

BAIL AND PAROLE JUMPING IN MANHATTAN
IN 1967

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August, 1970

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INTRODUCTION

This study was commenced in the spring of 1968 in cooperation with the Appellate Division of the Supreme Court of the State of New York, First Department. The research design was created by the Vera Institute with the assistance of the Columbia University Bureau of Applied Social Research. The data—gathering operation was supervised by Mr. Harry I. Subin, then, Associate Director of the Vera Institute. The data analysis and the drafting of this report were the responsibility of the author who received invaluable assistance from Mr. Richard Van Wagenen, then a third year student at Yale Law School.

A previous report of the Vera Institute entitled “The Problem of Overcrowding in the Detention Institutions of New York City: An Analysis of Causes and Recommendations for Alleviation” by this author (submitted to the Criminal Justice Coordinating Council January 1969) contained a table of data from this study, then in its early stages. Since the release of that report, errors (explained in the section on methodology) were found in the original calculations of the rates of non-appearance cited in the previous report. The erroneous data are herewith corrected and superseded.

I. SUMMARY OF FINDINGS

A. The Released Universe

1. In a universe of 114,439 Manhattan Criminal Court defendants scheduled for a post-arraignment appearance between January 1 and March 30, 1967, 10,462 (72.5%) obtained some form of pre-trial release between arraignment and final disposition of the case.

2. Within the universe of released defendants 25.6% were charged with felonies, 49.8% with misdemeanors, and 23.9% with violations.

3. Within the released universe 51.2% were released on recognizance (parole), 21.4% released on bond, and 25.1% released on cash bail. (The condition of release was unknown for the remainder of the universe.) Over 37% of all bonds were posted on behalf of persons charged with a gambling crime.

4. Of the 5,538 defendants released on recognizance only 1,514 (28.8%) had been investigated by the Office of Probation's Release on Recognizance Division and only 905 (16.9%) had been recommended by the Office of Probation for ROR. In released on recognizance felony cases 55.9% had been investigated and 31.0% recommended.

B. Bail Setting and Ability to Post Bail

5. Of 8,057 defendants (both released and detained) for whom the amount of bail set could be determined, bail was set at \$1-\$100 in 32.4% of the cases; \$101-\$500 in 33.9%; \$501-\$1000 in 16.6%; \$1000-\$2500 in 11.1% and above \$2500 in 5.9%.

6. The percentage of defendants able to post bail at a given level was: \$1-\$100, 92.7%; \$101-\$500, 44.1%; \$501-\$1000, 37.2%; \$1000-\$2500, 20.9%; and above \$2500, 4.8%.

7. Comparing bail settings in felony cases in 1960 and 1967 reveals that the percentage of accused felons being released rose from 45 to 55 percent primary because of a sharp increase in the use of release on recognizance. While there was a downward shift in the amount of bail required, there was also a marked decrease in the ability to post bail at any given level.

C. Non-Appearance

8. The overall rate of willful non-appearance in 1957 was 13.9%-10.5% for felony cases; 11.0% for misdemeanors; and 23.6% for violations.

9. In general, rates of non-appearance did not increase with the seriousness of the crime charged, and serious questions arise with respect to the practice of permitting the crime charged to be the primary determinant of the condition of release or amount of bail under a release system whose theoretical and legal justification is the deterrence of flight.

10. Rates of non-appearance varied substantially according to the condition of release. For those posting bond the rate was 4.4%; for those released on recognizance 15.4 and for those posting cash bail 19.4%.

11. Among those posting cash bail and among those posting bond, rates of non-appearance increased as the amount of bail increased, again raising questions as to the efficacy of the present bail system as a deterrent to non-appearance.

12.. Among those released on recognizance, substantial variations in rates of non-appearance were found based upon whether the defendant had been recommended for release on recognizance by the Office of Probation (9.4%), not recommended after investigation (19.3%), or not investigated at all (16.2%).

13 With the exception of defendants who post a bond and are thus under the surveillance of a bail bondsman, there is virtually no pressure on a defendant to appear in court, and there is a pervasive feeling throughout the court system, entirely justified, that no legal sanction will follow from a failure to appear.

14. Most non-appearance were found to occur relatively early in the life of a case and little evidence was found that court delay has contributed to the problem of non-appearance.

II. CONCLUSIONS AND RECOMMENDATIONS

The data in this study show several serious failings of existing pre-trial release policy. Jump rates for releases on recognizance and cash bail are high. Jump rates for bond releases are much lower, but there is a substantial inability to post bond at any level. The Office of Probation Release on Recognizance Division's screening mechanism reaches fewer cases than it should, and while it has successfully separated bad risks from not-so-bad risks, it is no longer consistently isolating good risks for release on recognizance. Enforcement policy with respect to non-appearances is at most non-existent, and there are those who cynically applaud the beneficial impact which this has had on court congestion.

The choices confronting the criminal justice system are all expensive--financially, socially or both. Regression to a greater reliance on bail bonds would further crowd detention facilities with defendants more likely to be poor than unreliable. It would expand the abdication of judicial responsibility for determining who actually obtains release, and assure the perpetuation of a system whose basic theory (the deterrence of flight) appears to be largely unrelated to day-to-day release practices and consequences. Continuation of business as usual would probably generate increasing disincentives to appear for trial.

The most reasonable alternatives seem to be a major expansion and improvement of the ROR screening procedures (including a system of post arraignment bail reevaluation) coupled with extensive computerized notification procedures for all released defendants and more vigorous enforcement policy with respect to jumpers at the police, prosecutorial, and court levels.

III. METHODOLOGY

The purpose of this study was to determine the incidence of willful non-appearance prior to the finding of guilt or non-guilt among defendants whose cases were initiated in Manhattan Criminal Court. (1) and to relate non-appearances to other key variables such as crime charged, the condition of release, the duration of the case, and the defendant's roots in the community. The cases included in the study were those

scheduled for any post-arraignment appearance in Manhattan Criminal Court from January 1, 1961 to March 31, 1967. (2) The time period was selected in order to obtain a group of cases both relatively recent (the study was commenced during the spring of 1968) and still old enough to have come to final disposition. (3) The study focused on post-arraignment cases rather than new arraignments during the period in order to eliminate those cases which were disposed of at arraignment and to facilitate the differentiation of released and detained defendants. Thus the defendants included in the study were either arraigned prior to January 1, 1967 or sufficiently early in the period from January 1, 1967 to March 31, 1967 to have had a scheduled post-arraignment appearance during that time span.

In order to compute rates of willful non-appearance (4) for any specified category of defendant a fraction must be derived whose numerator includes all defendants who willfully failed to appear ("jumpers") and whose denominator includes the total number of released defendants. The initial source of data for non-appearing defendants was the Police Department's Warrant Squad in the court building.

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1. Cases originating in Criminal Court but which went up the Supreme Court after action of the Grand Jury were included. Supreme Court appearances were made by 2.0% of all releasees (7.5% of all released felons).
 2. The statistics relating to this period of time probably understate current figures with respect to volume of cases, numbers of released defendants, and duration of cases. In terms of bail setting patterns and ability to obtain release, current data are probably similar to those in this study. In terms of rates of non-appearance, the continued lack of attention to enforcement policy (see pp. 41-42 *infra*), suggests that 1967 data may understate 1970 rates of default.
 3. "Final disposition" as used throughout this study means conviction or non-conviction in Criminal or Supreme Courts. It does not include sentencing (unless it occurred at the same appearance as conviction), appeals or collateral proceedings.
 4. Many defendants fail to appear in court because of sickness, oversleeping, confusion as to date or court part, or confinement on another charge. (See Suffet, "A Summary of Reasons Given by Defendants for Not Appearing in Court," New York: Vera Foundation, 1964 (Mimeographed).

All new bench warrants for the three-month period were analyzed and certain categories eliminated. These included convicted persons awaiting sentence, wayward minors and persons failing to appear for arraignment (defendants summoned either in lieu of arrest for an Administrative or Health Code violation, or in lieu of immediate arraignment under the Manhattan Summons Project). (5) The Warrant Squad's files also revealed whether a jumper returned voluntarily to court (prior to or as a result of a letter from the Warrant Squad), was involuntarily returned to court (usually by arrest for another crime), or not returned to court at all.

Next, additional jumpers were found by studying the court records of a sample of defendants who were non-jumpers during the three-month period to determine what

percentage had failed to appear during the remaining life of their case either prior to or after the three-month period. This percentage was multiplied against all non-jumpers appearing in court during the three-month period to complete the universe of jumpers.

5. However, if summonsed criminal cases showed a bench warrant after arraignment, they were included. The net rate of default at first appearance for Manhattan Summons Project cases has been 4.6% for the two-year period ending on June 30, 1969. See, Table I, Manhattan Summons Project-Activity Report for the Second Year of City-wide Operation, New York Police Department, August 25, 1969.

The universe of all released defendants was extremely difficult to construct. (6) First, the daily calendars for the eight relevant court parts had to be obtained (1A, 1B, 1C, 2A, 23, 3, 8 and 9). Since Parts 8 and 9 had been eliminated during September 1967 court reorganization, the applicable calendars were difficult to locate. Second, the calendars had to be carefully analyzed to avoid a double counting of defendants who appeared more than once in any of the eight parts the three-month period or who had been assigned more than one docket number (for multiple charges). (7) Third, released defendants had to be distinguished from those in detention. While this differentiation was facilitated by calendars which were subdivided into "Prison Cases" and Bail and Parole Cases" many cases were listed under the heading of "Added Cases and only a cross check of court papers revealed the release status of many defendants. In addition, since a person who obtained release at time would become a potential jumper, those defendants appearing as prison cases on the court calendars had to be traced through the three-month period to establish whether there had been a subsequent release.

6. Court records concerning the numbers of released defendants were inaccurate. The Criminal Court Monthly Statistical Report (one is filed for each Part) contains the following headings related to pre-trial release: "Released on Bail", "Bail not Given", "Bailed After Commitment", and "Paroled". On the basis of these headings it was thought that the sum of the first, third, and fourth items would yield the number of potential jumpers. Calculations made on the basis of this assumption produced results so highly questionable that a further investigation of Court Records was made. The problem turned out to be hidden in the "Bailed After Commitment" statistic. What this category actually showed was the number of defendants released after commitment through the issuance of bail bonds. Thus, the large group of defendants (in fact, the overwhelming majority of all cash bail releases) who posted cash bail after commitment was completely ignored.

7. The failure to adequately correct for reappearances led to an understatement of rates of non-appearance in a previous report issued by the Vera Institute of Justice. See, The Problem of Overcrowding in the Detention Institutions of New York City: An Analysis of Causes and Recommendations for Alleviation, January, 1969 (hereinafter referred to as the Detention Overcrowding Retort). The Table of rates of non-appearance at p. 26 of

the report contains erroneous data and is superseded by the data in Tables 7a-11b contained herein.

After defining the relevant universes, roughly equal samples of 1,497 jumpers and 1,562 non-jumpers were selected for the gathering of detailed data. (8) The variables which have been analyzed are described below.

Crime Charged

Crime charged was defined as the most serious of the original charges. Felonies took precedence over misdemeanors which in turn took precedence over violations. Within these categories crimes against the person took precedence over crimes against property. To simplify analysis related sections of the Penal Law and criminal sections of the Public Health Law (narcotics) were consolidated into a single "individual" crime. Thus, for example, the several types of grand larceny contained in §1294-1297 of the old Penal Law were all grouped together under the heading of Grand Larceny regardless of whether the crime was committed in a specified degree or involved an automobile as distinguished from other types of property. Similarly, the crimes of prostitution and loitering for the purpose of prostitution were consolidated. In addition, because the numbers of individuals in certain highly specific categories was often quite small and therefore of weakened statistical validity (i.e., alleged burglars favorably recommended for release on recognizance or alleged robbers making five appearances during the duration of a case), two series of crime groupings were created. The first consisted of the familiar felony, misdemeanor, and violation classifications, and the second consisted of groupings such as felonies involving a weapon or violence, property crimes, gambling crimes, etc., which attempted to combine all defendants who were charged with crimes of a similar nature. Most of the statistical tables in this report have been assigned a number and the letter "a" or "b". Tables with an "a" are those for broad crime groupings and "b" tables are those for individual crimes (subject to the caveat above on consolidation).

8. The samples were made equal in size, not because 50 percent of all released defendants willfully fail to appear in court, but because the original research design called for a multi-variant analysis of the social characteristics of jumpers and non-jumpers. As stated at p.13 infra, this aspect of the study proved infeasible.

Conditions of Release

Defendants in New York City may obtain pre-trial release in one of three ways. They may be granted release without bail (known as release on recognizance or pre-trial parole), they may post a bond (usually through the services of a commercial bail bondsman), or they may put up cash. For those released on recognizance (ROR) this study has isolated those who were investigated and recommended for ROR by the Office of Probation's Release on Recognizance Division, those investigated and not recommended, and those who received no investigation at all. For those who posted some form of money bail (either bond or cash bail) additional distinctions were based on the amount of bail. Unfortunately, the amount of bail does not always reflect the potential

pecuniary loss to those who fail to appear for trial. For those posting cash bail, 98% of which is returned upon final disposition of the case, the risk of loss is easily measured. However, in cases involving a bond, the defendant's potential forfeiture cannot easily be ascertained. The statutorily fixed premium paid to a bondsman is not recoverable by the defendant in any event and thus cannot represent the incentive to return to court for trial. Rather, the incentive is usually the recovery of the collateral which a bondsman may require in addition to the premium. In theory, collateral requirements are entered on the court's Consolidated Bail Bond forms. In practice, they are rarely available and bondsmen will not divulge this information. (9) Without interviewing individual defendants, a procedure which was beyond the resources of the study, collateral requirements between the amount of bond and the non-appearance of a defendant must be based on some plausible but non-proven assumptions.

Duration of the Case

The longevity of cases included in this study was measured in two ways—by the number of court appearances and by number of days. For jumpers, measurements were based on the period from arraignment until first default (10) either in Criminal or Supreme Court. For non-jumpers, the period ran from arraignment until final disposition of the case.

9. While some prior research has gone into bondsmen practices (e.g., Freed and Wald, *Bail in the United States*; 1964 Chapter III) additional inquiries are needed—if necessary under auspices of an agency with subpoena powers—into collateral requirements and surveillance and retrieval of defendants (see pp.30, 34, 42, *infra*.)

10. Some defendants had more than one bench warrant issued during the life of a single case.

Roots in the Community

The original intention of the study to analyze individual social characteristics of jumpers and non-jumpers proved to be infeasible because of difficulties in obtaining and deciphering adequate data from the court papers. During the period of the study, the CR-1 form on suspicion of narcotics addiction by the arresting officer and the CR-6 form on the result of a court ordered medical examination had not yet come into use, thus precluding a correlation between addiction and non-appearance. Release on recognizance investigation reports were found in less than 25 percent of all court papers. Even when they were present it was impossible to determine which specific items of information had been verified. As a result, it was decided to use the entire ROR report than the specific items of information which it contained as a variable in the study. (11) Thus, a defendant could fall into one of three categories—recommended for ROR, not recommended, not investigated. The first group would have had to possess sufficient verified roots in the community to warrant an Office of Probation recommendation for release without bail. The second group had either insufficient roots in the community or insufficient verification of apparently sufficient roots. An attempt to distinguish between the two was unsuccessful. The third group consisted of those not investigated because of explicit

ineligibility or lack of staff and probably some whose investigation report never found its way into the court papers.

11. The categories of information gathered in a release on recognizance eligibility interview are: length of residence in the New York City area and at current or recent addresses; employment and educational history; contact with family members in the New York City Area; number of past felony and misdemeanor convictions; medical history.

Computation of Statistics

Since detailed data were gathered for separate samples of jumpers and non-jumpers, a series of multipliers had to be derived to enable the sample data to be applied to the released universe as a whole. Perhaps a simple numerical example will illustrate the problem and the solution. Assume that the samples consisted of 50 jumpers and 60 non-jumpers and the universe of released defendants consisted of 100 jumpers and 900 non-jumpers. Raw data on jumpers would be multiplied by 2 while raw data on non-jumpers would be multiplied by 15. Thus, if the samples had contained 3 jumpers and 3 non-jumpers charged with a certain crime, the computation of the jump rate would be as follows: 2×3 equals 6; 15×3 equals 45 non-jumpers; 45 plus 6 equals 51 defendants in the category; $6/51$ equals a jump rate of 11.8%.

Tables in this report use the “blown-up” figures for most categories of information in order to reflect the quantitative as well as the qualitative features of the released universe. As a result of the rounding off of blown-up numbers (the actual multipliers were numbers with four decimal places) (12), a column of figures does not always add up to the independently computed “total” at the end of the column, nor does a list of percentages always equal 100%. In addition, because of missing data, coding and key-punching errors and omission, etc., the sub-categories within an overall category usually add up to less than the number of units in the overall category. For example, the number of releasees charged with felonies, misdemeanors, and violations, (Table 2-a) adds up to 10,378 rather than 10,462 which is the entire released universe. The difference of 84 represents a coding error of under 1%.

The largest gap in the data relates to the amount of bail. The total of all persons released on bond or case bail (see Table 2-a) is equal to 4,862 but the total of released persons with known bail amounts (Table 4-2) was only 4,333. The difference of 529 represents those individuals whose bail amounts could not be determined. Of this number, 332 were charged with a gambling crime and the old Part 9 court papers did not indicate the amount of bail which had been posted.

Statistics on the detention population are also based on a “blown-up” of a random sample. After constructing the universe of all detained defendants who made a scheduled post-arraignment appearance in Manhattan Criminal Court and who did not secure pre-trial release at any time prior to final disposition, a sample of 944 detention cases was created for a detailed analysis of crime charged, condition of release, duration of the case, and roots in the community.

IV. FINDINGS

A. Manhattan Criminal Court Universe

During the period of January 1, 1967 through March 31, 1967 a total of 14,439 defendants made one or more post-arraignment appearances in Manhattan Criminal Court. Of these defendants 3,977 (27.5%) remained in detention during the entire period from arrest to final disposition of their case while 10,462 (72.5%) achieved some form of pre-trial release prior to final disposition. Tables 1-a and 1-b show the proportion of defendants within broad crime groupings and individual crime categories who were released and detained. Generally speaking, the more serious the crime the higher the proportion of defendants who were unable to secure pre-trial releases. The highest rates of detention were for charges of robbery (possession of burglar tools (63.4%), narcotics felonies (58.0%), and burglary (55.0%). (13)

B. The Universe of Released Defendants

1. Crime Charged

The profile of the released population differs substantially from that of the courts population as a whole, since rates of release vary widely according to the crime charged. Thus while felonies accounted for over one-third of the Criminal Court population, they accounted for only one-quarter of the released universe. About half of the released population was charged with misdemeanors and the remaining quarter with violations. Tables 2-a and 2-b 4 show the distribution of the released population by a variety of individual crimes and crime groupings as well as by overall condition of release.

13. Rates of detention were computed only for crime categories in which there were at least 50 persons in detention awaiting action in Manhattan Criminal Court.

2. Condition of Release

Of the 10,462 defendants who obtained pre-trial release, over half were released on their own recognizance, although as will be seen below, not necessarily through the Office of Probation's Release on Recognizance program. Of the remainder roughly half posted a bond and half posted cash bail. In examining who posts bond an interesting fact emerges. Over 37% of all surety bonds posted were posted on behalf of those charged with a gambling crime. Almost 70% of the released gamblers obtained pre-trial freedom in this manner. Similarly, in the category of cash bail one finds a dominance of prostitutes who obtained release in this manner over 60% of the time and who accounted for over 29% of all releases on cash bail. For these two illegal occupations it would seem that buying release represents a recurrent cost of doing business. For a broader discussion of defendants' ability to post money bail see section D-2 below.

C. Release on Recognizance (Pretrial Parole)

As mentioned above over half of all persons who obtained release prior to final disposition of their cases were released on their own recognizance (5,358/10,462). Of the 5,358 persons ROR'd, however, only 1,543 (28.8%) had been investigated by the Office of Probation's Release on Recognizance Division, and only 905 (16.9%) had been recommended by the Office of Probation for ROR. Thus large numbers of defendants were released without bail in the absence of verified information on their roots in the

community and their likelihood of returning to court for trial. This fact becomes quite significant when rates of non-appearance are analyzed later in this report.

The presence of an Office of Probation recommendation and the chances of a defendant receiving pre-trial parole without it varied substantially according to crime charged. For example, while less than 30% of all paroled defendants had an ROR report in their court papers, parolees charged with felonies had an ROR report 55% of the time; and while only 17% of all paroled persons had been favorably recommended by the Office of Probation, 31% of the parolees charged with felonies had been so recommended. Tables 3-a and 3-b show the distribution of paroled defendants according to whether they were investigated and recommended, investigated and not recommended, or not investigated at all by the Office of Probation.

D. Releases on Bail

1. Patterns of Bail Setting

In the total court universe (both released and detained), there were 9,081 defendants who were not granted pre-trial parole. Of these the dollar amount of bail set could be determined in 8,057 cases (88.7%). Tables 5-a and 5-b show the percentages of bails set in each of five broad categories. As expected, the more serious the crime category, the greater the proportion of relatively high bails. For example, while only 5.9% of all bails set were in excess of \$2,500, in the category of felonies involving a weapon or violence the percentage was 13.0. For the Individual crimes of robbery and narcotics felonies, the percentages reached 20.6 and 19.5 respectively.

2. Ability to Post Bail

The percentage of defendants able to post bail in each of the five broad bail groupings is set out in Table 6-a and 6-a. As the level of bail rises, the proportion of those able to post it declines. When bail in excess of \$2,500 is set, there is over a 95% likelihood that the defendant will remain in detention.

E. Changing Patterns of Release

In comparing the results of this study with that of a 1960 Study (14) on bail patterns in felony cases, several dramatic changes are found to have occurred. First, the overall percentage of accused felons who achieve pre-trial release has risen from 45% to 55%. Second, the percentage of felons released on recognizance has risen from 2% to 22%. Third, the percentage of felony cases in which no bail was set has fallen from 29% to an indeterminate number less than 3%. Fourth, there has been a sharp downward shift in the levels of bail set; and fifth, for those persons who have bail set, there has been a decline in the ability to post bail at any given level.

14. See Ares, Rankin, and Stun, The Manhattan Bail Project: An Interim Report on the Use of Pretrial Parole, 38 N.Y.U. Law Rev. 67 (1963), at 78-81.

Comparison of Patterns of Bail Setting and Release in Felony Cases in 1960 and 1967:

	<u>1960</u>	<u>1967</u>
Total Felony Cases in the Study	3455 (100.0)	4250 (100.0)
<u>Releases</u>	1541 (44.6)	2676 (55.2)
On Bail	1481 (42.9)	1556 (32.1)
On Parole	60 (1.7)	1041 (21.5)
Condition Unknown	0 (0.0)	79 (1.6)
<u>Bail Settings</u>		
No Bail Set	1006 (29.1)	Unknown
Bail Set (Amt. Known)	2389 (26.1)	3427 (70.7)
Bail Set (Amt. Unk.)	-	382 (7.9)
Parole	60 (1.7)	1041 (21.5)

Patterns of Bail Set and Ability to Post Bail

	NO.	% Set	%	No.	% Set	%
	Bails	at this	Posted	Bails	at this	Posted
Amount	Set	Amount		Set	Amount	
Under \$100	44	1.8	98	607	17.7	96.5
\$101-500	393	16.5	91	941	27.5	43.1
\$501-1000	558	23.4	74	729	21.3	34.7
\$1001-2500	813	34.1	61	733	21.4	19.5
Over \$2500	<u>581</u>	<u>24.3</u>	<u>18</u>	<u>417</u>	<u>12.2</u>	<u>4.1</u>
	2389	100.1	62	3427	100.1	37.8

* This figure includes an indeterminate number of cases in which no bail was set. The maximum of "no bail set" cases, however, would be 121 derived as follows;

1556 defendants are known to have been released on bail; in 1295 cases the amount posted is known. Thus, of 382 defendants with unknown bail amounts, 261 are known to have been released, leaving a maximum of 121 cases in which no bail might have been set.

What accounts for the apparent sharp decline in the ability to post bail? First, the statistics themselves need some clarification. The 37.8% rate of posting bail in 1967 somewhat understates the true rate since it excludes those known to have posted bail in an undetermined amount. When such cases are included, the rate of those posting bail rises to 42.2% (1,556/3,688). Second, the 62% rate of posting bail in 1960 did not include

adolescent defendants who generally have a lesser ability to post bail than adults.

Nevertheless, there still seems to have been a decline in the ability to post bail. The probable explanation lies in the large increase in the number and percentage of cases released on recognizance. Many of the persons granted pre-trial parole would have been able to post bail—many would not. However, those granted pre-trial parole are probably systematically less able to post bail than those paroled since one of the factors influencing a judge's decision to grant release without bail is the current employment status to the defendant. Hence the 1967 defendants who were required to post bail may have been a qualitatively different group from the 1960 defendants in terms of their financial strength. The relationship between receiving pre-trial parole and the ability to post bail is discussed in greater detail in section F-4.

F. Bail and Parole Jumping

1. What is the relationship between crime charged and non-appearance?

The total number of jumpers in the released universe of 10,462 was 1,819 (17.4%). Of these, 361 voluntarily returned to court leaving a net total of 1,458 (13.9%). (15) All statistics on non-appearance are based on the net total and the term "jumpers should be taken to mean "net jumpers." A substantial proportion of all jumpers were charged with relatively minor crimes (see Tables 7-a and 7-b) For example, persons charged with violations accounted for 40.5% of all jumpers but only 23.9% of all releasees. Over one quarter of all non-appearance was attributable to persons charged with the crime of prostitution. The most serious crimes –felonies involving a weapon or violence accounted for only 5.6% of all jumpers but 10.0% of all releasees.

When no other variable is considered, rates of non-appearance do not increase as the seriousness of the charge increases. As can be seen from the third column In Table 7-a, the jump rate for felonies was 10.5%, for misdemeanors 11.0% and for violations 23.6%. Similarly, the jump rate for felonies involving a weapon or violence was 7.8% while the rate for non-felonious crimes against the person was 13.4%. The highest incidence of non-appearance occurred in cases of prostitution (30.3%), petit larceny (29.6%), weapons misdemeanors (21.7%), malicious mischief (19.1%), transport violations (17.3%), narcotics misdemeanors (17.2%), and disorderly conduct (16.8%). Three of these crimes, prostitution, and petit larceny and narcotics misdemeanors are thought to be frequently committed by drug addicts. Three of the remaining four are relatively minor crimes.

15. Involuntary returnees (basically persons rearrested for a subsequent crime whose prior non-appearance was then discovered) numbered 392, constituting 21.6% of all jumpers and 26.9% of the net jumpers. Thus as of June 1968 only 41.4% (753/1819) of all jumpers had returned or been returned to face the charges on which they had jumped.

The lowest incidence of non-appearance occurred in gambling felonies (0.0%), sale of obscene prints (0.9%), gambling misdemeanors (1.7%), sodomy (5.3%), and robbery (6.2%). The first three of these low-jumping crimes are those involving what might be described as businesses, albeit illegal ones. The presence of robbery on this list logically leads to the question of whether the relatively low rates of non-appearance for

serious crimes as compared with less serious ones can be attributed to a more selective release policy with respect to those charged with serious offenses. Under this view rates of non-appearance should increase as the percentage of those achieving release increases.

Crime Category	Percentage	
	Release	Jump Rate
Robbery	34.6	6.2
Burglar's tools	36.6	7.7
Narcotics felonies	42.0	13.8
Burglary	4.5	12.9
Poss. stolen prop.	57.9	15.0
Narcotics Misd.	60.0	17.2
Felonious assault	65.7	7.8
Forgery	66.7	8.8
Grand larceny	69.3	12.4
Petit larceny	74.9	29.6
Prostitution	78.5	30.3
Disorderly conduct	85.3	16.8

The above listing provides some support for the proposition. The first six crimes on the list with only one exception, show ascending jump rates alongside of ascending release rates. However, the balance of the list introduces some serious inconsistencies. Felonious assault has twice the release rate of robbery but only a 26% higher jump rate (7.8/6.2). Similarly, grand larceny has a higher release rate than possession of stolen property, but a lower jump rate; and the difference in the jump rate between grand larceny and petit larceny would not seem to be explained by the 5.6% difference in release rates. On the basis of the data presented thus far, it would seem that the theory which anticipates increased flight by defendants charged with crimes carrying higher sentences is not strongly supported. The discussion of the relationship between crime charged and non-appearance, holding constant other key variables such as condition of release, amount of bail, and roots in the community, will continue after a discussion of these variables individually.

2. What is the relationship between general condition of release and non-appearance?

Of the 1,458 jumpers in the study, the condition of release could be determined for 1,434-parole 826 (56.6%) bond 98 (6.8%) and cash bail 510 (35.6%). The jump rate for these posting a bond (4.4) was lower than that for defendants released on parole

(15.4%) which in turn was lower than that among defendants putting up cash to secure release (19.4%). With few exceptions this three-way relationship held for all broad and individual crime categories (see Tables 8-a and 8-b).

Tables 8-a and 8-b also show that within any condition of release, jump rates do not systematically increase with the seriousness of the charge. In fact, in many cases an inverse relationship is found. For example, among those released on bond, felonies involving a weapon or violence had the lowest jump rate of all crime groupings. This grouping had a lower jump rate than most others among parole or cash bail releasees as well. A more detailed discussion of cash bail and bond jumping is contained below in section 3 in which specific amounts of bail are considered. Similarly, a more refined analysis of parole jumping is deferred until section 5 in which Office of Probation recommendations for parole are analyzed.

3. What is the relationship between the level of bail and non-appearance?

Considering bond and cash bail as qualitatively different conditions of release (see discussion below), jump rates did not generally decrease as the level of bail increased. (see Tables 9-a, and 9-b.)

All Cases with Known Bail Amounts

<u>Cash Bail</u>	<u>Jump Rates</u>	<u>Bond</u>	<u>Jump Rates</u>
\$1-25	24.0	\$500	4.6
26-50	17.7	501-1000	6.4
51-100	18.7	1001-2500	10.7
101-250	16.2	2501 or more	(0.0)

All Felonies with Known Bail Amounts

\$1-25	11.2	\$500	3.8
26-50	16.1	501-1000	7.9
51-100	17.8	1001-2500	11.2
101-250	(15.0)	2501 or more	(0.0)

Note: Numbers in parentheses indicate 11 through 50 persons in that category.

Only in the categories of “All Violations” and “Prostitution” did the jump rate consistently fail as the level of cash bail increased. In no crime category did the jump rate systematically and significantly fail as the amount of bond increased. As was seen in Tables 6-a and 6-b, the primary effect of raising the level of bail was to increase the likelihood that a defendant would remain in detention.

What accounts for the substantial difference in jump rates between cash bail and bond? Surely not the statutorily fixed premium required by a bondsman. On a \$1,000 bond the premium is \$50 and once paid by a defendant, it is not recoverable regardless of his subsequent appearance in court. A defendant posting \$50 in cash, on the other hand, will be reimbursed to the extent of \$49 if he appears throughout the case. Nevertheless, the defendant posting the bond is substantially less likely to jump. The most plausible explanations are that a bondsman requires a defendant to provide collateral as well as to pay a premium and he is prepared to perform an enforcement function in returning defaulting clients to court. Since collateral requirements could not be determined for cases in the study, it is not possible to discuss the relationship between non-appearance and the real monetary loss to the defendant. The influence of the risk of pecuniary loss on a defendant's decision to appear in court, however, is limited since collateral requirements, broadly speaking, are likely to increase with the amount of the bond; one would expect jump rates for bond to decline as the amount of bond increase. As was seen above, such is not the case. As far as enforcement of appearances in court is concerned, there is again no data available on the extent to which the possibility of subsequent capture by a bondsman induces a client to appear when required.

4. What is the relationship between a defendant roots in the community and the incidence of non-appearance?

As was explained in the section on methodology, a defendant's roots in the community were classified in three ways based on the screening procedures used by the Office of Probation's Release on Recognizance Division. A defendant could be recommended for pre-trial parole (R), a report could be submitted under the rubric of "for information only" which amounted to a non-recommendation (NR), or he could have had bail set in the absence of an investigation (NI). Ignoring for the moment the actual condition of release ultimately set by the arraignment judge, jump rates were 9.1% for those recommended, 15.0% for those not recommended, and 14.6% for those not interviewed (see columns 13, 14, and 15 of Table 11-a). With one exception, every broad and individual crime category containing at least 50 recommended and 50 non-recommended defendants showed a lower jump rate for those recommended than those not recommended.

This relationship occurred regardless of a defendant's actual condition of release. Thus in cases where cash bail or bond were required despite the presence of the favorable ROR recommendation, the recommended defendants had lower jump rates than those not recommended (see columns 5, 6, 9, and 10 of Tables 11-a and 11-b). The influence of roots in the community was most dramatic, however, in cases where the defendant was actually released without bail. Recommended defendants jumped at a rate of 9.4% while non-recommended defendants jumped 19.3% of the time and non-investigated defendants 16.2%. In case of felonies involving a weapon or violence the respective rates were 8.0%, 18.4% and 9.0%.

The substantially lower jump rates among recommended defendants suggest that a decision to grant release on recognizance should place strong emphasis on the ROR report to court. The fact that such a report was before the court in only 24.5% (3,537/14,439) of all case and in only 28.8% of the cases in which pre-trial parole was

granted (1,543/5,358), suggests that a strong effort be made to increase the coverage or the ROR program. (16)

Notwithstanding the substantial differences in jump rates among defendants with varying ROR ratings several important issues arise concerning the release on recognizance program as a whole. First why has the rate of non-appearance risen from the 1.6% rate which prevailed during the days of the Manhattan Bail Project (1961-1964)? Second, does the ROR program have a substantial impact on the percentage of defendants who are able to secure pre-trial release? Third, what are the implications of the fact that defendants recommended and released on recognizance currently jump at a higher rate than defendants released on bond, regardless of their roots in the community?

16. There is some evidence that the percentage of cases investigated by the Release on Recognizance Division has increased since the period covered by this study. During the period of January- September 1968, the percentage of Manhattan arraignments investigated for ROR eligibility was 51.0% (see Detention Overcrowding Report p.33). Office of Probation citywide statistics for 1968 show a coverage of 54.7% (67,801/123,860).

Defendants released on bond, regardless of their roots in the community?

To describe the similarities and differences between the current operation of the Release on Recognizance Program and the Manhattan Bail Project is not necessarily to explain the difference in jump rates. The interview questionnaire and the point scale used to score the reports are essentially identical. The basic differences the techniques used to assure the appearance of defendants in court, the staff and its motivation, and the recommendation policy with respect to suspected addicts.

During the Manhattan Bail Project, paroled defendants were sent bi-lingual notifications of each forthcoming court appearance. Defendants were required to report to the project's in-court office at 9:00 a.m. on the morning of each appearance and those failing to appear were sought by telephone calls (to the defendant, one of the references listed in his interview questionnaire, or even a stranger listed in a street address telephone directory as residing in the same building) or field visits to places of employment or residence. Since no data are available on the extent to which these techniques reduced the jump rate of the project to a net of 1.6%, it is not possible to determine what effect the reintroduction of such procedures would have on the present jump rate. But even if such data were to show that the jump rate could be halved, it must be remembered that the discontinuation of such extensive follow-up measures (17) has been imposed by the budgetary distress of the Office of Probation rather than by conscious choice. Given the limited resources made available to the criminal justice system, a value judgment must be made as to whether additional sums should be expended to protect a defendant from his own irresponsibility. Since the court system has never made similar efforts to forestall the default of those posting bail, it might seem incongruous to concentrate solely on those defendants who by the ROR screening mechanism are already deemed more reliable than average. On the other hand, those posting a bond are believed to be under the vigilant eye of the bondsman. The degree to which such oversight actually occurs and the degree to which it keeps the jump rate down to 4.4% are unknown. However, the fact that such surveillance may be undertaken, with a favorable impact on jump rates, by those whose

business requires it, ought not to be permitted to effect the release policy with respect to those unable to afford the services of a bondsman (see discussion below). (18)

17-During September 1968, the Manhattan ROR Office was attempting to send reminders of first appearances to defendants who had been investigated and released on recognizance either with or without a recommendation. The deadline of sending the letter one week prior to the appearance was occasionally not met because of staff shortages.

18-The fact that a bondsman might bring a default defendant back to court would not effect the net jump rate which excludes jumpers returning to court other than by arrest (either on a warrant or a new charge). However, the fact that a bondsman might nurse a non-apperring client, especially where the collateral posted is less than 100% of the value of the bond, might well deter the non-appearance itself.

The second significant difference between the Manhattan Bail Project and the current ROR program relates to the staff and its motivation. The Project utilized a group of New York University law students to execute an exciting and innovative experiment. Assuming that the esprit de corps and the ability of the experimenters was higher than that of the existing ROR staff (an assumption which may not necessarily be correct), it would be unrealistic to assume that a permanent program of a large city agency could retain the fervor and élan which envelop a limited demonstration project. If the further assumption is made that staff differences have been translated into a higher jump rate, primarily through a decline in the quality of verifications, the basic prescription for recovering the former level of execution would be better pay, more intensive training, and vigorous supervision for the staff.

The final difference relates to the problem of drug addicts. The Manhattan Bail Project excluded suspected addicts from interview eligibility while current procedures do not. While the jump rate for recommended and paroled defendants charged with narcotics crimes is lower (8.6%) than the 9.4% average of all defendants paroled with a favorable ROR rating, the rate for property crimes is higher (13.6%) and this statistic might be attributable to non-appearing addicts. Since the cases involved in this study were arraigned prior to the adoption of the CR-1 form (the arresting officer's suspicion of narcotics addiction based on observed physical symptoms), a more direct identification of addicts was not possible. But other studies have indicated an extremely high jump rate among addicts, and it might be advisable for the Office of Probation to alter its rating system to include one or more negative points in cases in which a CR-1 form is present. (19)

A second question regarding the ROR program relates to its net impact on the ability of defendants to secure pre-trial release. Of the 14,439 defendants who comprised the universe of releasees and detainees, 3,537 (24.5%) were found to have been investigated for ROR eligibility. Of the 3,537, 1,524 (43.1%) were recommended for release on recognizance and of these 905 were actually granted pre-trial parole. Of the 619 recommended persons not granted pre-trial parole, 434 (78.2%) were able to post either bond or cash bail while 135 (21.8%) remained in detention. Assuming that those granted

pre-trial parole would have been able to post bail at the same rate, the ROR program saved 197 persons from pre-trial detention. In the absence of the program, the relevant portion of the detention population would have been 5% greater (197/3,977).

19- A study of non-appearing defendants in Bronx Criminal Court (November 1967-February 1968) whose court papers contained a CR-1 form showed an overall jump rate in excess of 37% for 142 releasees. However, a sub-sample of these cases showed that only 1 out of 48 released CR-1 defendants had been recommended for pre-trial parole by the Office of Probation. This defendant was denied parole, posted bail and appeared as required throughout the case. An additional 18 defendants were investigated for ROR and not recommended and the remainder were not investigated at all. Thus it is problematic whether addict-jumpers play a significant role in the R jump rates, and the use of negative rating points for CR-1 defendants might have little impact on who is recommended for release without bail. See, Bail Jumping and the Narcotically Involved Defendant, April 16, 1969 on file at the Appellate Division, First Department and at the Vera Institute of Justice.

What price was paid in terms of the jump rate to secure these additional releases? The overall jump rate for recommended persons not released on parole but required to post bond or cash bail was 8.2%--somewhat lower than the 9.4 rate for those recommended and released without bail. As seen in the table below, had those paroled had similar bails set, had they been able to post them at the same rate, and had they failed to appear at the same rate (8.2%) as those posting bail; there would have been 28 fewer jumpers. Thus in sparing 197 persons from detention and in saving 708 others the expense and hardships of purchasing release, the ROR program imposed a trade-off of approximately one additional jumper per seven persons released. The "marginal jump rate"-- that is, the rate created by the release of an additional 197 persons (and the substitution of parole for bail in an additional 708 cases)--was 13.7% (28/197)

What about persons who were either not investigated or not recommended by the Office of Probation? Their respective rates of posting bail (bond or cash bail) when pre-trial parole was denied 55.2% and 51.6% with accompanying jump rates of 13.1% and 11.1%. Using the same set of assumptions as for recommended defendants, the numbers of defendants' re-trial detention were 1,709 and 309 respectively, and the numbers of additional jumpers attributable to the releases without bail were 342 and 86. Thus the marginal jump rate for non investigated defendant was 20.0% and for non-recommended defendants a staggering 27.8%.

In summary, the granting of pre-trial parole in the absence of an Office of Probation recommendation forestalled a 50% increase in the detention population (2,018/3,977). However, the cost of this benefit was an additional jumper per 4.7 extra releases.

The Impact of Granting Releases on Recognizance by ROR Rating.

	<u>Recommended</u>	<u>Not Recommended</u>	<u>Not Investigated</u>
Total	1,524	2,013	10,902
1. Paroled	905	633	3,815
2. Jumpers	85	123	618
3. Not paroled	619	1,375	7,087
4. # Posting bail	484	709	3,910
5. % Posting bail	78.2%	51.6%	55.2%
6. Jumpers	40	79	512
7. Jump rate	8.2%	11.1%	13.1%
8. # Not posting bail	135	666	3,177
9. % Not posting bail	21.8%	48.4%	44.8%
10. # Parolees Assumed able to Have posted bail (1*5)	708	329	2,106
11. # Parolees Assumed not able to Have posted bail and Would have been Detained (1-10)	197	309	1,709
12. Assumed jumpers among parolees able to have posted bail (7*10)	58	37	276
13. Additional jumpers attributable to releases without bail (2-12)	27	86	342
14. Marginal jump rate (13/11)	27/197=13.7%	86/309=27.8%	342/1709=20.0%

The foregoing does not necessarily imply that too high a percentage of defendants are being released without bail. Of all persons investigated for release on recognizance 43.1% were found to have verifiable roots in the community. Applying this percentage to the total court universe of 14,439 one would come up with a figure of 6,221 persons eligible for release on recognizance under existing criteria as compared with 5,358 who were actually granted pre-trial parole. To be sure, the 43.1% who were recommended were probably not a random sample of the court universe of 14,439 since the ROR screening process operates under a system of priorities which emphasizes coverage of more serious cases and which, under pressure of time and manpower shortages, may siphon off cases which at first glance seem either more likely to qualify or easier to investigate. Nevertheless, these factors may offset each other and it can be argued that attempts to reduce the overall 15.4% rate of parole jumping should concentrate on better identifying the appropriate cases for parole rather than on reducing the total number of those granted release without bail.

Given the substantial differences in rates of non-appearance among R, NR, and NI defendants, it would seem advisable to expand the coverage of the ROR program to give greater weight to the ROR reports in determining who is granted release without bail.

A third major question provoked by the data on the ROR program concerns the implication of a 9.4% jump rate among recommended defendants as compared with an overall 4.4% jump rate for those released on bond. The comparison has been framed in these terms rather than in terms of the overall jump rate for paroled defendants (15.4%), because those persons not recommended by the Office of Probation's Release on Recognizance Division do not reflect on the validity of a release policy based on verified information on a defendant's roots in the community.

Assuming that the jump rate for recommended persons released on recognizance could not be brought down by the Office of Probation to the same level as the jump rate for those posting a bond (or that the resources to do this are not made available), there are several serious objections to an increased reliance on bond.

First, more frequent requirements of bond would result in a serious worsening of the overcrowding which prevails in New York City detention facilities. Second, less restrictive and less expensive alternatives exist in the area of discouraging non-appearance. Police Warrant Squads attached to the several criminal courts are overburdened and understaffed and rarely go out after a jumper. Part of this is a reflection of a Police Department attitude which emphasizes arrests and not convictions so that defaulting defendants are seen as the court's or the District Attorney's headache. Moreover, there is no priority in the execution of warrants giving first attention to jumpers charged with more serious crimes. In addition, prosecutorial and court policies do nothing to discourage default. When a jumper is rearrested for another crime (virtually the exclusive manner in which jumpers who do not return voluntarily, are brought back to court), a separate charge of bail jumping is rarely added. If added, the defendant is usually permitted to plead guilty to one crime to cover both of his offenses and his jump as well. When a separate fugitive conviction is obtained sentences are more likely to be concurrent than consecutive. In short, the enforcement policy with respect to warrants is such that one can only express disbelief that the jump rates are not even higher.

The third objection to greater reliance on surety bonds is that it would extend an already indefensible abdication of judicial responsibility. It is the bondsman's unregulated power to demand collateral or to refuse to deal which determines who obtains release. In the famous words of Judge J. Skelly Wright of the Circuit Court of Appeals for the District of Columbia:

Certainly the professional bondsman system as used in this District is odious at best. The effect of such a system is that the professional bondsmen hold the keys to the jail in their pockets. They determine for whom they will act as surety--who in their judgment is a good risk. The bad risks, in the bondsmen's judgment, and the ones who are unable to pay the bondsmen's fees remain in jail. The court and the commissioner are relegated to the relatively unimportant chore of fixing the amount of bail. (Pannell v. United States, 320 F 2nd 698, 699 (D.C.Cir. 1963).

A recent case provides a striking example of the abuse of a bondsman's power. (20) A Long Island mother of two was arrested for flying an American flag upside down as an antiwar protest. Bail was set at \$500 and a bondsman refused to write a bond saying, "It's a matter of principle..." Fortunately, the defendant's husband was able to post the \$500 in cash. Had he not been able to do so, the woman would have remained in detention by virtue of a bondsman's determination that the charge of showing contempt for the flag should be non-bailable.

Notwithstanding the longevity of the practice, it is dismaying to realize that the functions of setting the real cost of release (i.e., collateral) and enforcing attendance in court have been delegated to a small group of businessmen who remain largely unanswerable to the criminal justice system. This practice should not be extended as a result of the criminal justice system's failure properly to finance and to operate an alternative, conceptually sound type of release program. (21) Efforts should be made to improve, not to abandon, the entire program of release without bail.

5. What is the relationship between the duration of a case and non-appearance?

20. New York Times, January 13, 1970 p. 19 cols. 1-4.

Most jumpers jumped relatively early in the life of a case. For the sample of jumpers in the study the average number of appearances prior to default was 1.4. For the sample of non-jumpers, the average number of appearances between arraignment and final disposition was 4.5. In terms of time elapsed, the average bench warrant was issued 44 days after arraignment, while the average case lasted 104 days. (22)

The earliest jumps tended to occur by and large in relatively less serious crime such as non-felonious crimes against the person, vehicle and traffic cases, and violations (see Table 12-a). The latest jumps were among gamblers and for this category of defendant the combination of very little jumping and late jumping would seem to support an

attrition theory of non-appearance; that is, repeated court appearances become more burdensome than the fear of potent consequences of default.

21. Other jurisdictions have institutionalized bail reform programs patterned after the Manhattan Bail Project with no increase in rates of non-appearance. See O'Rourke and Carter, The Connecticut Bail Commission, 79 Yale Law Journal 513 (1970).

22. The data on non-jumping cases overstate both the number of appearances and the number of days involved in an "average" case because the sample consists of released cases only. Detained cases were found to average fewer appearances (2.8) and less than (31 days) than released cases. In addition, the average duration of minor cases is overstated by the fact that many violations are disposed of at arraignment and such cases were excluded from the study.

Breaking down the averages contained in Tables 12-a and 12-b, one finds that the median length of time prior to the issuance of a bench warrant was six weeks for felonies and misdemeanors and three weeks for violations (see Tables 13a-1 and 13a-2). The only individual crime categories in which the median time prior to default exceeded six weeks are narcotics felonies, leaving the scene of an accident, gambling misdemeanors, robbery, and gambling felonies. With the exception of narcotics felonies, the number of jumpers in each of these categories was quite small (see Table 13-b). Overall, 85% of the jumps occurred within the first three months of a case.

Looking at the medians for number of appearances prior to default, one again finds confirmation of early non-appearance. For every broad crime category except gambling (see Tables 14-a and 14-b) the median number of appearances was one. Fewer than three appearances were made by over 80% of all defaulting defendants. In no individual crime category did the median number of appearances exceed two (see Table 14-b).

Tables' 15a-1, 15a-2, 15-b, 16a-1, 16a-2 and 16-b give comparable statistics for the sample of non-jumpers. (23)

Is the likelihood that a defendant will jump at a given point in time related to the likelihood that the case will be disposed of in court at that time (assuming that the defendant is able to predict or predicts blindly the imminence of disposition)? If there were such a relationship, one would expect it to be reflected in a comparison of the percentage of cases disposed of at a given point in time (measured either by the number of appearances or the number of days since arraignment) and the percentage of jumpers who defaulted just prior to that point. As can be seen from graphs 1-12, after the early jumpers have departed the likelihood of jumping seems to be related to the imminence of disposition in serious cases.

6. What is the relationship between crime charged and non-appearance with other variables held constant?

In section 1 of Part F, the relationship between crime charged and non-appearance was discussed. The succeeding sections 2-5 discussed the relationship between other variables

and non-appearance. What is the relationship between crime charged and non-appearance when some of these other variables are held constant?

23. See note 22 supra.

When condition of release is held constant, the incidence of non-appearance does not increase with the seriousness of the charge.

As can be seen from the following table (using illustrative data from Tables 7-a through 10-b) when condition of release is held constant jump rates are: higher for violations than for misdemeanors and felonies; similar for felonies and misdemeanors; higher for property crimes than for felonies involving a weapon or violence; higher for petit larceny than grand larceny; and predominantly higher for assault in the third degree than for felonious assault.

In rebuttal, one might assert that the very process of holding a release condition constant juxtaposes unlike defendants. To compare a person charged with a felony and a person charged with a violation when both are released on \$100 cash bail, for example, is to compare someone at the “good risk” end of the felony spectrum with someone at the “bad risk” end of the violation spectrum. In sur-rebuttal, however, two compelling arguments may be made. First, as will be seen later one, when the variable of “risk” (meaning risk of flight as measured by a defendant’s roots in the community) is held constant, jump rates still do not increase with the gravity of the offense. Second, accepting the validity of the argument a comparison of presumably equal risks still fails

Jump Rates by Crime Category and Condition of Release

	<i>All Parole</i>	<i>All Bond</i>	<i>All Cash Bail</i>	<i>\$500 or \$1000 bond</i>	<i>\$100 cash bail</i>	<i>All Released</i>
Felonies	12.0	5.0	15.1	5.5	17.8	10.5
Misdemeanors	13.0	3.5	15.9	4.6	14.6	11.0
Violations	22.5	(18.2)	27.2	14.3	22.8	23.6
Felonies involving a weapon or violence	10.5	1.4	12.0	2.6	16.2	7.8
Property Crimes	19.2	6.4	21.8	5.0	16.4	16.8
Violations excluding Prostitution	16.2	(17.2)	23.3	(16.0)	(45.5)	17.1
Felonious Assault	9.3	1.3	11.8	2.5	(16.7)	7.8
Assault 3	12.2	(20.0)	6.2	(20.0)	(8.3)	11.2
Grand Larceny	14.9	3.6	11.8	4.0	(8.3)	12.4
Petit Larceny	29.0	(8.3)	(45.8)	(8.0)	—	29.6

Note: Numbers in parentheses indicate 11 through 50 persons in the category. A dash indicates 10 or fewer in the category.

to show a jump rate which consistently or even predominantly rises with the seriousness of the charge. The following table sets out jump rates for equal “bail setting percentiles.” For example, a bail setting percentile of 60 percent for a crime category containing 700 defendants would be the bail setting imposed on the 420th defendant along a spectrum starting with parole (R), parole (NI), parole (NR), \$1-\$100, and so on up to bail over \$2,500.

In the 50th and 60th bail setting percentiles, jump rates consistently decrease as the crime category becomes more serious. In the 70th, 80th and 90th bail setting percentiles, there again is a predominantly decreasing jump rate as the crime category becomes more serious with one important exception; all felonies show a higher jump rate than all misdemeanors in these three percentiles. Yet for the most serious felonies, those involving a weapon or violence, the jump rate remains extremely low. Thus for substantial segments of the court universe, it is rather difficult to justify, by the risk of non-appearance, a level of bail which almost automatically rises with the gravity of charge. This conclusion finds further support when the variable of roots in the community is controlled.

When roots in the community are held constant, the incidence of non-appearance does not increase with the seriousness of the charge.

Jump Rates (JR) by Bail Setting Percentiles for Illustrative
Crime Groupings and Individual Crimes

Crime Category	50th		60th		70th		80th		90th	
	Amt.	JR	Amt.	JR	Amt.	JR	Amt.	JR	Amt.	JR
Felonies	\$101- \$500	4.9	\$501- \$1000	7.9	\$501- \$1000	7.9	\$1001- \$2500	11.2	\$1001- \$2500	11.2
Misdemeanors	\$1- \$100	15.9	\$1- \$100	15.9	\$500 \$500	5.2	\$101- \$500	5.2	\$501- \$1000	4.6
Violations	P (NR)	21.7	\$1- \$100	28.4	\$1- \$100	28.4	\$1- \$100	28.4	\$101- \$500	14.6
Felonies Involving a weapon or violence	\$101- \$500	2.4	\$501- \$1000	3.7	\$501- \$1000	3.7	\$1001- \$2500	2.0	\$1001- \$2500	2.0
Property Crimes	\$101- \$500	5.0	\$101- \$500	5.0	\$101- \$500	5.0	\$501- \$1000	9.7	\$501- \$1000	9.7
Violations Exclud- ing Prostitution	P (NI)	17.5	P (NI)	17.5	P (NI)	17.5	\$501- \$500 (25.0)	\$500	\$500	(25.0)
Felonious Assault	\$101- \$500	1.0	\$101- \$500	1.0	\$501- \$1000	6.8	\$501- \$1000	6.8	\$1001- \$2500	(2.5)
Assault 3	P (NI)	9.6	P (NI)	9.6	P (NI)	9.6	P (NR)	(39.1)	\$1- \$100	6.8
Grand Larceny	\$1- \$100	13.8	\$101- \$500	4.5	\$101- \$500	4.5	\$101- \$500	(4.5)	\$501- \$1000	(4.2)
Petit Larceny	P (NI)	27.9	\$1- \$100 (43.8)	\$1- \$100	\$1- \$100 (43.8)	\$1- \$100	(6.7)	\$101- \$500	\$500	(6.7)

Note: Numbers in parentheses indicate 11 through 50 persons in the category.

Jump Rates by Crime Category and Roots in the Community (ROR Rating)

Jump Rates by Crime Category and Roots in the Community (ROR Rating)

	Recom- mend- ed R	Not Recom- mend- ed NR				
Felonies	8.6	11.5				
Misdemeanors	9.6	17.0				
Violations	7.0	25.3				
Felonies involving a weapon or violence	6.1	9.7				
Property Crimes	12.7	16.1				
Violations excluding Prostitution	4.4	16.4				
Felonious Assault	7.2	9.9				
Assault 3	(17.6)	(33.3)				
Grand Larceny	10.9	14.9				
Petit Larceny	(35.7)	(34.1)				

Note: Numbers in parentheses indicate 11 through 50 persons in the category.

When both condition of release and roots in the community are held constant, the incidence of non-appearance does not increase with the seriousness of the charge. In fact, the jump rate for felonies is the same or lower than that for misdemeanors in every category. Similarly, the rate for serious felonies against the person is consistently lower than that for crimes against property.

On the basis of the variables analyzed in this study, there is little justification in the bail jumping statistics for graduating bail amounts primarily by the serious of the crime charged.

Jump Rates by Crime Category, Condition of Release
and Roots in the Community

	PAROLE		BOND		CASH BAIL	
	R	NR	R	NR	R	NR
Felonies	9.3	15.4	1.6	4.0	12.3	14.4
Misdemeanors	10.2	22.2	2.4	5.2	12.3	14.5
Violations	4.8	21.1	--	--	--	(50.0)
Felonies involving a weapon or violence.	8.0	18.4	0.0	0.0	(12.8)	13.6
Property crimes	13.6	20.9	2.0	4.8	16.2	17.6
Violations ex- cluding Prostitu- tion	4.5	(16.7)	--	--	--	--
Felonious Assault	6.9	18.3	(0.0)	(0.0)	(14.8)	(13.0)
Assault 3	(36.4)	(39.1)	--	--	--	--
Grand Larceny	11.2	16.9	(7.0)	(8.3)	(10.8)	(19.0)
Petit Larceny	(33.3)	(33.3)	--	--	--	--

Note: Numbers in parentheses indicate 11 through 50 persons in category. A dash indicates 10 or fewer in the category

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Table 1-a

Distribution of the Court
Crime Groupings and Release

	Total Cases	Released		Detained	
		No.	%	No.	%
All Felonies	4850	2676	55.2	2174	44.8
All Misdemeanors	6486	5235	80.2	1281	19.8
All Violations	3019	2497	82.7	522	17.3
All Felonies involving a weapon or violence	371	1041	55.6	830	44.4
Non-Felonious crimes against the person	813	746	91.8	67	8.2
Property Crimes	2751	1654	60.5	1087	39.5
Narcotics Crimes	2254	1485	52.0	1349	48.0
Gambling Crimes	1313	1294	98.6	19	1.4
Vehicle and Traffic	766	766	100.0	0	0.0
Violation excluding prostitution	1454	1269	87.3	185	12.7
Prostitution	1564	1227	78.5	337	21.5
Others	1353	1270	93.9	83	6.1
Total	14439	10462	72.5	3977	27.5

Table 2-a

Distribution of the Released Population by Broad Crime Groupings and General Condition of Release

	All Releasees		Released on Recognizance		Released on Bond		Released on Cash Bail	
	No.	%	No.	%	No.	%	No.	%
All Felonies	2676	100.0	1041	38.9	880	32.9	676	25.3
All Misdemeanors	5205	100.0	2816	54.1	1307	25.0	1033	19.8
All Violations	2497	100.0	1452	58.1	44	1.8	901	36.1
All Felonies involving a weapon or violence	1041	100.0	427	41.0	352	33.8	217	20.8
Non-Felonious crimes against the person	746	100.0	582	78.0	38	5.1	127	17.0
Property Crimes	1664	100.0	955	57.4	342	20.5	335	20.1
Narcotics Crimes	1485	100.0	528	35.6	405	27.3	508	34.2
Gambling Crimes	1244	100.0	276	21.3	230	18.5	188	15.7
Vehicle and Traffic	466	100.0	253	54.3	57	12.2	155	33.3
Violation excluding prostitution	1269	100.0	1088	85.7	29	2.3	133	10.5
Prostitution	1227	100.0	364	29.7	15	1.2	768	62.6
Others	1186	100.0	237	20.0	158	13.3	178	15.0
Total	10462	100.0	5358	51.2	2237	21.4	2625	25.1

Table 2-b

Distribution of the Released Population by Crime Category and General Condition of Release

	All Releasees		Released on Recognizance		Released on Bond		Released on Cash Bail	
	No.	%	No.	%	No.	%	No.	%
Prostitution	1227	100.0	364	29.7	15	1.2	768	62.6
Gambling (M)	1172	100.0	225	19.2	786	67.1	162	13.8
Narcotics (M)	755	100.0	456	47.7	151	15.8	317	33.3
Disorderly Cond.	784	100.0	648	82.7	15	1.9	113	14.4
Fel. Assault	733	100.0	334	45.6	223	30.4	153	20.9
Narcotics (F)	530	100.0	72	13.6	253	47.7	191	36.0
Grand Larceny	477	100.0	261	54.7	112	23.5	102	21.4
Assault 3rd	455	100.0	376	82.6	15	3.3	65	14.3
Intox. Driving	373	100.0	189	50.7	52	13.9	132	35.4
Petit Larceny	314	100.0	241	76.8	24	7.6	48	15.3
Burglary	255	100.0	121	47.5	53	20.8	66	25.9
Resisting Arrest	205	100.0	157	76.6	11	5.4	37	18.0
Possn. Stolen Prop.	180	100.0	84	46.7	54	30.0	37	20.6
Robbery	145	100.0	35	24.1	55	37.9	38	26.2
Transport Vio.	127	100.0	110	86.6	10	7.9	1	0.8
Obscene Prints	115	100.0	41	35.7	72	62.6	1	0.9
Weapons (F)	112	100.0	35	31.3	56	50.0	21	18.8
Forgery	102	100.0	48	47.1	18	17.6	37	36.3
Sodomy	94	100.0	54	57.4	11	11.7	29	30.9
Exposure	93	100.0	67	72.0	12	12.9	13	14.0
Malic. Mischief	89	100.0	78	87.6	1	1.1	11	12.4
Gambling (F)	84	100.0	40	47.6	28	33.3	17	20.2
Possn. Burg. Tools	78	100.0	32	41.0	28	35.9	13	16.7
Unlawful Entry	67	100.0	22	32.8	0	0.0	12	17.9
Leav. Scene Accid.	67	100.0	55	82.1	39	58.2	7	10.4
Weapons (M)	60	100.0	31	51.7	12	20.0	17	28.3
Other	1492	100.0	1136	76.1	121	8.1	211	14.1

Table 3-a

Distribution of Persons Released on Recognizance by Broad Crime Groupings and by Rating of the Office of Probation's ROR Division.

	All Persons ROR'd		ROR'd with favorable recommendation		ROR'd with a non-recommendation		ROR'd without any investigation	
	No.	%	No.	%	No.	%	No.	%
All Felonies	1041	100.0	323	31.0	259	24.9	459	44.1
All Misdemeanors	2816	100.0	450	16.0	315	11.2	2051	72.8
All Violations	1752	100.0	124	7.1	57	3.2	1571	89.7
All Felonies involving a weapon or violence	427	100.0	150	35.1	87	20.4	190	44.5
Non-Felonious crimes against the person	582	100.0	50	8.6	49	8.4	483	83.0
Property Crimes	955	100.0	265	27.7	225	23.6	465	48.7
Narcotics Crimes	578	100.0	151	26.1	131	22.8	296	51.2
Gambling Crimes	276	100.0	-	-	-	-	276	100.0
Vehicle and Traffic	253	100.0	57	22.5	7	2.8	189	74.7
Violation excluding prostitution	1088	100.0	111	10.2	48	4.4	929	85.4
Prostitution	364	100.0	-	-	-	-	364	100.0
Others	837	100.0	89	10.6	76	9.1	672	80.3
Total	5358	100.0	905	16.9	638	11.9	3815	71.2

Table 3-b

Distribution of Persons Released on Recognizance by Crime Category and by Rating of the Office of Probation's ROR Division

	All Persons ROR'd		ROR'd with favorable recommendation		ROR'd with a non-recommendation		ROR'd without any investigation	
	No.	%	No.	%	No.	%	No.	%
Prostitution	364	-	-	-	-	-	364	100.0
Gambling (M)	225	-	-	-	-	-	225	100.0
Narcotics (M)	456	138	30.3	113	24.8	205	45.0	
Disorderly Cond.	678	48	7.4	26	4.0	574	88.6	
Fel. Assault	334	116	34.7	60	18.0	158	47.3	
Narcotics (F)	72	13	18.1	18	25.0	41	56.9	
Grand Larceny	261	107	41.0	83	31.8	71	27.2	
Assault 3rd	376	11	2.9	23	6.1	342	91.0	
Intox. Driving	189	56	29.6	6	3.2	127	67.2	
Petit Larceny	241	27	11.2	33	13.7	181	75.1	
Burglary	121	27	24.0	35	28.9	57	47.1	
Resisting Arrest	157	32	20.4	10	6.4	115	73.2	
Possn. Stolen Prop.	84	40	47.6	28	33.3	16	19.0	
Robbery	35	11	31.4	13	37.1	11	31.4	
Transport Vio.	110	17	15.5	12	10.9	81	73.6	
Obscene Prints	41	6	14.6	7	17.1	28	68.3	
Weapons (F)	35	17	48.8	1	2.9	17	48.6	
Forgery	48	6	12.5	17	35.4	25	52.1	
Sodomy	54	17	31.5	6	11.1	31	57.4	
Exposure	67	35	52.2	12	17.9	20	29.9	
Malic. Mischief	78	13	16.7	10	12.8	55	70.5	
Gambling (F)	40	-	-	-	-	40	100.0	
Possn. Burg. Tools	32	23	71.8	7	21.9	2	6.3	
Unlawful Entry	22	7	31.8	5	22.7	10	45.5	
Leav. Scene Accid.	55	0	0.0	0	0.0	55	100.0	
Weapons (M)	31	6	19.4	10	32.3	15	48.4	
Other	1136	102	9.0	89	7.8	945	83.2	

Table 4-a	Distribution of Persons Released on Bond or Cash Bail (where the amount of bail is known) According to Broad Crime Groupings and Groupings of Bail Amount									
	All Persons with known bail amount		\$100 or less	\$500 to \$101	\$1000 to \$501	\$2500 to \$1001	above \$2500			
	No.	%	No.	%	No.	%	No.	%	No.	%
All Felonies	1405	100.0	586	41.7	406	28.9	253	18.0	143	10.2
All Misdemeanors	1964	100.0	981	49.9	697	35.5	237	12.1	44	2.2
All Violations	943	100.0	845	89.6	96	10.2	2	0.2	0	0.0
All Felonies involving a weapon or violence	571	100.0	201	35.2	169	29.6	109	19.1	51	8.9
Non-Felonious crimes against the person	161	100.0	122	75.8	22	13.7	1	0.6	11	6.8
Property Crimes	655	100.0	287	43.8	262	40.0	72	11.0	35	5.3
Narcotics Crimes	808	100.0	476	58.9	169	20.9	94	11.6	64	7.9
Gambling Crimes	686	100.0	149	21.7	366	53.4	156	22.7	13	1.9
Vehicle and Traffic	196	100.0	149	76.0	41	20.9	6	3.1	0	0.0
Violation excluding prostitution	157	100.0	129	82.2	28	17.8	1	0.6	0	0.0
Prostitution	785	100.0	716	91.2	68	8.7	1	0.1	0	0.0
Others	323	100.0	185	57.3	74	22.9	51	15.5	13	3.7
Total	4333	100.0	2424	55.9	1205	27.8	797	18.4	187	4.3

Table 4-b

	Distribution of Persons Released on Bond or Cash Bail (where the amount of bail is known) according to Crime Category and Groupings of Bail Amount												
	All Persons with known bail amount			\$100 or less		\$500 to \$101		\$1000 to \$501		\$2500 to \$1001		above \$2500	
	No.	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%
Prostitution	785	716	91.2	68	8.7	1	0.1	0	0.0	0	0.0	0	0.0
Gambling (M)	638	123	19.3	356	55.8	145	22.7	12	1.9	0	0.0	0	0.0
Narcotics (M)	770	309	40.2	99	12.5	18	4.1	13	3.0	0	0.0	0	0.0
Disorderly Cond.	123	111	90.2	14	11.4	0	0.0	0	0.0	0	0.0	0	0.0
Fel. Assault	378	146	38.6	195	51.6	59	15.6	70	18.5	0	0.0	0	0.0
Narcotics (F)	368	167	45.4	69	18.8	76	20.6	50	13.6	0	0.0	0	0.0
Grand Larceny	198	65	32.8	88	44.4	24	12.1	19	9.6	0	0.0	0	0.0
Assault 3rd	79	59	74.7	15	19.0	0	0.0	6	7.6	0	0.0	0	0.0
Intox. Driving	172	132	76.7	35	20.3	6	3.5	0	0.0	0	0.0	0	0.0
Petit Larceny	72	48	66.7	15	20.8	10	13.9	0	0.0	0	0.0	0	0.0
Burglary	113	66	58.4	19	16.8	15	13.3	15	13.3	0	0.0	0	0.0
Resisting Arrest	73	37	50.7	7	9.6	0	0.0	0	0.0	0	0.0	0	0.0
Possn. Stolen Prop.	90	36	40.0	47	52.2	6	6.7	1	1.1	0	0.0	0	0.0
Robbery	99	34	34.3	34	34.3	22	22.2	6	6.1	0	0.0	0	0.0
Transport Vio.	12	1	8.3	10	83.3	1	8.3	0	0.0	0	0.0	0	0.0
Obscene Prints	67	7	10.5	22	32.8	39	58.2	0	0.0	0	0.0	0	0.0
Weapons (F)	71	18	25.3	32	45.1	17	23.9	0	0.0	0	0.0	0	0.0
Forgery	54	30	55.6	17	31.5	7	13.0	0	0.0	0	0.0	0	0.0
Sodomy	34	29	85.3	6	17.6	0	0.0	0	0.0	0	0.0	0	0.0
Exposure	24	13	54.2	11	45.8	0	0.0	0	0.0	0	0.0	0	0.0
Malic. Mischief	12	11	91.7	1	8.3	0	0.0	0	0.0	0	0.0	0	0.0
Gambling (F)	28	17	60.7	6	21.4	6	21.4	0	0.0	0	0.0	0	0.0
Possn. Burg. Tools	71	8	11.3	28	39.4	6	8.5	0	0.0	0	0.0	0	0.0
Unlawful Entry	12	7	58.3	6	50.0	0	0.0	0	0.0	0	0.0	0	0.0
Leav. Scene Accid.	45	7	15.6	33	73.3	6	13.3	0	0.0	0	0.0	0	0.0
Weapons (M)	29	17	58.6	0	0.0	1	3.4	6	20.7	0	0.0	0	0.0
Other	312	206	66.0	60	19.2	28	9.0	19	6.1	0	0.0	0	0.0

Distribution of Amounts of Bail Set for the Court Universe (both released and detained) by Broad Crime Groupings and Groupings of Bail Amount

Table 5-a

	Total Cases		Not Paroled		\$100		\$500		\$1000		\$2500		\$2500 or more		
	Persons Paroled	Known Paroled	Bail Amt.		-		-		-		-		-		
			No.	%	No.	%	No.	%	No.	%	No.	%	No.	%	
All Felonies	4850	1041	3809	3427	607	17.7	941	27.5	729	31.5	733	21.4	417	12.2	100
All Misdemeanors	6456	2516	5670	3162	1006	31.8	1343	43.1	578	18.3	158	5.0	57	1.8	100
All Violations	3219	1452	1567	1444	988	68.4	425	29.4	23	1.6	4	0.3	4	0.3	100
All Felonies involving a weapon or violence	1571	427	1444	1259	201	16.0	371	29.5	278	22.1	245	19.5	164	13.0	100
Non-Felonious crimes against the person	813	582	231	220	122	55.5	64	29.1	9	4.1	19	8.6	6	2.7	100
Property Crimes	2751	955	1776	1688	312	18.5	730	43.2	388	23.0	212	12.6	46	2.7	100
Narcotics Crimes	2854	528	2326	2241	593	26.5	645	28.8	422	17.9	372	16.6	229	10.2	100
Gambling Crimes	1313	276	1037	684	149	21.8	366	53.5	156	22.8	13	1.9	0	0.0	100
Vehicle and Traffic	466	253	213	196	149	76.0	41	20.9	6	3.1	0	0.0	0	0.0	100
Violation excluding prostitution	1454	1088	366	327	188	57.5	121	37.0	14	4.3	0	0.0	4	1.2	100
Prostitution	1564	364	1200	1117	810	71.6	304	27.2	9	0.8	4	0.4	0	0.0	100
Others	1353	886	467	325	100	30.8	93	28.6	73	22.5	30	9.2	29	8.9	100
Total	14439	5358	9081	8057	2617	32.4	2735	33.9	1335	16.6	895	11.1	478	5.9	100

Table 6-a
(page 1)

Ability to Obtain Release on Bail by Broad Crime Groupings
and Groupings of Bail Amount

	\$100-\$1				\$500-\$101				\$1000-\$501			
	Rel.	%	Not Rel.	%	Rel.	%	Not Rel.	%	Rel.	%	Not Rel.	%
All Felonies	586	76.5	21	3.5	406	43.1	535	56.9	253	34.7	476	65.3
All Misdemeanors	981	97.5	25	2.5	697	51.1	666	48.9	237	41.0	341	59.0
All Violations -	845	85.5	143	14.5	76	22.2	329	77.4	2	2.7	21	91.3
All Felonies involving a weapon or violence	201	100.0	0	0.0	169	45.6	202	54.4	179	39.2	169	60.8
Non-Felonious crimes against the person	122	100.0	0	0.0	22	34.4	42	65.6	1	11.1	8	88.9
Property Crimes	257	92.0	25	8.0	262	35.9	468	64.1	72	18.6	316	81.4
Narcotics Crimes	475	96.6	17	3.4	159	26.2	476	73.8	74	23.4	308	76.6
Gambling Crimes	149	100.0	0	0.0	366	100.0	0	0.0	156	100.0	0	0.0
Vehicle and Traffic	149	100.0	0	0.0	41	13.0	0	0.0	6	100.0	0	0.0
Violation excluding prostitution	129	68.6	59	31.4	28	23.1	93	76.9	1	7.1	13	92.9
Prostitution	716	87.5	84	10.5	68	22.4	236	77.6	1	11.1	8	88.9
Others												
Total	2424	92.7	190	7.3	1205	44.1	1529	55.9	477	37.2	838	62.8

Table 6-3
(page 2)

Ability to Obtain Release on Bail by Bro
and Groupings of Bail Amount

	\$2500-\$1001				\$2500 or more			
	Rel.	%	Not Rel.	%	Rel.	%	Not Rel.	%
All Felonies	143	19.5	590	80.5	17	4.1	400	95.9
All Misdemeanors	42	27.8	114	72.2	6	10.5	51	89.5
All Violations	0	0.0	4	100.0	0	0.0	4	100.0
All Felonies involving a weapon or violence	51	20.8	194	79.2	12	7.3	152	92.7
Non-Felonious crimes against the person	11	57.9	8	42.1	6	100.0	0	0.0
Property Crimes	35	16.5	177	83.5	0	0.0	46	100.0
Narcotics Crimes	64	17.2	308	82.8	6	2.6	223	97.4
Gambling Crimes	13	100.0	0	0.0	0	-	0	-
Vehicle and Traffic	0	-	0	-	0	-	0	-
Violation excluding prostitution	0	-	0	-	0	0.0	4	100.0
Prostitution	0	0.0	4	100.0	0	-	0	-
Others								
Total	187	20.9	708	79.1	23	4.8	455	95.2

