of the most serious crimes are not released under any circumstances. People with no fixed addresses or occupation have little incentive to stay in the area long enough to return for disposition. Anyone with a long history of offending stands a good chance of repeating, as does anyone with a propensity for uncontrollable violence.

When the choice becomes difficult there arises a procedural decision fork. Do we apply objective criteria in determining an inmate's eligibility for release, or do we rely on the judgment of a trained and experienced pretrial release expert? There are good arguments to be made on both sides. The expert can be sensitive to nuances which cannot be captured in any set of release criteria. On the other hand even the expert can be influenced, perhaps subconsciously, by subjective reactions to extraneous factors such as race, social class, or merely appearance and demeanor. While both objective and subjective methods are used in various jails, prevailing opinion is that the merits of objective decision-making outweigh its disadvantages.

Determination of pretrial release eligibility uses much of the same information as the determination of custody classification: nature and severity of the current offense, criminal history (preferably convictions rather than arrests, and FTAs, warrants, and VOP), mental health or substance abuse, and institutional violence or escape history. Pretrial release also looks at personal stability and community ties such as family and employment status and length of residence on the hypothesis that anyone with a stake in the community will have an incentive to preserve that position.

Generally speaking, the most dangerous will be those arrested for violent offenses or with a history of prior violence. Others could fall into this category also - major drug sellers, those with extensive burglary records, or blatant drunk drivers.

Persons likely to flee will be those who have no ties to a particular locality such as stable residence, jobs, or family. Only arrestees facing extremely severe penalties such as execution or life imprisonment, or those with the means to seek asylum in a friendly country are likely to give up such ties and become permanent fugitives.

Although the dividing line is necessarily imprecise, there would seem to be no good reason for detaining anyone who is neither dangerous nor prone to abscond. Punishment can be appropriately applied after adjudication. In particular it is contrary to both basic justice and fiscal responsibility to refuse pretrial release and hold an arrestee without trial for a period which is significantly longer than the normal sentence imposed for the offense in question.

Bonding out -- whether through a bondsman or deposit with the county -- may but generally does not take most of these factors into account except insofar as they affect the bond amount. The bond is usually set at the jail according to the charges on the arrest affidavit, or by the judge at first appearance. In many cases there is aggregation of the scheduled bond for each of the charges, so when overcharging occurs, as it frequently does, the total bond is high. In Duval County the schedule itself is prohibitively high for many arrestees. This is in conflict with the intent of state law (F.S. 907) which prescribes pretrial release for most inmates who are not dangerous and are likely to return for adjudication. (And, there is a presumption in favor of non-financial release.)

Most of those defendants who are able to bond out do so at an early stage. Others cannot afford it and request a bond hearing in hopes that the amount can be lowered. In either case the practice favors those with means, whether obtained legally or not. On the other hand, no-bond orders may be issued for anyone with a probation violation, as in Polk and Hillsborough Counties, or high bonds are set for failure to appear (Polk), in each case irrespective of any consideration of danger to the public.

Releasing on bond does not use the same type of control mechanism to assure return as non-financial pretrial release. Failure to return can be willful - becoming a fugitive, dropping out of sight, even fleeing the country - or wishful. While the possibility of forfeiting the bond amount is supposed to be an incentive to return, a person who deliberately flees has no intention of being caught at all; it is not clear how a financial incentive will make much of a difference in that case.

Wishful failure may be inadvertent or a forlorn hope that the county will somehow "forget about the whole thing," neither of which attitudes is likely to be strongly influenced by the bond amount. The threat of a monetary loss may help to serve as a reminder, but for those with strong community ties the intangible consequences of failing to return are a stronger incentive.

Non-financial pretrial programs can involve supervised or conditional releases.[1] The impulsive offender is less likely to get into trouble if continually watched. Programs of this sort allow the release of defendants who would not simply be let go on their own. Diversion to substance abuse or anger control programs is in effect a variant of this, tailored to individuals' particular needs.

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[1] There can also be conditions on monetary bond. For example, drug and alcohol testing are required for some defendants who post bond in Leon County. The pretrial release agency, not the bondsman, performs the supervision. (Personal communication, Matthew S Tansey)

B. TRACKING SUMMARIES

How do Florida counties score on the criteria of public safety and likelihood of return?

In Leon County in 1987 a quarter of the felony arrestees and only a handful of misdemeanor arrestees were accused of violent offenses. All but five percent had permanent residences, most of them in Leon County, and half were employed.

Yet pretrial release was slow and restricted. Ninety-five percent of the jail population was made up of pretrial inmates and half of them had no bonds set. Those felony suspects who were released took eleven days to obtain bail or nineteen days for court-ordered ROR. Misdemeanor arrestees did get out most of the time (83% of those booked) but again the times were long: two days for bail, a day and a half for court ROR. By contrast, those who were able to post their own bonds (mostly DUI) were out in six hours.

The Palm Beach County tracking study (1990) gave rather similar results. Most of those booked were county residents. (Employment status was not recorded.) Twenty percent of felons and six percent of misdemeanants were charged with violent crimes.

Pretrial release was somewhat more effective than in Leon. Sixty percent of felons were released pretrial. Violent offenders were released as often as the nonviolent; the offense category with by far the lowest pretrial release rate was probation violations. The ALS for released felony suspects was much shorter at 5.3 days. Bond was the major mode of release for this group.

On the other hand only about half of the misdemeanants were released (in a little under a day). Almost as many were released after adjudication with credit for time served (an average of nine days). The pretrial release figure is depressed by the low release rate of those held on failures to appear. Drunk drivers, by contrast, got out nearly all of the time and very quickly. ROR and bail or bond accounted for nearly all of the pretrial releases, and both took about the same amount of time.

In Polk County (1993) most of the inmates were from the County itself or one of those adjoining. Violent felony arrestees were 22 percent of all felons, though the percent of violent misdemeanants was much higher (19%) than in Leon or Palm Beach.

In terms of pretrial release the situation was quite different. Because of overcrowding, a very high percent of those booked, whether felony or misdemeanor, were released under a court order prohibiting over-crowding. This order appeared to have, *de facto*, taken precedence over all other pretrial release mechanisms. When the jail population exceeded the cap, the Dakan order required the release of *all* pretrial detainees in reverse order of the seriousness of the offense up through second degree felonies. For certain named offenses, only a supervised release was allowed and could be refused by the supervising agency. Arrests on an FTA capias fell into this category unless they had a "no-bond" order or a bond over $5,000, but nearly all of the capiases did have a high or no bond. Out of county holds could also be held, for up to three days.

The majority of releases observed in the study came about under the Dakan order. ROR through the pretrial release agency accounted for most of the rest; bond was used in less than 20 percent of the releases. Dakan releases took a very short time also, much less than a day in most cases.

Despite the rapid releases, the Polk County jail held mainly pretrial felons, a third of whom were charged with violent offenses. Nearly as many felons, however, were held for probation violation or FTA, and an even higher proportion of misdemeanants were charged with those technical violations.

Of the felons and misdemeanants booked by Orange County (1993), 26% and 13%, respectively were charged as violent. Almost all are residents of Orange or neighboring Seminole County. Despite the large number of tourists coming to the County, only three percent were out-of-state residents. While most of those who were booked were white, most of those who stayed were black.

Half of the felony and two-thirds of the misdemeanor detainees were released pretrial. For the felony level detainees, surety bond was the commonest and the fastest except for a small number of population capacity releases (or PCR analogous to Polk's court order). PCR was the major form of release for misdemeanors, with bond second. ROR releases were rare and slow.

Persons booked into the Hillsborough County jail (1994) were mostly county residents. Five percent of those booked but ten percent of those detained were transients. In the profile, nearly all inmates were unemployed. Charges at booking resembled those of the other counties: 26 percent of felonies and 20 percent of misdemeanors were for violent offenses. (It is interesting to note that in ILPP's studies over the years the percentage of violent misdemeanor bookings has more than doubled, perhaps indicating greater concern with domestic violence.)

Pretrial release rates were relatively high - about two-thirds of all those booked at each level. Bond was by far the most-used release mode and was in most cases much faster than ROR. (In the earlier sample it was slightly slower than misdemeanor ROR, but this difference was reversed later.)

The Broward County study did not report data similar to that in ILPP's tracking analyses, but found that, during a particular period, 32 inmates were released on Community Release and an additional 75 apparently could have been released to an enhanced (supervised) program. Bail is apparently a major release mode.

The Escambia County study is old and perhaps no longer relevant, but is interesting in that it came just at the beginning of the great jail buildup of the mid 1980s and the widespread advert of crack cocaine. Most arrestees were county residents and a half of those released (but less than a third of those detained) were employed. Thirty-one percent of felons and twelve percent of misdemeanants were charged with violent offenses; the release rate for violence was not much different from that for other offenses.

Prior violent felony convictions substantially decreased the chance of pretrial release. The majority of releases occurred at or prior to first appearance (no time given, but first appearance occurs rapidly in Florida).

Among those felony detainees who were granted pretrial release, 37 percent posted bond, 36 percent were released by personal signature (essentially ROR), and 20 percent were allowed a bond but could not meet it. More or less the same ratios occurred with misdemeanants except that citations accounted to about 20% of the total. While the bonds for those felons who were released were much lower than for those who were not, the same was not true for misdemeanants. Inability to make a small bond (under $300) was a major reason for staying in jail.

Most of those arrested in Gadsden County were from that county or Leon, which adjoins it. About half were employed, and about half of those were laborers. The charges were not separated into felonies and misdemeanors, but of the total, 26 percent were personal (violence or sex).

The study examined pretrial release for felonies, misdemeanors, and DUI suspects. Most of the DUI cases were released before or at first appearance, 60 percent of them by ROR and the rest on bond. The length of stay was less than two days in nearly every case.

Two-thirds of misdemeanors were released before first appearance and another twelve percent were released at that time, either pretrial or with time served. Most releases were ROR; a few were released on bonds (median amount $225). Six percent could not raise their bonds (median $350).

About a third of the felons were released before first appearance, mostly on ROR but a few with bonds (median $2000). For those who could not raise the money the bond amount was much higher (median $6750). Only an additional 13 percent were released at first appearance. Pretrial release times averaged six days, but the median of two days indicates a skewed distribution with a long tail.

There is little information on pretrial release in the Collier County study except to say that, although bond amounts were relatively low (most under $2500), many inmates were unable to raise them and stayed in jail for at least five days.

In the Alachua, Lee, and Volusia County reviews by ACIR there are no figures on the relative use of financial and non-financial release, but it appears that the institution of interdepartmental population management programs including effective pretrial services agencies were able to secure an increasing number of pretrial releases (ROR and supervised release).

In Duval County there were three measurements of the percent of jail bookings for violent offenses. These were, in 1984, ten percent; in 1988, 16 percent; and in 1992, 13 percent, almost 40 percent of whom were "simple assault." [The report lists a number of examples of bookings for what would seem to be citable offenses if they were to be prosecuted at all; there is no way to know how representative those anecdotes were of the entire population.]

A three-day sample of releases showed cash and surety bonds to be the main form of pretrial release, followed by ROR and notice to appear. However a very large number of misdemeanors are released at first appearance with credit for time served. The judges often ask the defendants how long they have been in jail and set the sentence to that. Under these circumstances it is not clear that the defendant is really guilty; a plea brings immediate release and a denial keeps them in jail for at least another week. These constitute perhaps 20 percent of all releases.

Bond amounts are characterized as very high and many arrestees cannot meet them. ROR is used, but supervised or conditional release has no organization behind it, though it may be used occasionally at a judge's discretion.

C FINDINGS

Each of the studied counties, which together contain nearly half of Florida's population, has its own particular characteristics, but there are certain findings which apply to most of them.

- Most arrestees are not violent, and many have community ties through residence or employment which would make them unlikely to abscond.

- Bonding was the major form of pretrial release in most of the counties examined, and bondsmen's associations have an understandably strong interest in perpetuating this arrangement. Yet several of the reports commented that a substantial number of inmates were unable to make bond. This is inefficient since it ties up jail beds, and probably illegal since Florida requires that non-financial release be available. Considering that many unmet bonds were very low -- $350 was the median unmet bond for misdemeanor defendants in Gadsden County, for example -- it appears that some of that group would have been eligible for non-financial release. The Duval study quotes a newspaper article on Broward County in 1989 which found that eight percent of the inmates were being held on bonds of less than $500.

- With a few exceptions, even when cite-and-release policies and diversion programs exist, there is no strong advocate for them and they are not heavily used, with the result that many persons are booked on relatively trivial offenses. In particular there is a need for more substance abuse diversion.

- Population control release orders (i.e. jail overcrowding lawsuit consent decrees) in some cases release many inmates on the basis of the instant offense only, and with little regard to prior history or community ties.

- ROR is fairly common, but supervised or conditional release is little used.

- The most attractive alternative for misdemeanants is to plead guilty and be released with credit for time served at first appearance.

- In some counties the amount of time even to secure a bond is relatively long.

- Many counties do not have an independent agency which makes release recommendations or supervises releasees.

- Local policies on FTA or technical probation violations prevent the release of many inmates who would not otherwise be considered either dangerous or an escape risk.

- The suspension of a driver's license for non-payment of traffic tickets is a significant contributor to jail intake. Many of those arrested claim that they had moved and had not received notification of the suspension.

- Notification of court dates and reminders to appear are little used.

- Although there are notable exceptions to this, there is not much of a coordinated commitment by the totality of system actors to jail population management.

The consequence of all these is that Florida jails book, and often hold, large numbers of inmates who do not represent a great threat to the public.

It should be emphasized that some counties do make use of the implied recommendations in the above findings. None of what might be done to reduce population growth is new. Most has already been put into effect somewhere in Florida. The three counties profiled in the ACIR report - Alachua, Lee, and Volusia - are all presented as examples of jurisdictions which have successfully managed to control the growth of their jails. Probably the most fundamental suggestion would be to establish a jail population management system in which all of the involved agencies would participate in choosing and implementing the various alternatives.

D. INMATE CLASSIFICATION AND INSTITUTIONAL SECURITY LEVELS

Pretrial release decisions are made one at a time based on a combination of each individual's characteristics. From the data in the studies used for this review it is not possible to derive an accurate picture of who was detained and could safely have been released. However there are several approaches that will indicate the dimensions of the problem.

Classification levels give a strong clue to releasability. A person who is classified as a minimum security risk is by definition considered not likely to be dangerous or to attempt escape, and medium security inmates might be allowed some form of supervised release. In six counties the security classification level of the inmates was determined. (It is not possible to construct a classification profile for the others from the data as presented because the classification is based on the individual offender's current offense, prior record, and history of institutional problems; the latter two sets of information are not available.) The figures show classification levels for male inmates, and do not distinguish between pretrial and sentenced.

The percentages of minimum and medium level inmates were found to be: Leon County, males 70 percent; Polk, males 92 percent, females 97 percent; Orange, males 72 percent, females 87 percent; Hillsborough, males 82 percent, females 92 percent. In Leon and especially in Polk County the bulk of these were minimum level inmates.

In the Broward County study the county classified 84 percent of inmates as medium or minimum (mostly medium), and the consultant (CSG) did not make an independent determination. However both ILPP and CSG remark that counties frequently overclassify their inmates. Collier County classified only 31 percent of its inmates in the lower two groups, but CSG performed a reclassification and raised the figure to 65 percent (including trusties). As the total includes 23 percent who were classified as "special" (segregation, intake, and medical), this represents 84 percent of the general population. In Duval County there was no explicit description of the classification levels, but one-third of the inmates were sentenced to county time, and "virtually all" of these were assigned to work furlough or as trusties, indicating a low level of classification.

Unfortunately for the purposes of this review, there is no way to differentiate the classification levels for the sentenced and pretrial inmates except for Leon County where virtually everyone was pretrial. Probably the level is higher for the pretrial population since it includes those who will be sent to prison upon conviction. Nevertheless it is clear that there are large numbers of inmates who would be eligible either for pretrial release or for alternative sentences.

Jails, like inmates, are usually classified as "maximum", "medium", and "minimum", with occasional variants. But there is no precise definition of the terms, nor is there is a generally accepted objective procedure for assessing the security level of a jail in the same way that an inmate is classified. There is an obvious difference between maximum and low minimum facilities, but in the intermediate range there is room for interpretation as to what level the facility really is since there is no standard jail.

- Two important security issues in inmate housing are guarding against escape and controlling violent behavior. The physical and operational requirements for these differ somewhat but are not adequately captured in the ordinary terminology. An escape-proof facility needs a secure perimeter and no inmate access to exiting vehicles or materials, but may allow the inmates to spend much of their time in a day room area. For non-violent inmates the walls, furniture, and plumbing fixtures need not be of heavy-duty construction.

- By contrast, inmates with behavioral problems will often be confined to their cells for all but the required exercise time. Contact among inmates, especially if they belong to rival organizations, is limited. These requirements imply single-bunking, hardened cells, and provision for in-cell feeding. A facility which is large enough to allow separate housing of violent inmates and any others requiring special custody can save several thousand dollars per cell by minimizing the extent of hardened construction.

The security level of a jail is a function of several factors: how it is built, how the space is divided up and furnished, and how it is operated, especially with regard to inmate movement. Maximum and medium security facilities have secure buildings and perimeter. Some minimum facilities have secure external fencing but less restricted inmate movement inside. In low minimum facilities the inmates can walk out of the building if they choose. Weekenders and those on some work programs live under conditions which are scarcely different from supervised probation.

The construction costs for maximum and medium facilities are high, while minimum security jails are not much more expensive than ordinary institutional housing except for the external security arrangements. If inmates are to be detained pretrial it is fiscally responsible to house them in the least expensive way that both holds them and prevents destructive or dangerous behavior.

Given the caveat that housing and inmate security levels are not precisely in correspondence with each other, here are the inmate and facility comparisons as found from the studies:

TABLE 4.1 BED AND INMATE CLASSIFICATION

COUNTY	LEVEL	BEDS	INMATES
Leon	Max	70%	32%
	Med	30%	30%
	Min	0%	37%
Polk	Max	100%	9%
	Med	0%	33%
	Min	0%	60%
Orange	Max	75%	29%
	Med	13%	52%
	Min	12%	20%
Hillsborough	Max	80%	18%
	Med	14%	39%
	Min	6%	43%
Broward	Max	38%	9%
	Med	49%	73%
	Min	13%	18%
Collier	Max	72%	35%
	Med	0%	33%
	Min	28%	32%

In every case the overall degree of security of existing facilities is higher than what would be needed according to the classification level. Even if maximum and medium are combined, only Orange, Broward, and Collier Counties have an adequate amount of minimum security housing. (And Collier is at present using only about a quarter of the beds in its stockade.)

One more note: because the inmate mix fluctuates daily, the classification levels do not stay the same. A jail operator can argue with some justification that the levels should be skewed to the high side since there must be a capacity to house all maximum level inmates that are admitted. Minimum inmates can be safely housed in a maximum facility while the converse is not true. Nevertheless the disparities for counties like Leon and Polk suggest that they would reduce costs in their next expansion by adding some minimum security facilities. (Polk County has an old minimum security stockade with a capacity of at least 65 beds, but it was not in use at the time of the study and would need to be rehabilitated or replaced.)

E. INMATES WHO COULD BE RELEASED PRETRIAL

Pretrial release supposes that the inmate does not pose a threat to the public and will not attempt to avoid reappearance in court. Reasonable requirements for the various forms of release would be:

- Citation: minor misdemeanor or infraction, local address
- ROR: misdemeanor, nonviolent third degree felony, local connections (residence, employment), minor or no prior record
- Conditional/supervised OR: up to second degree nonviolent felony, local connections, no recent serious record
- Diversion: specific problem such as substance abuse, local connections, minor or no record
- Bail/Bond: ability to post bond (bond is set according to most serious or total of all current offenses, and some will have no-bond orders)

None of the profiles was specifically directed to the question of pretrial release, and the information is incomplete for calculating the potential. There is no way to correlate the fragmentary local connection and prior history data with the current offenses, and no way to know how many inmates in the classifications are pretrial. However some generalizations can be made:

- With rare exceptions, no one arrested only for infractions should be held beyond processing if booked at all (assuming no holds or warrants).

- Most misdemeanants can be released pretrial, at least under supervision, since by definition a misdemeanor is not a serious crime. The principal exceptions would be transients, who might not return, and those with extensive and serious prior histories that promise further offenses. A propensity for domestic violence is also a reason to detain (and hope the inmate when released doesn't blame the longer stay on his partner) or to release only under supervision.

- The practice of accepting early pleas for misdemeanors and giving full credit for the time served up to that point undercuts pretrial release. In Duval County many misdemeanor arrestees are released in less than a day in that way (estimated at one-sixth of all releases). The total time served is little more than the amount of time it would take to process a pretrial release. While such quick release is equally effective at managing jail population it has a minimum punitive effect and encourages false guilty pleas.

- Most inmates held for failure to appear or technical probation violation can be released, assuming no new violations and no deliberate attempt to flee. FTA and VOP often result from a failure to understand the rules or to appreciate their importance, or an inability to keep appointments on time. People who move and do not file forwarding addresses may not receive the appropriate notices, and some probationers cannot afford the supervision fees. While failure to follow rules of this sort is not admirable behavior it does not connote a threat to the public.

- Virtually anyone classified as a minimum security risk can be released since they are people who could be held in a facility from which escape would be easy. (The classification should be based on all of the pertinent factors including the criminal history, not just the current offense.) Many medium security inmates could be released under supervision.

- Arrestees with a very low bail, say under $1,000, can be released since the state, by setting the bail at that level, has already determined that the inmate is not a serious risk. (The validity of that determination will be affected by whether the bail is set by formula to the current offenses or takes other personal characteristics into consideration.) If the inmate cannot meet even that low amount ($100 to the bondsman) then the real offense would seem to be poverty.

- Most persons whose offense is primarily due to drug or alcohol abuse can be diverted into treatment programs. Mental health cases should normally be transferred to the local mental health department.

Many inmates will fall into more than one of these categories, so it will not be possible to total them.

It must be noted that the fact that inmates can be released does not mean that the counties will choose to release them. It costs little to fill empty beds if the jail is well below its cap since the expense comes about primarily when additional facilities are acquired. There will also be inmates whose instant offenses are relatively minor but who have a history of repeated arrests and disorderly behavior in and out of jail. Some counties want to get unsightly or objectionable people off the streets. This is likely to be the case especially in areas which attract large numbers of tourists, as is the case in many parts of the state.

The numbers of felony arrestees who might be eligible for pretrial release can be estimated using the releasable fractions of the different offenses as found from the BJS study. "Releasable" is as defined above: all of those who were granted non-financial release plus all with bail set at less than $10,000. (The assumption is that bails over $10,000 are intended to be prohibitive in most cases.)

For misdemeanor arrestees the assumption is simpler: virtually all can be released pretrial or with credit for time served at first appearance, which should be within 24 hours. There will be only a few exceptions, those who are also held for another jurisdiction, have long histories of violence, or seem likely to flee.

The releasable percentages are applied to the numbers of felons booked. Suitable data are found in the five ILPP studies (Leon, Palm Beach, Polk, Orange, and Hillsborough), and Escambia and Gadsden. For the others there is either no booking data at all or the charges are not separated between felony and misdemeanor. In the latter situation the large numbers of larceny and drug cases, which can be at either level, make this analysis impossible.

There was a remarkable similarity in the result of the calculations for felony bookings, as shown in the table.

TABLE 4.2 FELONY RELEASE RATES

County	Releasable	Actual Releases
Leon	79%	63%
Palm Beach	79%	60%
Polk	79%	55%
Orange	79%	53%
Hillsborough	80%	59%
Escambia	78%	79%
Gadsden	77%	74%
US 39 counties	78%	65%

The releases by offense were tabulated for Leon, Palm Beach, Gadsden and Escambia Counties. In the Escambia study, which was the oldest, before the war on drugs, release percentages were high in all categories including drugs. For the other three, release percentages were especially low in the "public order" category, which includes felony DUI, weapons, and VOP, and appeared to be low for drug sales also.

It is important to recall that the "releasable" numbers shown above do not represent the actual numbers released. On the contrary: because many inmates could not make their bail, they stayed in jail.

5. Implementation

V. IMPLEMENTATION OF A PRETRIAL RELEASE AGENCY

A. PRINCIPLES

Several principles guide the establishment of a pretrial release agency. Pretrial release is the single most important leverage point in controlling pretrial flow into and out of the criminal justice system. Pretrial release programs should be created **in anticipation of** criminal justice needs rather than **in response to** jail crowding problems. County government should be included in this relationship as it has an **administrative** role in pretrial release agency operations (e.g., funding). Pretrial release decisions should be **controlled** by those public representatives who have been elected by the community to articulate and enforce criminal justice values.

A pretrial release agency is **not** the same as the programs it might run. The intent of a recommendation for the creation of an agency is to establish a coordinated system, not to advocate for particular programs. Under the pretrial release management structure, the county's leaders might decide to use or not use a variety of programs such as unsupervised ROR, supervised ROR, house arrest, electronic monitoring, and so forth. In considering the value of such an agency, it is important to discriminate between weighing the usefulness of an agency/system and the effectiveness of particular programs.

The impact of systematizing current practices will be a screening mechanism which consistently incorporates **public safety** as a primary criterion for release. Some people who currently do not obtain pretrial release will be able to do so. Equally importantly, some people who now obtain unscreened financial pretrial release **will not be able to, and instead will be** held in jail based on safety concerns.

The critical element in creation of a pretrial release agency is the establishment of clear goals and evaluation tools. Those that have proven themselves to be most effective in terms of feasibility of implementation and assurance of public safety are:

- **Use of objective, verified criteria** to rank eligibility of defendants;
- **Full judicial confidence in information** and **delegation of limited authority** to make release decisions;
- **Accountability to all system players** through regular reporting and comparison of goals with actual release rates of all pretrial release programs;

- **Cost effectiveness** through savings in limiting failures to appear, unnecessary use of jail space, and efficient use of all existing resources; and,

- **Outcome-oriented management** and monitoring of all pretrial release programs, which emphasize the *results* of pretrial release policies and their effectiveness in achieving system goals.

B. FUNCTIONS

Pretrial release does not happen all by itself. Someone must be designated to do it. It is useful to have a formal structure for promoting pretrial release so that it does not depend on certain individuals who will at some point leave county service. The exact name of the unit or its location within the governmental structure may vary. It might be known as a pretrial services agency or even a section of a court services agency. Functions which could fall within its purview include:

- Conducting investigations and indigency screenings, and making recommendations for pretrial release (ROR or supervised).

- If authorized and supported by objective criteria, making the ROR decisions.

- Providing supervision for the more difficult cases.

- Examining the bail schedule and the rates of failure to make bond, and recommending revision in bond amounts if indicated. Making pertinent new information available for bond revision hearings.

- Sending reminders to those released about the time and place of their scheduled appearance, and of the importance of returning.

- Case management: updating the information which might affect the eligibility for release, and taking steps to expedite the process. Monitoring diversion.

- Above all, administering effective pretrial release and following up to clear bottlenecks in the procedures.

Some very useful steps which might be done by either this or another group:

- Tracking case flow and monitoring the nature of the inmate population.

- Maintaining statistics on service levels and on success and failure rates (the latter being reoffending, failure to appear, and whether the FTA is inadvertent or deliberate); estimating the jail bed savings.

Criteria for release decisions would be similar to those used during the booking and intake process at the jail. The goal should be to identify and quantify the risk of the defendant to community safety and likelihood of making a court appearance. These criteria should be specified in a format such as a score sheet which makes decisions objective.

Key outcome indicators include, but are not limited to the following.

- The number of failures to appear, by release mode (bond, ROR, supervised ROR), of defendants granted pretrial release.
- Frequency of use of all pretrial release modes. Continued low use of ROR (supervised and unsupervised) should be carefully monitored.
- Reasons for denying pretrial release. In the form to evaluate release eligibility, there should be a required space in which to specify any reason that a defendant is found ineligible. Attention should be paid to whether a certain class of offenses is regularly excluded from release for reasons not directly related to community safety or likelihood of appearance in court (e.g. ability to pay, etc.).

C. ORGANIZATIONAL LOCATION

Where should a pretrial services program be located? The location of a pretrial release agency is as much a political as a technical decision. Where it is located will affect the power balance within the county and will in turn affect its independence of action.

ACIR lists 24 counties in Florida which had pretrial service programs in 1990. Of the 24, seven had their programs operated by the sheriff's office (Broward, Collier, Hillsborough, Marion, Pasco, Pinellas, Seminole). The others were run by the courts, the corrections department, probation, or the county administrator. The PTS units run by the sheriffs were all rather small, but appeared to be efficient: the growth of the county's incarceration rate was in two cases quite low (Collier and Pinellas), and for the four where data is available the cost per employee was below the average of the programs run by other agencies.

Location of PTS in a sheriff-operated agency makes good use of existing resources such as information verification and physical space. However this scenario effectively creates a discrete unit with both authority and ability to make release decisions and policy, seriously undermining the need to be accountable to the rest of the justice system's representatives. In addition there is a conflict of purpose in requiring the agency charged with law enforcement and detention duties also to be responsible for release. It will be difficult for PTS as an agency to pursue releases aggressively, and it will be difficult for PTS personnel to advance into the larger divisions of the sheriff's office. "Difficult" does not mean impossible, but a county ought to give serious consideration to placing its agency elsewhere to avoid conflicts of this sort.

Location in a county department of corrections provides maximum consolidation of release and detention functions and greater county accountability to its second largest general fund expenditure, the jail. It thus increases the potential of pretrial release as a management tool of this expenditure. However for the majority of counties in which the sheriff operates the jail, implementation of this scenario would be too disruptive.

Location in a county department of community corrections would be less disruptive and would still allow for substantial consolidation of alternatives to corrections programs. In particular, misdemeanor probation and negotiation of any county contracts with private agencies (e.g., substance abuse treatment) would occur through this department. This option encourages increased county government budget accountability to criminal justice and a more specialized, criminal justice oriented liaison for outside agencies to work with.

Location in a court-operated agency is common nationwide. It brings together the agency with the statutory authority to grant pretrial release with the staffing and administrative support to directly implement this authority. However this option might not take advantage of classification information collected during the booking process. Second, this option does not involve other system actors since it combines the powers of authority with those of implementation.

Location in a county-operated independent agency offers improved accountability of the county to its largest funding allocation but does not create direct accountability to corrections. While a county-run agency could create continuity in the use of pretrial release options, there is still fragmentation with the detention and community corrections function. It also does not maximize use of existing jail information.

An agency operated by a private contractor avoids conflict of interest issues and could be the least costly but discourages continuity among corrections and community corrections agencies. It would essentially operate in the same manner as the county-run agency but without producing county accountability to and involved management of criminal justice. There may be legal obstacles to delegating this function to a non-constitutional office. Without system acceptance of these services and court willingness to delegate authority, this option is the most likely to fail.

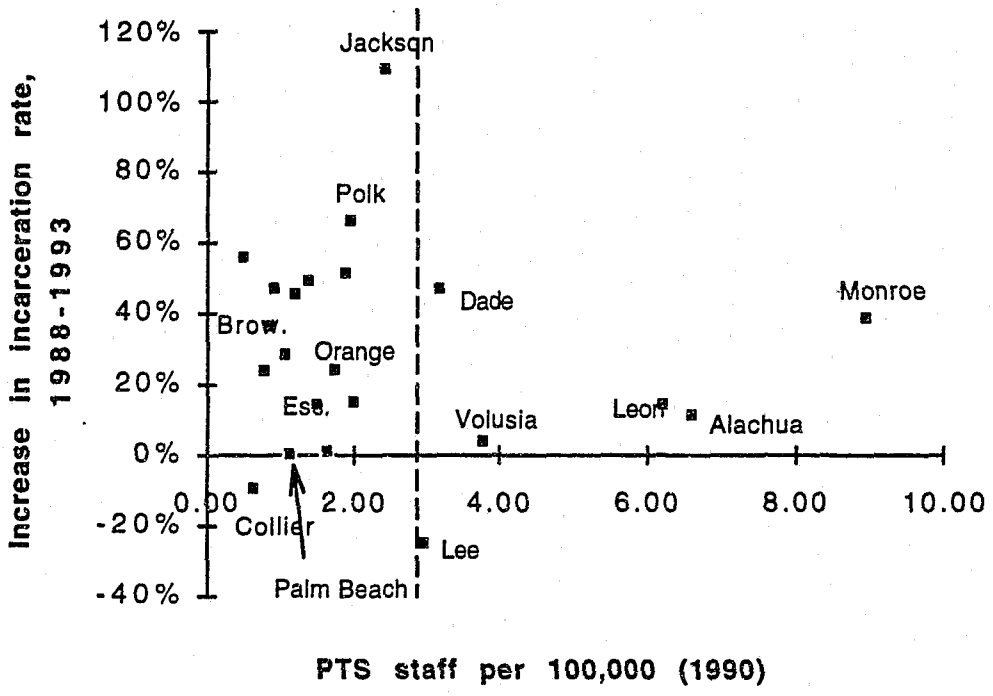
Location by an agency operated by the County Public Safety Coordinating Committee (CPSCC) provides maximum involvement of all system representatives and the ability to regularly monitor pretrial release activities. However, the CPSCC does not have the legal authority to make hiring, firing, or pretrial release decisions; these would have to be delegated to bodies which do (e.g., the courts). Also, giving the CPSCC its own agency to operate removes the neutrality of the council in monitoring the effectiveness of system-wide policies in addressing public safety.

D. COSTS AND SAVINGS OF PRETRIAL RELEASE

The size and cost of a pretrial services agency will be strongly influenced by the availability of resources. Of the 24 agencies tabulated by ACIR, 22 had professional staff. The size of the pretrial staff varied widely; several counties had only one staff person (including Collier and Marion Counties, which are not small), while Dade, not surprisingly, had the most (62). Of the twenty largest counties (down to Collier), all but Duval and Sarasota had pretrial service agencies. Below that there were only a handful (Bay, Osceola, Santa Rosa, Monroe, Jackson, Wakulla). Of course the mere existence of a pretrial services agency does not guarantee that it actually leads to a significant number of pretrial releases.

The ratio of pretrial service employees to population is informative. A plot of the increase in incarceration rate from 1988 to 1993 versus per capita PTS employees shows that the six counties with the largest PTS units had relatively low jail growth. This suggests that PTS is effective in controlling the growth of jail population. However simple statistical procedures show that there is not a significant difference between the counties on the two sides of the vertical line (at about 3 employees per 100,000), nor is there a significant correlation between growth and per capita employees.[1] Perhaps the best that can be said is that all the counties with large PTS units do show low growth, but it is possible to achieve low growth rates in some other ways also.

FIGURE 5.1 EFFECT OF PRETRIAL SERVICES STAFFING ON INCARCERATION RATE



[1] Monroe and Dade Counties, the two highest in the right-hand group (and both above rated capacity in 1993) were not covered in this review, and there is no explanation for their relatively rapid jail population growth. Three of the counties (Lee, Leon, and Alachua) showed an increase in the crime rate during the period also, but again the difference between the groups is not significant.

The 18 counties for which data is available spent an average of $39,700 per PTS employee in 1990. Using this figure, the cost-benefit ratio of the Lee County PTS program can be estimated. Program management claimed that they saved $1.92 million in 1990 and $2.48 million in 1991 by reducing the demand for jail beds (at $37 a day). The budget for Lee's PTS unit is not given, but with ten PTS employees in fiscal year 1990 the county probably spent about $397,000 that year on the program. Using this figure and the jail cost avoidance, the county saved $4.80 to $6.25 for every dollar spent on pretrial services, not including other benefits such as reduction of judicial time.

The ACIR data suggest the dimensions of an effective pretrial services unit for other counties. It would have three to seven employees per 100,000 of county population, and would cost annually $40,000 per employee to operate, exclusive of any one-time organizational cost. For some arbitrarily chosen counties **not** shown as having PTS programs in 1990 the costs would be: St. Lucie, $191,000 to $445,000; Sarasota, $344,000 to $804,000; Duval, $832,000 to $1,943,000, all in 1990 dollars, which would be inflated by 10% in 1993. Savings would be some five times that if Lee County is a valid indicator.

E. BARRIERS TO THE USE OF PRETRIAL RELEASE

A effective pretrial release program requires the cooperation of a number of separately elected officials - judges, state attorney, public defender, clerk of the court, sheriff, county commissioners - as well as those who are appointed such as the heads of agencies that supervise probation and diversion programs, and in a few cases the heads of corrections departments. It is not easy to achieve even a moderate consensus among individuals with greatly differing missions and roles in the criminal justice system. Judicial and law enforcement officers have the most say in deciding who stays in jail, yet in their official capacities they bear none of the fiscal responsibility for supplying the requisite jail beds.

Any release from custody carries with it the risk of reoffense. In severe cases, which are sure to be well publicized, the results can be devastating to a career. The natural choice is to err on the side of conservatism, to detain rather than to face the awful consequences of a catastrophic release. In the absence of a formalized and comprehensive system to implement the releases, justice officials are reluctant to take the risk of an unsuccessful release and become very conservative in their decisions.

A formal pretrial release system encourages the participation of all criminal justice policy makers in establishing agreed-upon standards and criteria for making releases. Individual officials no longer take risks on individual release decisions; instead there is a *system* created, tested and supported by all leaders that can be objectively implemented by individuals without compromising public safety.

Yet beyond this there is still the fact that the public demands punishment of offenders, a value generally held by the official as well. How can that be reconciled with expanded pretrial release?

One of the fundamental truths of public policy is that the public always wants more than it is willing to pay for. The use of public goods differs from private transactions in that payment of taxes and consumption of the service (the incarceration of criminals) are so dissociated from each other that it is impossible to see a direct connection between them or to balance their costs and benefits. Public goods are collectively consumed, so no individual enjoys their full benefits, but taxes are paid individually and painfully. The understandable attempt to shift that tax burden to someone else lowers tax revenues overall and leads to a lower level of services than the public in its consumer role would demand.

Since the public is spending an increasing fraction of its tax dollar on the criminal justice system it should be helped to understand how the system works, particularly with regard to the tradeoff between expenditures and the resulting services.

- Suppose it were possible to rank all arrestees by their future dangerousness to the public. Incarceration of the most dangerous would prevent further crime, but it would fall off in utility as the offenders became less serious. If all jail inmates were serious habitual criminals there would be a very good reason to hold them pretrial. However as this review has attempted to point out there are others who are detained on relatively minor charges and are not involved in crime as a career.

- At some point the cost of detaining offenders would begin to exceed the value of preventing the offenses which they might commit. That is the point at which the defendants should be released. This tradeoff is not an option. It is always made; the issue is, at what point? The answer will vary with time and across communities. The system can never be perfect as human behavior is never fully predictable. But in all cases an informed public, cognizant of the connection between the outcomes of justice services and the expenditures, will be better able to make the decision.

- In view of the limited effectiveness of incarceration on reducing crime; the imprisonment rate, the question might also be asked as to whether jail is the most efficient way of spending crime-prevention money. Would the same amount put into substance abuse diversion or even job creation prevent more crime?

If a county wishes to make a major change in the extent of pretrial release it may need to convince the public of its desirability in addition to setting up an implementation mechanism that has the support of all the system participants. That could be a difficult requirement considering the heavy emotional baggage that generally accompanies issues of crime and punishment.

A strategy for the implementation of enhanced pretrial release can be more specific. There needs to be acceptance of the principle by the authorities who are capable of influencing it - judges, prosecution, defense, law enforcement, detention, etc. Despite their different and somewhat conflicting missions, they have, as the ACIR report points out, a significant body of common interests. Given that releases will be made, the officials benefit by having the release procedure be as orderly and rational as possible. Excessive strains on any part of the justice system can impinge on other functions and reduce everyone's effectiveness. In the counties observed directly by ILPP, though it is impossible to document in objective terms, there appeared to be a shared sense of responsibility among many of the officials that extended beyond their own agencies' task descriptions.

Establishment of a pretrial release mechanism is the obvious first step. However even when a pretrial release structure exists it may be little used because of formal or informal administrative decisions. The conditions for pretrial release may be made so stringent that they can seldom be met, or the release programs may languish because no one is advocating their use.

There are situations where rules or procedures that effectively deny release are not concordant with the objective of allowing release if there is a probability of reappearance and a minimal threat to public safety. One example is denial of bond to those with records of "non-willful" FTA or technical probation violations.

- Technical probation violation (i.e., where there is no new offense and no deliberate attempt to abscond) usually comes about through a failure to keep an appointment or to pay a supervisory fee. Failure to appear at a court hearing may show a similar inability to comply with a schedule. Yet many jail inmates come from an underclass where life is generally disorganized and unpredictable. (Criminal behavior is in part a reflection of this approach to life.) To such people, reappearance at court at a specified time or compliance with specific probation regulations may seem unimportant or excessively complicated or restrictive.

- But the justice system is made up of people who do understand and respect the rules. Failure to appear in court is grounds for arrest in itself and may be used to deny future release. Some judges decide to "teach them a lesson" by requiring strict compliance with the regulations; when it doesn't work, the result is more inmates who are in jail less for their original offenses than for their disregard of criminal justice procedures.

- "Public-order offenders" can be helped by a little guidance such as reminding them of their appearance times and places or giving out this information with citations rather than requiring them to call in to the court clerk. Establishing a pretrial court appearance notification unit to alert defendants with unserved summons and others on pretrial release of upcoming court dates minimizes the costly occurrence of an FTA and subsequent capias. One study of the Washington, DC, bench warrant unit found that the cost of the notification system averaged $61.15 per warrant compared with $1,132.36 for making a simple warrant arrest.

Any improvement in the pretrial process which accelerates case disposition becomes something of a substitute for pretrial release since it can also lead to early release. Early case screening, with priority given to in-custody defendants, will eliminate ten or fifteen percent of all booked inmates. (The drop or reduction rates can be conveyed back to the arresting agencies to help them reduce the practice of overcharging.) In general, early case information facilitates early pleas. "Fast-tracking" of simple cases, as in Orange County, permits much more rapid disposition of cases.

Nearly all of these changes require that the criminal justice information system be comprehensive, accessible, and capable of producing statistical as well as case information. In most of ILPP's studies the information "system" was in fact a conglomeration of several systems, of varying architectures and compatibilities, among which intercommunication was limited or difficult. Restructuring a CJIS is a very lengthy and expensive task, but counties should at least strive to improve compatibility and accessibility with each incremental upgrade.

Without a concrete means of ensuring consistent use of pretrial release, counties will continue to suffer from fragmented use of programs, redundancy of information gathering, and no certainty that use of pretrial release is resulting in population management or community safety. Regardless of whether or not a county wishes to increase its use of pretrial release it will benefit from giving priority to a comprehensive pretrial release system.