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INTRODUCTION

The Alaska Judicial Council was funded during 1974 by the United States Justice Department, Law Enforcement Assistance Administration, to conduct a study of the bail process in the state. The major goals of this study have been to determine the incidence of recidivism of persons released on bail in Anchorage, and to assess the general workings of Alaska bail laws and practices.

The project began in April 1974 with a comprehensive statistical analysis of all Anchorage Superior Court (i.e. felony) case files opened during 1973. The objective was to construct a picture of bail for accused felons during the most recent full calendar year in the major urban areas. Data gathered and recorded on computer punchcards included information about the defendant's arrest, criminal charge, rearrests if any, and details regarding the processing of his case through the Court System, including what judges and attorneys were involved, and any information about the defendant's personal and prior criminal history that would have, or should have, affected the bail determination. A distinction was made between persons rearrested for new crimes and those remanded to custody for other reasons. Rearrests were traced to determine whether they resulted in prosecution and conviction, in order to conclude whether the defendant should be considered a convicted "recidivist." A careful reading of the files ensured that any particular, individualized factor or explanation for a defendant's bail status

would be detected and considered. Unfortunately, the same quantum of information was not available in the file of every defendant; but, to the extent possible, limitations are duly noted and conclusions are appropriately qualified in the Report. A more detailed explanation of the data collection methods is contained in Appendix I.

The Judicial Council's legal staff also conducted a great deal of independent research on the general subject of bail, both in Alaska and outside the state. Persons from all stages and components of the criminal process were interviewed, including judges, attorneys, court personnel, law enforcement officers, bondsmen and defendants. Alaska laws and practices were scrutinized carefully to determine the extent to which the statutes actually assisted or encumbered the bail process and the extent to which the statistical conclusions comport to the legally stated purpose of bail. Much of the work from this effort will appear in subsequent bail studies to be published during the next few months.

The statistical findings and conclusions of this year-long study are contained in this Report and in succeeding Reports of specific focus that will be published periodically in the immediate future. This first Report describes the legal procedures and the stated purposes of the bail process generally in Alaska and sets forth the statistical data and early conclusions about the actual effects of the bail process during calendar year 1973. Succeeding Reports will analyze in detail particular problems and points of controversy in the bail process, e.g., types of release, purposes to be served by bail,

appropriateness of statutory criteria and actual information available for bail releases, roles of persons influencing the determination of bail, and comparisons of bail practices and consequences in Alaska and other states, etc.

For purposes of this Introduction, the statistical findings in Section II of the Report can be summarized as follows:

1. Bail Releases

--A higher percentage of felony defendants secured pretrial release in Alaska than the percentage estimated nationally.

2. Remands to Custody

--In Anchorage 5.3% of released defendants were subsequently convicted of an offense committed while on bail. Eight percent of the defendants released on bail were remanded and charged with committing a new crime while released on bail. Sixty-eight percent of these accused recidivists were ultimately convicted of the second charge, and another 13% had the charges for which they were arrested dismissed as part of a plea bargain.

--In Anchorage, 4% of the defendants released on bail were remanded for failing to appear at some stage of the proceeding against them. Native Alaskans represented a disproportionately high percentage of these remands, and female Native Alaskans represented a disproportionately higher percentage of these remands.

--No particular type of bail release (own recognition, unsecured bond or secured money bail) resulted in a higher or lower rate of recidivism that was statistically significant.

--Of the 225 defendants required to post a secured money bail before their release, 7% were rearrested and charged with a new crime. Of the 241 defendants released OR, on an unsecured bond, or with a percentage-cash bond to the court, 8% were rearrested and charged with a new crime.

--Of the 16 accused recidivists who were originally released on a secured money bond, 83% had posted bonds greater than \$1,000.

- Seventy percent of those defendants remanded for a new crime were charged with the same or a similar crime the second time.
- A disproportionate percentage of defendants originally charged with a property crime were remanded and charged with committing a new crime. Disproportionately fewer defendants originally charged with drug offenses and violent crimes were remanded to custody and charged with new offenses.
- A disproportionate percentage of defendants originally charged with a property crime were remanded and charged with committing the same or a similar crime the second time.
- Blacks account for proportionately more remands for new crimes than Whites or Native Alaskans.
- A disproportionate percentage of defendants with prior felony records were remanded and charged with a new crime; however, 85% of defendants with prior felony records never violated conditions of their bail.
- Sixty-five percent of those defendants remanded for a new crime were subsequently released a second time, and 73% of this subsequently released group were remanded again. Nineteen of 588 defendants account for all of the "repeat-recidivists" on bail.
- A disproportionately high percentage of defendants released OR are remanded for failing to appear at a stage of the criminal proceeding.

3. Defendants Remaining in Custody Throughout Process

- A disproportionate percentage of Blacks and Native Alaskans did not secure pretrial release.
- A disproportionate percentage of defendants charged with violent crimes did not secure release; and a disproportionate percentage of defendants charged with drug offenses did secure release.
- Forty-seven percent of those defendants remaining in custody throughout the processing of their case either had no prior criminal record (30%), or only a prior misdemeanor record (17%).
- One third of defendants remaining in custody have bail set at \$10,000 or more, and 16% of defendants remaining in custody have bail set at \$1,000 or less.

- Sixty percent of defendants remaining in custody never received a bail hearing after bail was originally set at or before arraignment.
- Eighty-five percent of defendants remaining in custody qualified for public defender services, and 6% of defendants remaining in custody had private counsel.
- Twenty-one percent of defendants remaining in custody ultimately obtained dismissals as "insufficient for prosecution."
- Sixty-eight percent of defendants remaining in custody ultimately were convicted, compared with a 67% conviction rate for all defendants during 1973.

The reader should be cautioned not to extrapolate and draw conclusions beyond the range of the information and analysis of this Report until further information is available from successive computer runs of the data. For example, while it is interesting to note that Blacks account for proportionately more remands for new crimes, a much more detailed inquiry must be pursued to determine whether this observation is a function of some other variable such as judges, defense counsel, types of crime, etc. The primary functions of the data presented here are to dispell rumors and false impressions concerning the nature and incidence of recidivism by persons on bail, and to provide the necessary overview to enable a more detailed focus on particularly interesting facets of the bail process in future studies.

SECTION I

DESCRIPTION OF THE BAIL PROCESS IN ALASKA

The question of bail arises when a person accused of criminal activity is arrested and taken into custody. In Anchorage during 1973, the police issued a summons in only 5% of the felony cases filed. The remaining 95% of those defendants accused of felony offenses were arrested, taken into custody, and introduced into the bail process.

At the time of arrest, one of two bail situations may exist. If the person is arrested pursuant to a grand jury indictment, the prosecutor sets forth in the indictment an amount of bail he deems appropriate from the limited information available at the time. A judge signs the warrant and almost invariably¹ endorses the amount of bail. If the arrested person can meet this bail amount, he is released from custody immediately after the booking at the police station. However, securing release at this time occurs very infrequently because the amount² of bail set on the indictment usually is quite high.

In the second situation, the defendant is arrested without a warrant at or near the scene of a crime, or within a short time period from the alleged commission of a crime. There is no grand jury indictment yet. The police immediately contact the "on duty" judge and describe the arrest and charge. The judge determines an amount and possibly other conditions for³ bail over the telephone.

For the great majority of defendants who do not secure release at the jail at the time of arrest, the first appearance

before a judge is also the first opportunity for a modification and a more individualized determination of bail. This "first appearance" is required by law to occur within 24 hours of arrest, for purposes of informing the defendant of the nature of the complaint against him, and informing him of his constitutional rights.⁴ Unless an indictment already has issued by the time of this first appearance, the judge must find that there is "probable cause" to hold the defendant or alternatively must⁵ order a preliminary examination to make the same determination.

This "first appearance" also serves as a time for a bail hearing since the bail statutes require an in-court judicial determination of bail within 24 hours of arrest.⁶ However, this hearing seldom provides a significantly more considered determination of bail than the determination that took place at arrest. During the morning before the routine 1:30 p.m. arraignments in district court, employees and volunteers of the Court System's Bail Project interview persons arrested and attempt to provide some information to the judge for purposes of determining bail, but the time is short and usually only limited unsubstantiated biographical information is obtained.⁷ The defendant generally does not have an attorney until the time of the hearing; the prosecutor most often is seeing the case file for the first time at the hearing; and hence no attorney has prepared argument on the question of bail.

The Alaska bail statute requires that the defendant be released following the first appearance, either on his own recognizance or upon the execution of an unsecured bail bond,

unless the judge determines that neither will reasonably assure the defendant's subsequent appearance, or that either will pose a danger to other persons and the community.⁸ In these latter situations, the law requires that the defendant be released subject to conditions that will assure his appearance or the safety of the community.⁹

The statute suggests that "conditions" for release may include release to a responsible custodian, restrictions on travel or associations, limitations to daytime release, requirements of posting 10% of a bail bond with the court (in place of an unsecured bond), or requirements of a full cash or other property bail bond.¹⁰

In determining appropriate conditions, the law suggests that the judge take into account the nature and circumstances of the offense charged, the weight of the evidence against the person, the person's family ties, the person's employment, the person's financial resources, the person's character and mental condition, the length of residency in the community, the person's record of prior convictions, and the person's record of appearances at court proceedings and history of flight to avoid prosecution.¹¹

Most often, however, the necessary information and preparation for making such a reasoned determination is not available by the first appearance, within 24 hours after arrest. In 1974 the Legislature enacted a statute allowing the prosecutor, upon request, to delay the bail hearing an extra 48 hours in felony cases, pending the gathering of information demonstrating the need for conditions.¹² This law was not in effect

during the 1973 bails studied for this Report, and interviews indicate that the postponement is used quite often by prosecutors. However, there is seldom any concerted effort to obtain further information about the defendant during the intervening 48 hours, except that the police report is almost always available at the later hearing.

By the time of the first court appearance, prosecutors usually have obtained at least a minimum of information concerning any prior criminal record of the defendant through a national crime reporting center. This information will usually include previous records of failure to appear.

If the defendant has been willing to be interviewed by the bail investigators from the Court System's Pretrial Services Agency, the judge also may be supplied with a sheet of bail information concerning other aspects of the defendant's personal history and circumstances. During 1973, Alaska Pretrial Services interviewed only 56% of the felony defendants in Anchorage. For 1974, the figure approaches 95%, according to estimates given by the director of Pretrial Services.

The vast majority of defendants in Anchorage have no attorney until their appearance at this first hearing, when financial need is determined and either a public defender is appointed or the defendant is urged to find private counsel. Hence, most defendants do not have an attorney to provide evidence and make argument on their behalf at this stage of the bail process. The public defender may begin representing the defendant immediately upon appointment during this initial

appearance, but he usually knows little or nothing about the case that would help in an individualized bail determination. Sometimes, however, after a hasty conference with his client, the newly appointed attorney will present to the judge a few factors relevant to the bail determination, or may urge the advisability of an Own Recognizance (OR) release.¹³

Evidence offered in court on the matter of bail need not conform to the trial rules of evidence.¹⁴ A judge must determine himself what evidence he will hear on the question, and how he will assess the credibility of the evidence. Occasionally there will be a bail witness who presents himself in court to aid in securing the defendant's release, such as a relative, friend or employer who has heard of the defendant's arrest. While such witnesses may be placed under oath by the court, examined and cross-examined, such a formal procedure usually does not take place at this first appearance.

Frequently judges do not formulate individualized release conditions at the first appearance but simply allow the bail previously set at arrest to remain as "the conditions" for release. With the limited additional information available a mere 24 hours later, an OR release or unsecured bond in these cases may be considered risky or unadvisable by the judge, and it becomes far easier to simply let the original bail (usually money bail)¹⁵ remain in force pending a fuller hearing. Exact statistics on the frequency of bail changes at the initial appearance are not available in this Report because most first appearances are in district court and the data base for this study is limited to superior court files. (See Section IIB,

p. 19 below.)

The question of what constitutes a "bail hearing" is quite difficult to discern in many instances. Alaska law implies that defendants be given a hearing on the matter of bail, but the law does not directly require it, nor does it say precisely when this hearing should take place. The statutes direct that a person remaining in custody shall, upon application, have the conditions reviewed, yet the statutes do not specify that prior to determining bail originally a hearing must be had, only that the defendant must be "admitted to bail."¹⁶ As a matter of practice, discussions of the defendant's bail might arise at various points throughout the criminal proceeding. Sometimes the discussions at the first appearance or arraignment are sufficient to constitute a "hearing," but other times the defendant's attorney will specifically request a continuance on the bail question or may leave the courtroom without having raised any significant discussion of bail, intending to request a hearing as soon as he has researched the defendant's circumstances.¹⁷

A bail "review" exists as a matter of right, upon application, for any defendant who remains in custody for 48 hours after his first in-court bail determination. (During 1973, before the statute was amended to allow the prosecutor 48 hours¹⁸ in certain circumstances, this right attached after 24 hours.) The law does not specify a timeframe for this review but implies that it should be scheduled as soon as possible. Preferably the judge who set the conditions is to be the one who reviews those conditions.¹⁹

If the conditions of bail are not amended following the review and the defendant remains in custody, the judge is required to set forth in writing his reasons for requiring the particular conditions or the particular amount of money bail.²⁰ No such written statement of reasons is required for the initial in-court bail determination.

The law imposes no specific standard for the review of bail; however, in most cases the judges are reviewing their own prior ruling and use a standard of "new evidence."²¹ When a superior court judge is reviewing the bail conditions set by a district court judge, the standard is considerably less predictable. Sometimes the district court judge's determination is given great deference, while other times the superior court judge rehears the evidence and imposes new and different conditions.²²

After the initial review of bail, and if the defendant remains in custody, there are two paths of further review that can be followed. The defendant may ask the same court for as many additional reviews as he or his counsel considers meritorious in the light of new information. The law provides that these reviews must be heard "promptly."²³ In Anchorage, an informal superior court rule requires that notice be given to the court and to the district attorney by 11:00 a.m. the day before such a review occurs.²⁴

If a judge declines to amend conditions to allow release following the initial review or one of the subsequent reviews, the defendant may appeal that decision to the higher

court--the superior court for most misdemeanors and the supreme
court for felonies.²⁵ At this stage, the law does set forth
standards of review for the appellate court. If the higher
court finds that the lower court judge "abused his discretion"--
that he had no basis in reason for his actions--the higher court
may modify, vacate, set aside, reverse, or remand the lower
court's bail order, and may even order the defendant released.²⁶

Alaska law provides for a defendant's immediate arrest
upon a warrant issuing for either a violation of his bail release
conditions or a failure to appear in court.²⁷ There is no
formal method by which violations are brought to the attention
of the judge so that a warrant may issue, and there is no offi-
cial supervisory agency overseeing pretrial releases as the pro-
bation office oversees defendants released after conviction.
Sometimes a custodian reports the violation of a defendant, or
evidence is brought to the attention of the prosecutor and he
seeks a warrant to re-arrest the defendant.²⁸

Of course a failure to appear at any particular stage
of the criminal proceeding will be noticed immediately. For
most felonies, the judge will issue a warrant immediately, unless
someone in the courtroom can explain satisfactorily the absence
of the defendant.²⁹

The court is not prevented from readmitting a defendant
to bail after he is rearrested, found to have violated a condi-
tion of the original bail, or fails to appear at a court proceed-
ing. Indeed, the defendant's right to bail and his readmission
to bail is conditioned on the same determinations as the original
bail, except that the facts underlying the revocation become

new evidence in the determination of the defendant's dangerousness or the possibility of his failure to appear in court at a later time.

A failure to appear is a chargeable offense itself, if the failure is found at a hearing to be willful.³⁰ Only one case was discovered in Anchorage during 1973 where a defendant actually was arraigned on a criminal charge of failing to appear. That charge was eventually dismissed in the context of a plea bargain related to other charges against the defendant. Most prosecutors feel that their limited time to work on prosecutions is better spent pursuing the basic criminal offense for which the defendant is charged than pursuing collateral charges such as failure to appear, which require the same level of energy and time to obtain a conviction.³¹ Also, prosecutors and judges alike believe that most failures are not "willful."³²

In addition to releases on bail pending trial of an accused defendant, the Alaska Bail Act provides a slightly more limited right to bail pending sentencing or appeal.³³ A person is to be admitted to bail unless release will not assure his appearance or the safety of the community, in which case he may be remanded to custody. A new law, however, now provides that defendants convicted of first degree murder, armed robbery, kidnapping or rape are "non-bailable."³⁴

Of course, at the post-conviction stage of a criminal proceeding the conditions for release on bail are affected considerably by the fact of the conviction, since one of the criteria always to be considered in setting bail is "the weight of

the evidence against the accused." ³⁵ Conditions of bail must continue to ensure the appearance of the convicted defendant and to prevent danger to the community. Hence bail conditions at this point in the proceeding are never more lenient. The defendant almost always remains in custody if he was in custody prior to conviction; yet only a few defendants who were bailed ³⁶ are remanded to custody at this time.

If a defendant files a motion in arrest of judgment, he is to be continued on bail if there is reasonable ground to believe from the evidence that he is guilty of the crime or of another crime. ³⁷ If a prisoner wins a habeas corpus discharge that the state chooses to appeal, court rules require that the prisoner be bailed either with a surety or on his person recognition, ³⁸ whichever the judge considers sufficient.

Persons arrested and awaiting probation or parole revocation hearings are in peculiar positions for purposes of bail. The Alaska Bail Act does not provide for bail under either of these circumstances, and the probation statutes also fail to make any provisions for bail. In a recent case, however, the Alaska Supreme Court has suggested that bail should be withheld ³⁹ pending revocation proceedings only in unusual cases. It is generally the practice of judges to apply standards similar to those applicable to pretrial bail. ⁴⁰ While the proceedings of the parole board are governed by administrative rules of that board, the actual practice pending parole revocation hearings is to bail defendants according to the recommendations of the parole officer. ⁴¹

SECTION II:

STATISTICAL ANALYSIS OF BAIL IN ANCHORAGE, 1973

A. DESCRIPTION OF THE DATA BASES
AND GENERAL DEMOGRAPHIC INFORMATION

Sources of the bail data, procedures followed for data collection, and definitions adopted for statistical purposes, are all discussed in detail in Appendix I. The reader may wish to consult at least Section III of Appendix I (pp. I-5 through I-9) before proceeding into the data analysis. The data base was restricted to Anchorage felony offenses charged against defendants during 1973. Two sets of statistics were developed to present information according to "cases" and according to "defendants." Seven hundred and seventy superior court case files were reduced to a data base of 720 "cases" after allowance was made for new case files that represented continuations of prior court events (e.g., reindictments for the same or a related offense, and informations filed in a plea bargain for a lesser included offense).

The data base of 720 cases represents 588 individual defendants who in turn compose the second data base developed in this study. Bail profiles were designed for each of these 588 defendants. Table I provides a breakdown of the defendant population by sex and race.

TABLE I

	<u>SEX AND RACE OF ANCHORAGE DEFENDANTS, 1973</u>				
	Caucasian	Native Alaskan	Black	Other and Unknown	TOTALS
Male	362(69%)	76(14%)	26(5%)	62(12%)	526(100%)
Female	32(52%)	11(18%)	6(10%)	13(21%)	62(100%)

Further calculations from the information provided in Table I show that the 526 male defendants constitute 89% of the Anchorage defendant population, and the 62 female defendants constitute 11% of the Anchorage defendant population. This compares with a national average of female offenders of 15%.⁴² Nationally, Caucasians account for 69.8% of the offender population,⁴³ while in Anchorage they account for 67% (with some percentage less than 12% "unknown"). National comparisons with the non-Caucasian populations in Alaska are not meaningful, because Alaska has a disproportionately low percentage of Blacks.

Table II adds defendants' ages to the variables of sex and race.

TABLE II
AGE, RACE, AND SEX OF ANCHORAGE DEFENDANTS, 1973

AGE	Caucasian		Native Alaskan		Black		Other		Unknown		TOTAL	
	<u>M</u>	<u>F</u>	<u>M</u>	<u>F</u>	<u>M</u>	<u>F</u>	<u>M</u>	<u>F</u>	<u>M</u>	<u>F</u>	<u>M</u>	<u>F</u>
18-19	65	6	15	3	5	-	4	-	2	-	91	9
20-21	87	5	16	2	2	-	1	-	5	1	111	8
22-25	91	9	14	4	4	3	3	-	9	2	121	18
26-30	42	4	6	1	5	1	2	1	7	1	62	8
31-35	32	4	12	1	4	1	-	1	-	2	48	9
36-45	17	3	12	-	4	-	1	1	4	1	38	5
46-60	16	1	1	-	1	1	-	-	4	1	22	3
over 60	6	-	-	-	1	-	-	-	1	-	8	-
Unknown	<u>6</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>19</u>	<u>2</u>	<u>25</u>	<u>2</u>
	362	32	76	11	26	6	11	3	51	10	526	62
	394		87		32		14		61			

Sixty-one percent of the total defendant population in Anchorage were 25 years of age or younger. That age grouping (25 or younger) also accounted for 67% of the Caucasian male population, 63% of the Caucasian female population, 59% of the Native Alaskan male population, 82% of the Native Alaskan female population, 42% of the Black male population, and 50% of the Black female population.

Table III provides numerical and percentage distributions of crime categories within different racial groupings. (See Appendix II for a statistical definition of "crime categories.") Only 13% of the Native Alaskan defendants were charged with drug offenses, while 28% of Caucasians and 25% of Blacks were charged with drug offenses. Forty-seven percent of Native Alaskan defendants were charged with property crimes, while only 33% of Caucasian defendants and 22% of Black defendants were charged with property crimes. Thirty-eight percent of Black defendants and 37% of Native Alaskan defendants were charged with violent crimes, while 25% of Caucasian defendants were charged with violent crimes. A relatively high percentage of Caucasians were charged with check and fraud offenses.

Table IV is an attempt to present distributions of types of crimes by race. In order to compensate somewhat for the disparities in racial composition generally, the breakdown of the total Anchorage area population by race is provided for comparison. The statistics illustrate quite convincingly that minority races compose a disproportionately high percentage of defendants charged with felony offenses in Anchorage. Relative to other crime categories, Blacks constitute a lower percentage

of that population of defendants accused of property offenses; and Native Alaskans constitute a lower percentage of that population of defendants accused of check and fraud offenses.

Finally, Table V shows relationships between age and crime categories. Violent crime charges range over a broad age group, with the majority occurring within an age group of 20-35. Robbery charges appear much more concentrated in an age group of 18-25. Similarly, property offenses and drug offenses are charged most often against defendants in this age group of 18-25. Check and fraud offenses appear highly distributed over the entire adult population.

With general overview of the defendant population in Anchorage during the period studied, the following subsections present data relating to pretrial release rates and timeframes for pretrial release, rates of recidivism by persons released on bail and characteristics of recidivists, and percentages and characteristics of defendants remaining incarcerated throughout the criminal proceeding against them.

TABLE III
RACE AND CRIME CATEGORIES

Crime Category*	Caucasian		Native Alaskan		Black		Other		Unknown		Total Defendants
	No. of Defendants	Percentage									
Violent	100	25%	32	37%	12	38%	7	50%	21	34%	172
Property	130	33%	41	47%	7	22%	2	14%	9	15%	189
Check & Fraud	42	11%	3	3%	4	12%	1	8%	6	10%	56
Drugs	111	28%	11	13%	8	25%	2	14%	20	33%	152
Other	11	3%	-	-	1	3%	2	14%	5	8%	19
Sub Totals	394	100%	87	100%	32	100%	14	100%	61	100%	588

* See Appendix II for statistical definitions.

TABLE IV

CRIME CATEGORIES BY RACE AND

RACIAL DISTRIBUTION OF TOTAL POPULATION

Crime Categories	Caucasian		Native Alaskan		Black		Other and Unknown*	
	Number	Percentage	Number	Percentage	Number	Percentage	Number	Percentage
GAAB ** Population by Race	147,244	90.6%	6,176	3.8%	6,987	4.3%	2,011	1.3%
Violent	100	58%	32	19%	12	7%	28	16%
Property	130	69%	41	22%	7	3%	11	6%
Check & Fraud	42	75%	3	5%	4	7%	7	13%
Drugs	111	73%	11	7%	8	5%	22	15%
Other	11	58%	-	-	1	5%	7	37%

* See Table III above for breakdown of these two categories.

** Percents are from the 1970 census; these percentages have been applied by GAAB to the July 1, 1974, population estimate to arrive at the figures shown for each race. GAAB PLANNING DEPARTMENT.

TABLE V
AGE BY CRIME CATEGORY

Crime Category	18-19	20-21	22-25	26-29	30-35	36-45	46-60	Over 60	Unknown, Other	Total Number of Defendants
Violent	7 (5%)	26 (19%)	24 (18%)	23 (17%)	24 (18%)	13 (9%)	9 (7%)	4 (3%)	7 (5%)	137
Robbery	13 (37%)	5 (14%)	11 (31%)	3 (9%)	3 (9%)	-	-	-	-	35
Property	44 (23%)	48 (25%)	44 (23%)	15 (8%)	15 (8%)	12 (6%)	5 (3%)	-	4 (2%)	189
Check & Fraud	2 (4%)	8 (14%)	17 (30%)	12 (21%)	5 (9%)	4 (7%)	4 (7%)	2 (4%)	2 (4%)	56
Drugs	32 (21%)	31 (20%)	40 (26%)	14 (9%)	7 (5%)	13 (9%)	3 (2%)	2 (1%)	10 (7%)	152
Other	2 (11%)	1 (5%)	3 (16%)	1 (5%)	3 (16%)	1 (5%)	4 (21%)	- (-%)	4 (21%)	19
TOTAL	100	119	139	70	57	43	25	8	27	588

B. BAIL RELEASE

1. Bail Release Rates. As shown on Table VI, at least 78% of Anchorage felony cases during 1973 resulted in bail releases for the defendants. In another 9% of the cases, the pretrial custodial status of the defendant was indiscernible from the records available. If this 9% (65 cases) is eliminated from the data base, then the release rate is 85% for those felony cases where information concerning pretrial custody status was available.

Comparing this figure with release rates outside of Alaska is difficult because there are very few statistical studies available, and most of the available studies employ variables that are different and would distort any comparison. It can be noted, however, that one study indicates a "national average" release rate of 84% for 72 cities across the United States (without providing a breakdown by city);⁴⁴ and that another study of 20 cities chosen for long experience with one or another form of bail programs indicates that only approxi-⁴⁵mately 67% of defendants are released from pretrial custody. The "national average" deriving from 72 cities includes misdemeanor cases as well as felony cases in the calculation, and probably is a higher percentage release rate than would be reported for felonies only. Hence, the release rate of 85% for felony defendants in Anchorage is probably a higher-than-average release rate.

2. Timeframe for Setting of Bail and Types of Bail Release. As noted in Section I, the defendant is entitled to

TABLE VI

BAIL IN ANCHORAGE, 1973

(720 Cases)

<p>52% Released without Bail Hearings in Superior Court*</p>	<p>152 Cases</p>	<p>36 Cases</p>	<p>36 Cases</p>	<p>59 Cases</p>	<p>65 Cases</p>
<p>21% Released after One Bail Hearing in Superior Court</p>	<p>5% Not Released after Bail Hearing(s) in Superior Court</p>	<p>5% Released after More than One Bail Hearing in Superior Court</p>	<p>8% Remained in Custody from Arrest to Disposition with no Bail Hearings</p>	<p>9% Custodial Status Unknown**</p>	

* Most of these were released at, or before, Superior Court arraignment. A few were released after Superior Court arraignment, but without any hearings.

** Excluding "Custodial Status Unknown," 85% of cases obtained release; 15% of cases remained in custody.

have bail conditions set at the time of arrest. Interviews indicate that some bail usually is set at this time, but that relatively few defendants are able to obtain their release at this time. Exact data were unavailable for either the amounts of bail required or the number of defendants who obtained release at this time.

Also as noted in Section I, the defendant is entitled to an initial hearing by a judge within twenty-four hours of arrest, and bail is considered by the judge at this time. This hearing usually takes place in the district court, and hence exact data concerning amounts and releases were unavailable for this stage also. (Superior court files during 1973 did not always contain information concerning bail imposed by the district court at the initial hearing, and the separate filing system for each court during 1973 did not enable an economically feasible search and correlation of files. See Appendix I for further discussion.)

The first stage of the criminal proceeding at which this study can report reliable bail data is the arraignment in superior court. The statistically blind time period from arrest to superior court arraignment is presented for the reader's evaluation in Table VII.⁴⁶ (Only 540 of 720 cases contained such information, however.) The table shows that the defendant appeared in superior court for arraignment within five days from arrest in 235 cases, or 44% of the cases with information available. It also shows that the defendant appeared in superior court for arraignment within ten days from arrest in 377 cases,⁴⁷ or 70% of the cases with information available. Thus, the

following analysis begins after these periods of continuing incarceration have occurred.

Table VIII shows the last type of bail set prior to the superior court arraignment. Table IX shows the final type of bail set in each case, after all hearings in superior court. A comparison of the two tables shows the degree of change in bail conditions during superior court proceedings. The number and percentage of cases where the defendant is required to post a fully secured money bond decrease during the period of the superior court proceedings, and the number and percentage of OR types of bail increase during the same period. This "trend" of bail reductions over time indicates that some bails are set higher than necessary at bail hearings early in the proceedings, and that judges obtain more information at later dates which permit relaxing bail conditions.

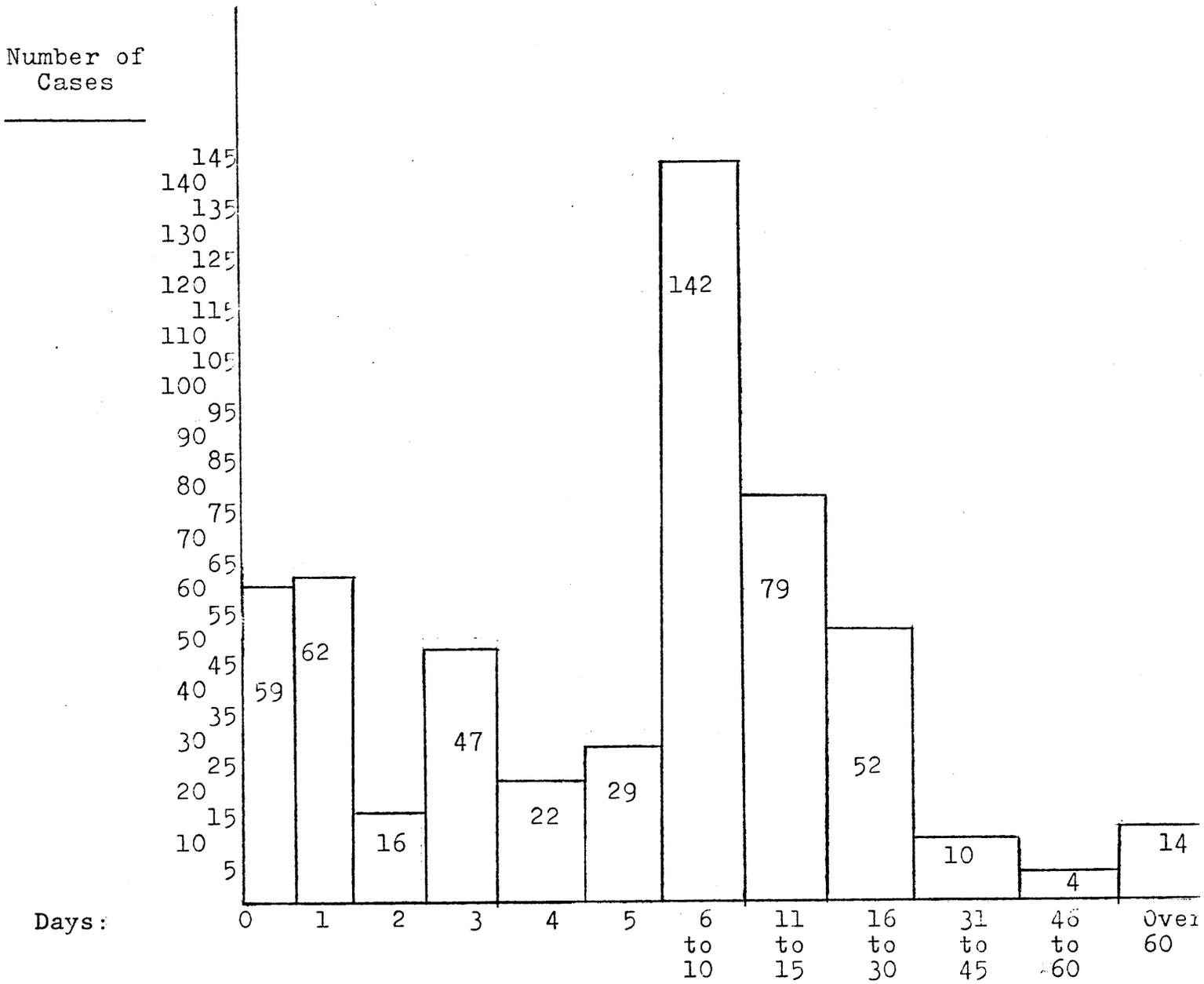
With this general picture of the trend of changes in bail conditions at the superior court level, it is interesting then to focus closer on the bail "hearings" that resulted in a change of conditions. This analysis is frustrated somewhat by the fact noted in Section I that oftentimes bail "hearings" will be relatively informal occasions for discussing the defendants' bail conditions during a formal hearing called for a different purpose. The informal discussions and deliberations were captured in the data base wherever possible.

There were 224 initial hearings in superior court on bail for Anchorage defendants who did not secure release on the bail set prior to superior court arraignment. As

TABLE VII

TIME BETWEEN ARREST AND SUPERIOR COURT ARRAIGNMENT

(540 Cases)*

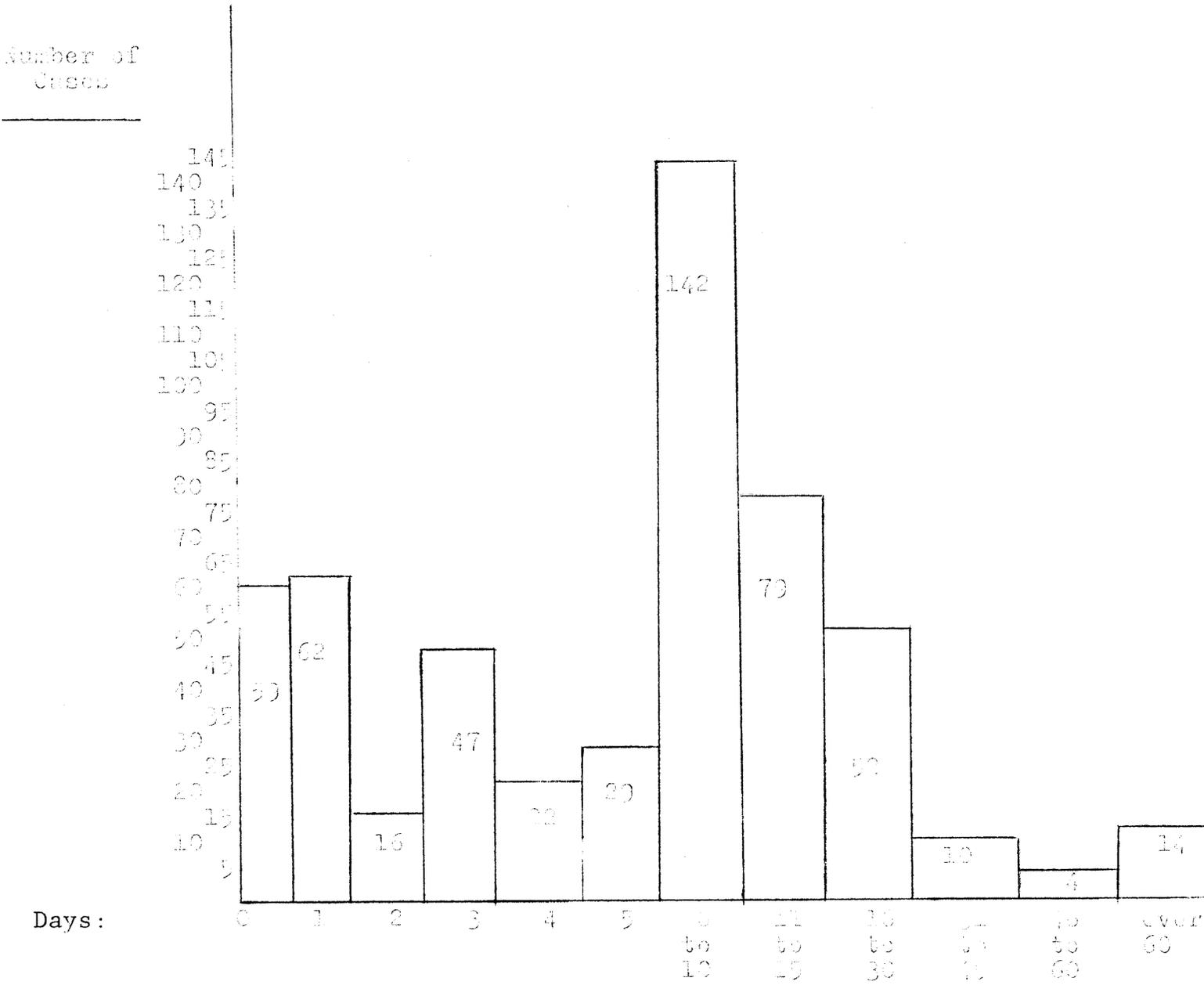


*Arrest Date Unknown for 180 Cases

TABLE VII

TIME BETWEEN ARREST AND SUPERIOR COURT ARRAIGNMENT

(540 Cases)*



*Arrest Date Unknown for 100 Cases

TABLE XIII

BAIL TYPES SET PRIOR TO
SUPERIOR COURT ARRAIGNMENT

	This type of release	% of cases in which this type set
Summons	59	8%
OR	85	12%
		20%
Unsecured Bond	45	6%
10% Cash Bond	14	2%
		8%
Secured Bond - Cash	323	45%
Secured Bond - Property	56	8%
		53%
Money-Type Not Shown	89	12%
Bond Continued	16	2%
Other	33	5%
	720	100%

TABLE IX

FINAL BAIL SET IN EACH CASE

	This Type of release	% of cases in which this type set
Summons	42	6%
OR	170	24%
		30%
Unsecured Bond	60	8%
10% Cash Bond	37	5%
		13%
Secured Bond - Cash	224	31%
Secured Bond - Property	85	12%
		43%
Money-Type Not Shown	48	7%
Bond Continued	32	4%
Other	22	3%
	720	100%

TABLE X

TIME BETWEEN SUPERIOR COURT ARRAIGNMENT AND FIRST HEARING

224 Cases Having First Hearing

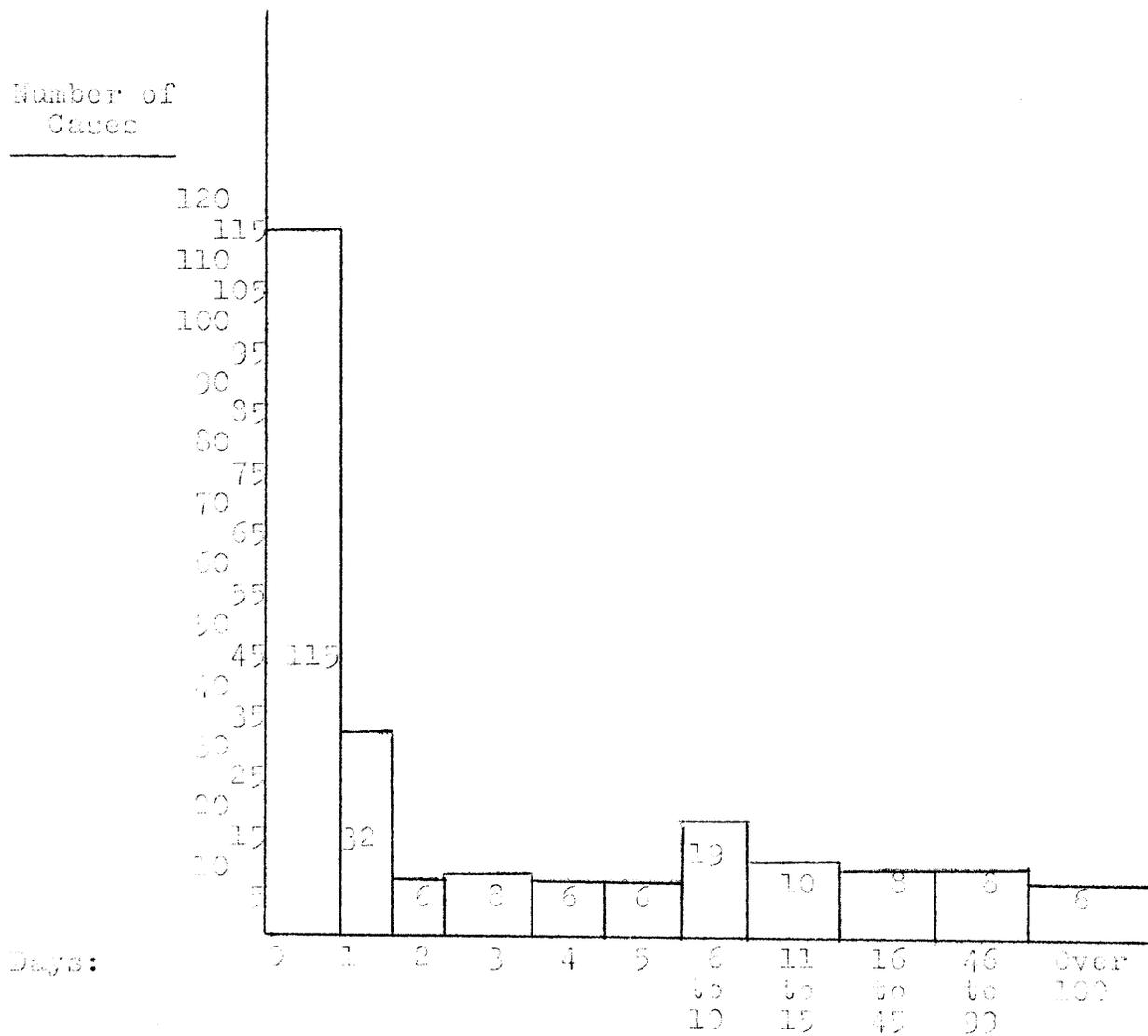


TABLE X

TIME BETWEEN SUPERIOR COURT ARRAIGNMENT AND FIRST HEARING

224 Cases Having First Hearing

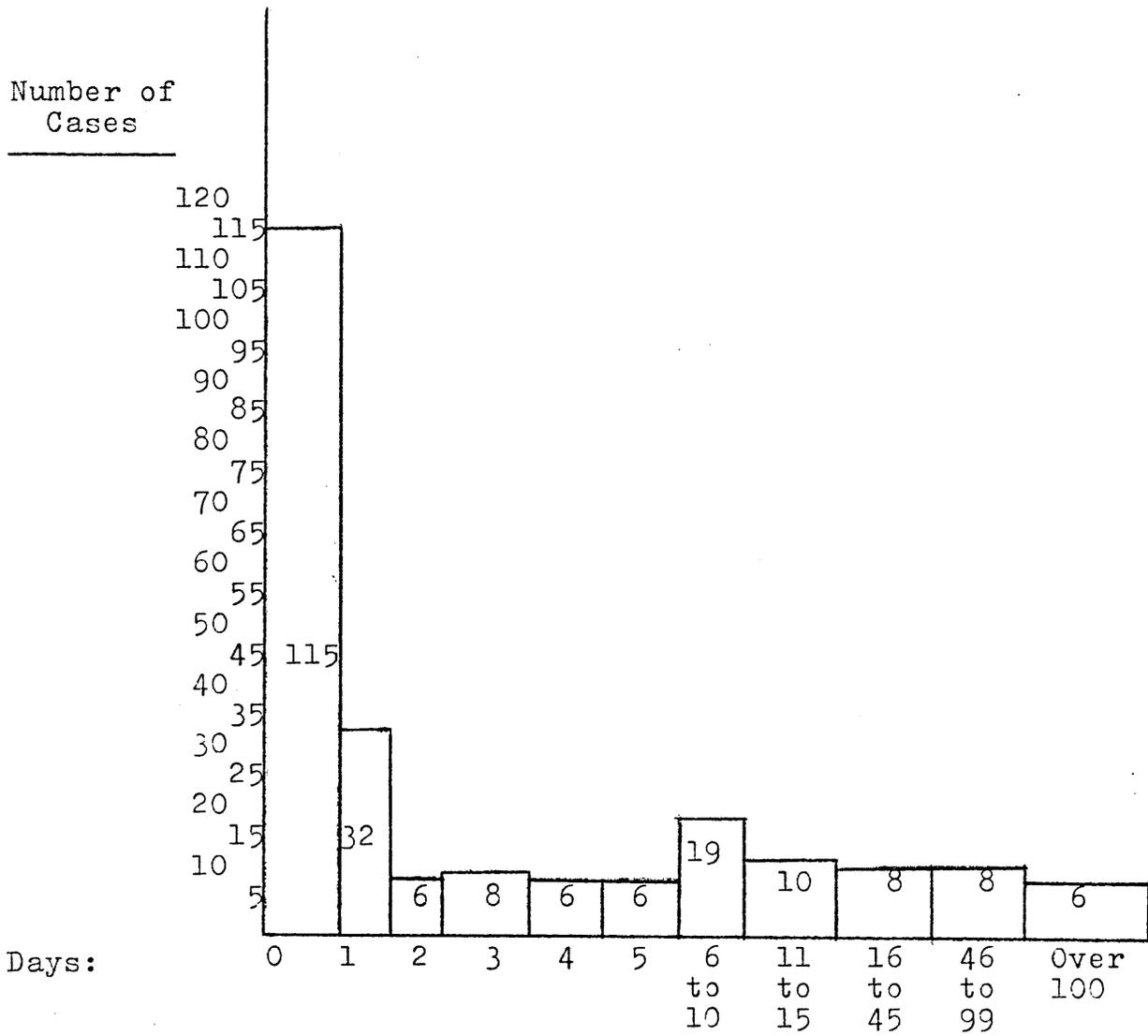


Table X indicates, over half (51%) of these initial superior court hearings occurred on the day of the superior court arraignment. Another 14% occurred the following day. During the ensuing four days, still another 12% of the initial hearings occurred. By a point in time ten days after the superior court arraignment, 85% of the initial bail hearings in superior court had occurred.

Sixty-eight percent of the 224 initial superior court bail hearings resulted in defendants obtaining their releases from custody. Table XI shows the nature of the bail changes by categories of those who consequently did obtain their freedom and those who remained incarcerated.

TABLE XI
NATURE OF BAIL CHANGES AT
 INITIAL SUPERIOR COURT HEARINGS

	<u>No Change</u>	<u>Money to OR</u>	<u>Money Decrease</u>	<u>Money Increase</u>	<u>OR to Money</u>	<u>1st Bail Unknown</u>	<u>Totals</u>
Released after First Hearing	12(5%)	58(26%)	62(28%)	7(3%)	11(5%)	2(1%)	152(68%)
Not Released	37(17%)	-	16(7%)	4(2%)	6(3%)	9(4%)	72(32%)
Totals	49(22%)	58(26%)	78(35%)	11(5%)	17(8%)	11(5%)	224(100%)

Even without changes in their bail conditions during this first superior court hearing, 5% of the defendants in these cases satisfied the pre-existing conditions to gain their release. Although bail conditions were made more stringent in 28 of the cases heard at this point of the proceeding, 18 of these defendants (64% of the hearing group) obtained their release. Of the 136 cases where bail was reduced, fully 120 cases (88%)

resulted in releases.

Of the 72 cases where the defendants did not obtain their freedom following the first bail hearing in superior court, 52 cases (72%) appeared again for a rehearing on the bail status. Table XII describes the outcome of this second hearing for these cases.

TABLE XII
NATURE OF BAIL CHANGES AT
SECOND SUPERIOR COURT HEARINGS

	<u>No Change</u>	<u>Money to OR</u>	<u>Money Decrease</u>	<u>Money Increase</u>	<u>TOTALS</u>
Released after Second Hearing	2(4%)	12(23%)	15(29%)	0	29(56%)
Not Released	10(19%)	0	12(23%)	1(2%)	23(44%)
TOTALS	12(23%)	12(23%)	27(52%)	1(2%)	52(100%)

Over half (56%) of the cases having a second hearing resulted in release for the defendants. Nearly one-quarter (23%) of these second hearings resulted in the defendants being released OR. The same percentage resulted in no change in the bail conditions. Fifty-six percent of those cases (15 of 27) where a money decrease was obtained resulted in a release for the defendants.

Of the 23 cases where the defendants did not obtain their release following the second bail hearing, 13 cases (57%) were returned for still a third bail hearing in superior court. The results of this third bail hearing are contained in Table XIII.

TABLE XIII
BAIL REVIEW AT THIRD HEARING

	<u>No Change</u>	<u>Money to OR</u>	<u>Money Decrease</u>	<u>TOTALS</u>
Released after 3 Hearings	-	2	3	5 (38%)
Not Released	<u>2</u>	<u>-</u>	<u>6</u>	<u>8 (62%)</u>
	2	2	9	13 (100%)

Of the 8 cases above where the defendant remained in custody even after the third hearing, 5 cases had further hearings, and 2 of these cases finally resulted in release of the defendants. In one case, there were 6 bail hearings and yet the defendant remained incarcerated throughout the proceedings.

In summary, of the 224 defendants who sought bail release in a superior court hearing, only 38 defendants or 17% never did obtain that release.

3. Release Status by Crime Types. For purposes of analyzing timeframes and events occurring at particular points in the court process, the data base of "cases" as defined in Appendix I is the most accurate way of presenting the statistics. But "cases" are distinguishable from "defendants" as a data base, especially because a single defendant often accounts for many cases, and "defendants" provide the more meaningful data base for discussing the personalized process of setting and reviewing bail for individuals accused of particular crimes.

Of the 588 defendants accused of felonies during 1973 in Anchorage, the custodial status of 29 defendants (5%) was

never discovered from the files. Of the remaining 559 defendants, 478 or 86% were released on bail, while 81 or 14% were never released from custody.

Table XIV shows the breakdown of defendants released and defendants remaining in custody, according to crime categories. Appendix II describes in detail how this use of "crime categories" for defendants must be qualified. It is sufficient at this point to note the following: (1) where the defendant was charged with both a felony and a misdemeanor, only the felony was recorded for "crime category," (2) where a defendant was charged with two or more felonies in the same crime category, the charges appear in the statistics as a single charge, (3) where a defendant was charged with two or more felonies in different crime categories, the more "serious" offense was used to categorize him, and (4) where a defendant appeared in court twice or more during the year for different offenses committed at different times, only the first offense was recorded. The above decisions were made primarily because it was necessary to maintain a consistent definition and data base of "defendants" in order to make bail information by "crime category" at all capable of comparative analysis with other variables. Hence, these figures do not represent total numbers of crimes, but total numbers of felony defendants in the system in 1973.

Also, in making the division among crime "types," the crime of robbery was separated both from "violent" crimes and from "property" crimes. An element of each is found in the crime of robbery, and the reader is left to choose which element is most important for his or her purposes.

TABLE XIV
DEFENDANT RELEASE STATUS
BY CRIME TYPES

Crime Category	Remained in Custody	Released	TOTAL
Violent	24(18%)	110(82%)	134(100%)
Robbery	12(36%)	21(64%)	33(100%)
Property	28(15%)	159(85%)	187(100%)
Check & Fraud	7(13%)	46(87%)	53(100%)
Drug	8(6%)	129(94%)	137(100%)
Other	<u>2</u> (13%)	<u>13</u> (87%)	<u>15</u> (100%)
	81(14%)	478(86%)	559(100%)

The highest percentage of defendants released by crime category occurred in the category of drug offenses, and the lowest percentage of defendants obtaining release by crime category occurred in the category of robbery. However, judgment regarding the statistical significance of this information must be reserved until Table XVI has been displayed and discussed below at p. 31.

Tables XV and XVI focus on that population of 478 defendants in Anchorage who obtained their release from custody. Table XV shows the types of bail these defendants satisfied, and Table XVI provides the same information with the additional variable of the crime category for which these released defendants were indicted. Table XVII then is a detailed accounting of all released defendants by crime types and with more specific categories of release conditions.

TABLE XV
DEFENDANTS RELEASED BY TYPES
OF RELEASE

TYPE OF RELEASE	DEFENDANTS	
	(#)	(%)
OR	165	34.5%
Unsecured Bond or 10% Cash Bond to Court	76	16%
Fully Secured Money Bonds	225	47%
Other (unknown "type" but defendant released)	12	2.5%

TABLE XVI
TYPES OF RELEASE BY CRIME CATEGORIES

Crime Categories	Type of Release		
	OR	Unsecured or 10%	Fully Secured
Violent	50 (47%)	9 (8%)	48 (45%)
Robbery	10 (47%)	2 (10%)	9 (43%)
Property	55 (36%)	23 (15%)	76 (49%)
Drug	22 (17%)	37 (29%)	67 (54%)
Check & Fraud	23 (51%)	2 (4%)	20 (45%)
Other	5 (38%)	3 (24%)	5 (38%)

TABLE XVII

DETAILED TYPES OF RELEASE
BY CRIME CATEGORIES

<u>Type of Crime on Indictment</u>	<u>Defendants Released OR</u>				
	<u>Summons</u>	<u>OR, No Conditions</u>	<u>OR, Custody to a "Person"</u>	<u>OR, All Other Types</u>	
Violent	9	19	14	8	= 50 (30%)
Robbery	2	3	4	1	= 10 (6%)
Property	7	40	6	2	= 55 (33%)
Check and Fraud	8	11	3	1	= 23 (14%)
Drugs	2	13	3	4	= 22 (13%)
Other	<u>3</u>	<u>2</u>	<u>--</u>	<u>-</u>	= <u>5</u> (3%)
Total, Released OR:	31 (19%)	88 (53%)	30 (18%)	16 (10%)	165

[continued]

TABLE XVII - Continued

DETAILED TYPES OF RELEASE BY CRIME CATEGORIES

Defendants Released on Unsecured Bond or 10% Cash Paid to the Court										
	\$500 or Less	\$1000 or Less	\$2000 or Less	\$3000 or Less	\$5000 or Less	\$10,000 or Less	\$25,000 or Less	\$50,000 or Less		
Unsecured	-	2	2	-	-	-	-	-	=	4 5%
Violent	-	-	-	-	-	-	-	-	=	0
Robbery	4	2	3	4	1	-	1	-	=	15 19%
Property	-	1	1	-	-	-	-	-	=	2 3%
Check and Fraud	-	11	3	5	-	3	-	2	=	24 32%
Drugs	-	-	-	2	-	-	-	-	=	2 3%
Other	-	-	-	-	-	-	-	-	=	-
Subtotal	4	16	9	11	1	3	1	2	=	47 (62%)
10% Cash Paid to the Court										
Violent	-	3	-	-	2	-	-	-	=	5 6%
Robbery	1	-	-	-	1	-	-	-	=	2 3%
Property	3	3	-	-	-	1	1	-	=	8 11%
Check and Fraud	-	-	-	-	-	-	-	-	=	0
Drugs	1	3	1	3	1	3	1	-	=	13 17%
Other	-	1	-	-	-	-	-	-	=	1 1%
Subtotal	5	10	1	3	4	4	2	-	=	29 (38%)
Total, Both Types:	9	26	10	14	5	7	3	2	=	76 100%

TABLE XVII - Continued
 DETAILED TYPES OF RELEASE BY CRIME CATEGORIES

Defendants released on Money Bail										
Secured Cash Bond	\$500 or Less	\$1000 or Less	\$2000 or Less	\$3000 or Less	\$5000 or Less	\$10,000 or Less	\$25,000 or Less			
Violent Robbery	5	8	2	6	2	1	-	=	24	20%
Property	-	2	1	-	-	-	1	=	4	3%
Check and Fraud	8	18	6	7	2	-	-	=	41	35%
Drugs	2	4	2	1	-	1	-	=	10	8%
Other	7	5	5	11	7	1	-	=	36	31%
	-	1	1	1	-	-	-	=	3	3%
Subtotal	22 (19%)	38 (32%)	17 (14%)	26 (22%)	11 (9%)	3 (3%)	1 (1%)	=	118	
Secured Property Bond										
Violent Robbery	2	2	5	1	2	-	-	=	12	19%
Property	-	-	-	-	1	-	-	=	1	2%
Check and Fraud	5	4	5	3	2	2	-	=	21	34%
Drugs	1	1	1	-	1	-	-	=	4	6%
Other	2	5	2	6	5	2	1	=	23	37%
	1	-	-	-	-	-	-	=	1	2%
Subtotal	11 (18%)	12 (19%)	13 (21%)	10 (16%)	11 (18%)	4 (6%)	1 (2%)	=	62	
All Other Types of Money Bond										
Violent Robbery	4	2	1	3	1	1	-	=	12	27%
Property	-	2	-	-	-	1	1	=	4	9%
Check and Fraud	6	2	4	-	2	-	-	=	14	31%
Drugs	2	1	1	-	2	-	-	=	6	13%
Other	1	1	4	1	1	-	-	=	8	18%
	-	-	-	-	1	-	-	=	1	2%
Subtotal	13 (29%)	8 (18%)	10 (22%)	4 (9%)	7 (16%)	2 (4%)	1 (2%)	=	45	
Total, All Types of Money Bond	46 (20%)	58 (26%)	40 (18%)	40 (18%)	29 (13%)	9 (4%)	3 (1%)	=	225	

These tables are the bases for innumerable exercises in statistical analysis. Only the highlights are discussed here. A higher percentage of released defendants are required to post money bails than are released OR; however, when OR releases are considered together with unsecured bonds and 10% bonds, the defendant population released from custody is evenly distributed between this latter group and that group which posted fully secured money bonds. The distribution of amounts of money bails is discussed in greater detail at pp. 36-37 below.

The largest percentage of defendants by crime type that obtained OR release was in the category of check crimes and frauds. However, the categories of violent crimes and robbery are only a few percentage points less for OR releases. Again, the interpretation shifts slightly when OR, unsecured and 10% bonds are grouped together. Fully 57% of those released defendants indicted for robbery obtained bail conditions other than fully secured money bonds; and 55% of the released defendants indicted for violent crimes and check-fraud offenses obtained the same bail conditions of OR, unsecured bonds, or 10% bonds.

Conversely, 54% of the released defendants indicted for drug offenses were required to post fully secured money bonds, and a noticeably low percentage of defendants in this crime category obtained OR releases (17%). Released defendants indicted for property offenses constitute the next ranking for most stringent conditions for bail. Only 36% of these released defendants obtained OR releases, but 51% of these released defendants obtained bail conditions in the combined group of more lenient bails (OR, unsecured bonds and 10% bonds).

The crime category designated "Other" does not lend itself to statistical interpretation and analysis because the crime types included in this category are quite diverse, and because the total number of defendants is so low that generalizations would be tenuous in any event. The category is included in the table only for purposes of statistical accountability.

As noted above, Tables XIV and XVI should be considered together. While a relatively high percentage of released defendants charged with robbery obtained relatively "lenient" release conditions, a relatively low percentage of the total defendant population charged with robbery were so fortunate as to be included in that category of "released" defendants. While a relatively high percentage of released defendants charged with drug offenses obtained relatively "stringent" release conditions, a relatively high percentage of the total defendant population charged with drug offenses did obtain release pending trial.

Hence, looking at the entire offender population indicted for robbery, the apparent "leniency" of bail conditions disappears. Only 39% (12 of 33) defendants in this population obtained the more lenient release conditions, and 61% obtained the more stringent requirement of a fully posted money bail. Less than half (9 of 21) of these latter defendants were able to post the fully secured bond and obtain their release.

Moreover, looking at the entire offender population indicted for drug offenses, the apparent "stringency" of bail conditions disappears. Forty percent (59 of 134) of the defendants in this population obtained the more lenient release conditions, and 60% were required to meet the more stringent

conditions of a fully secured money bond--almost exactly the same distribution of conditions as found above for the defendant population indicted for robbery.

The difference between the two groups of defendants (robbery and drug indictments) lies in the ability of the individuals to meet the conditions of a fully secured money bond. Thirty-six percent of the defendant population charged with robbery were apparently unable to "make bail" and hence remained incarcerated pending trial (12 of 33); while only 6% of the defendant population charged with drug offenses were apparently unable to meet the bail requirements (8 of 134).

Tables XVIII through XXIII provide still another variation on bail releases by crime categories. These tables display information by dollar-amount categories and according to whether release was obtained, by crime category. (The dollar figure represents the final bail set for each defendant.) Much of what has been observed from other tables above is apparent again in these tables: a relatively high percentage of defendants accused of robbery remain incarcerated; a relatively high percentage of defendants accused of drug offenses obtain their release pending trial despite the fact that persons accused of drug offenses generally are required to post relatively high bails; a relatively high percentage of defendants accused of check and fraud offenses obtain OR releases; and a relatively high percentage of defendants accused of drug offenses are permitted unsecured money bails.

Table XXIV below extrapolates from the preceding tables median dollar-amounts of bail by crime types.

TABLE XVIII
DETAILED TYPES OF BAIL FOR VIOLENT CRIMES

<u>Amount</u>	<u>Released, Bond Unsecured</u>	<u>Released, Bond Secured</u>	<u>Remained in Custody</u>	<u>Other</u>	<u>Total, All Columns</u>
\$100-500	-	12	1		
\$501-1000	4	13	1		
\$1001-2000	3	7	1		
\$2001-3000	1	9	1		
\$3001-5000	-	5	3		
\$5001-10000	-	1	4		
\$10001-20000	-	-	2		
\$20001-50000	-	-	6		
\$50001-100000	<u>1</u>	<u>-</u>	<u>1</u>		
Subtotals	9(7%)	48(37%)	20(15%)		
Released OR				50(38%)	
Custody, No Bail				1(1%)	
Psychiatric Custody				3(2%)	
Custodial Status Unknown				9	
Bail Type & Amount Unknown				<u>3</u>	
					143
Summary: 38% Released OR 7% Released, Unsecured Bond 37% Released, Secured Bond <u>18%</u> Not Released 100% (Excluding 12 Unknown)					

TABLE XIX

DETAILED TYPES OF BAIL FOR ROBBERY OFFENSES

<u>Amount</u>	<u>Released, Bond Unsecured</u>	<u>Released, Bond Secured</u>	<u>Remained in Custody</u>	<u>Other</u>	<u>Total, All Columns</u>
\$100-500	-	1	-		
\$501-1000	1	4	-		
\$1001-2000	-	1	1		
\$2001-3000	-	-	-		
\$3001-5000	1	2	-		
\$5001-10000	-	-	5		
\$10001-20000	-	-	3		
\$20,000-50000	-	-	1		
\$50001-100000	-	-	1		
Amount Unknown	-	<u>1</u>	-		
Subtotals	2(6%)	9(28%)	11(33%)		
Released OR				10(30%)	
Custody, No Bail				- -	
Custody, Psychiatric				1(3%)	
Custodial Status Unknown				- -	
					33
<p>Summary: 30% Released OR 6% Released, Unsecured Bond 28% Released, Secured Bond <u>36% Not Released</u> 100%</p>					

TABLE XX

DETAILED TYPES OF BAIL FOR PROPERTY CRIMES

<u>Amount</u>	<u>Released, Bond Unsecured</u>	<u>Released, Bond Secured</u>	<u>Remained in Custody</u>	<u>Other</u>	<u>Total, All Columns</u>
\$100-500	7	20	7		
\$501-1000	5	25	2		
\$1001-2000	3	15	1		
\$2001-3000	3	10	2		
\$3001-5000	2	4	7		
\$5001-10000	1	2	1		
\$10001-20000	2	-	1		
\$20001-50000	-	-	2		
\$50001-100000	-	-	-		
Amount Unknown	-	-	<u>1</u>		
Subtotals	23(13%)	76(42%)	24(13%)		
Released OR				55(30%)	
Custody, No Bail				2(1%)	
Custody, Psychiatric				2(1%)	
Custodial Status Unknown				11	
Bail Type & Amount Unknown (Released)				6	
					199
Summary: 30% Released OR 13% Released, Unsecured Bond 42% Released, Secured Bond 15% Not Released <u>100%</u> (Excluding 17 Unknown)					

TABLE XXI

DETAILED TYPES OF BAIL FOR
CHECK AND FRAUD CRIMES

<u>Amount</u>	<u>Released, Bond Unsecured</u>	<u>Released, Bond Secured</u>	<u>Remained in Custody</u>	<u>Other</u>	<u>Total, All Columns</u>
\$100-500	-	3	1		
\$501-1000	1	6	1		
\$1001-2000	1	4	-		
\$2001-3000	-	2	1		
\$3001-5000	-	2	1		
\$5001-10000	-	2	2		
\$10001-20000	-	-	-		
\$20001-50000	-	-	-		
\$50001-100000	-	-	-		
Amount Unknown	-	-	-		
Subtotals	2(4%)	20(38%)	6(11%)		
Released OR				23(45%)	
Custody, No Bail				-	
Custody, Psychiatric				1(2%)	
Custodial Stat- us Unknown				2	
Bail Amount & Type Unknown				<u>1</u>	—
					55
<p align="center">Summary: 45% Released OR 4% Released, Unsecured 38% Released, Secured 13% Not released 100% (Excluding 3 Unknown)</p>					

TABLE XXII

DETAILED TYPES OF BAIL FOR DRUG CRIMES

<u>Amount</u>	<u>Released, Bond Unsecured</u>	<u>Released, Bond Secured</u>	<u>Remained in Custody</u>	<u>Other</u>	<u>Total, All Columns</u>
\$100-500	1	8	1		
\$501-1000	15	13	1		
\$1001-2000	6	11	1		
\$2001-3000	7	16	-		
\$3001-5000	-	12	2		
\$5001-10000	5	4	1		
\$10001-20000	-	1	1		
\$20001-50000	3	1	1		
\$50001-100000	-	-	-		
Amount Unknown	<u>-</u>	<u>1</u>	<u>-</u>		
Subtotals	37(28%)	67(50%)	8(6%)		
Released OR				22(16%)	
Custody, No Bail				-	
Custody, Psychiatric				-	
Custodial Stat- us Unknown				7	
Bail Amount & Type Unknown				<u>2</u>	<u> </u>
					143
<p>Summary: 16% Released OR 28% Released, unsecured 50% Released, secured 6% Not Released 100% (Excluding 9 Unknown)</p>					

TABLE XXIII

DETAILED TYPES OF BAIL FOR OTHER CRIMES

<u>Amount</u>	<u>Released, Bond Unsecured</u>	<u>Released, Bond Secured</u>	<u>Remained in Custody</u>	<u>Other</u>	<u>Total, All Columns</u>
\$100-500	-	1	-		
\$501-1000	1	2	1		
\$1001-2000	1	1	-		
\$2001-3000	1	1	-		
\$3001-5000	-	-	-		
\$5001-10000	-	-	-		
\$10001-20000	-	-	-		
\$20001-50000	-	-	-		
\$50000-100000	-	-	-		
Amount Un- known	=	=	=		
Subtotals	3(20%)	5(33%)	1(7%)		
Released OR				5(33%)	
Custody, No Bail				1(7%)	
Custody, Psychiatric				-	
Custodial Status Un- known				=	
				6	<u>15</u>
<p>Summary: 33% Released OR 20% Released, Unsecured 33% Released, Secured 14% Not Released <u>100%</u></p>					

TABLE XXIV

MEDIAN MONEY BAILS BY CRIME CATEGORY

Crime Category	Median Amount Category
Violent Crimes	\$1001-2000
Robbery	\$3001-5000
Property Crimes	\$501-1000
Check and Fraud	\$1001-2000
Drug	\$1001-2000*
Other	\$501-1000
*One more defendant would have increased the median for this crime category to \$2001-3000.	

This information on median money bail amounts partially explains why a higher percentage of defendants accused of robbery remain incarcerated: that crime category represents the highest median money bail required for release.

In summary, among released defendants accused of robbery, a high percentage were released OR. But a relatively low percentage of the total defendant population accused of robbery obtained their release. And, when bail conditions are grouped by "lenient" (OR, unsecured and 10% bonds) and "stringent" conditions, defendants accused of robbery are distributed in the same proportion between the categories as are defendants in the otherwise statistically different crime category of drug offenses. However, analyzing only money bails, it becomes apparent that the median dollar amount required of robbery suspects is higher than any other crime category. This last analysis indicates why

a lower percentage of defendants accused of robbery are able to meet money bonds, and thus why the highest percentage of released defendants accused of robbery appear in the OR category. (All of these statistical presentations are also instructive of how deceptive statistics can be when taken in isolation or out of context.)

Similar analyses might be undertaken for each crime category; however, the other categories do not show statistical differences sufficient to justify conclusions with the same degree of certainty as the discussion of the robbery crime category above. The only other observation that appears to be statistically safe without further investigation (and more sophisticated indicia of "statistical significance") is that defendants accused of drug offenses appear to be relatively successful in raising the money required for bail, despite the fact that their bail amounts are average or higher-than-average amounts.

C. REMANDS TO CUSTODY

Of the 507 defendants released pending trial during 1973, seventy-six defendants or 15% were subsequently remanded to custody. As Table XXV indicates, 40 defendants remanded, or 8% of the released defendants, were charged with having committed a new offense while on bail. Twenty-two defendants remanded, or 4% of the released defendants, were returned to custody for failing to appear at some stage of the proceeding against them. The category of Table XXV designated "New Offense Charged" includes only offenses allegedly committed while the

TABLE XXV
DEFENDANTS REMANDED AND REASONS FOR
REMAND, BY PERCENTAGES OF ALL DEFENDANTS RELEASED

Reason for Remand	Defendants	Percentage of Released Defendants
New Offense Charged	40	8%
Failure to Appear at Proceeding	22	4%
Other	14	3%
TOTAL	76	15%

defendant was released on bail. It does not include offenses previously committed that were not charged until the defendant was on bail. The category of "Other" reasons for remand include psychiatric processing, drug testing, bond revocations by third party co-signers, bondsmen withdrawing, etc.

The data presented in the following materials attempts to analyze some of the characteristics of this remanded-defendant-

population. First the general data applying to the whole group is presented; then the characteristics of each group of defendants (recidivists, failures to appear, and remands for administrative reasons) are set forth; and finally, the subsequent successes and failures of those defendants released a second time are presented.

1. General Characteristics of Defendants Remanded.

Table XXVI compares percentages of defendants remanded by race with percentages of released defendants by race, and percentages of the total population of defendants by race. The table shows that a disproportionate percentage of Blacks were remanded to custody. The table also indicates that Caucasians have a disproportionately low percentage of remands to custody. While Native Alaskans may have a relatively higher rate of remand, the percentage disparity is not so great as to permit definite conclusions without some sophisticated measure of "statistical significance."

TABLE XXVI

<u>TOTAL DEFENDANTS, DEFENDANTS RELEASED, AND DEFENDANTS REMANDED, BY RACE</u>				
Defendants	Race			
	Caucasian	Native Alaskan	Black	Other & Unknown
Total	67%	15%	5%	13%
Released	69%	13%	5%	13%
Remanded	61%	18%	14%	7%

Table XXVII compares percentages of defendants remanded by sex with percentages of released defendants by sex, and percentages of the total population of defendants by sex. The male/female proportions for all populations are sufficiently similar

to allow the conclusion that neither sex shows a higher likelihood of having bail release terminated.

TABLE XXVII

TOTAL DEFENDANTS, DEFENDANTS RELEASED,
AND DEFENDANTS REMANDED, BY SEX

Defendants	Sex	
	Male	Female
Total	89%	11%
Released	88%	12%
Remanded	90%	10%

Table XXVIII displays information about the prior records of the three relevant defendant populations. A substantially higher percentage of defendants with prior records (felony and misdemeanor) are remanded to custody than the proportions represented generally in the population of released defendants. However, the seriousness (i.e. misdemeanor or felony) of the crime in the prior record does not appear to be significant: in both the felony and the misdemeanor crime categories, the percentage of defendants remanded was 17% higher than the percentage of defendants released.

TABLE XXVIII

TOTAL DEFENDANTS, DEFENDANTS
RELEASED, AND DEFENDANTS REMANDED,
BY PRIOR CRIMINAL RECORD

Defendants	Felony Record	Misdemeanor or Juvenile Record	No Prior Record	Unknown
Total (588)	140(24%)	99(17%)	295(50%)	54(9%)
Released (507) (or Custody Status Unknown)	106(21%)	85(17%)	271(53%)	45(9%)
Remanded (76)	29(38%)	26(34%)	18(24%)	3(4%)

Table XXIX presents the categories of offenses originally charged against the remanded defendants, compared with the categories of charges against the population of released defendants, and against all defendants. A disproportionately higher percentage of defendants originally charged with property offenses

TABLE XXIX

TOTAL DEFENDANTS, DEFENDANTS
RELEASED, AND DEFENDANTS REMANDED
BY CATEGORY OF ORIGINAL CRIME CHARGED

Defendants	Crime Categories					
	Violent	Robbery	Property	Check or Fraud	Drug	Other
Total	134(24%)	33(6%)	187(33%)	53(9%)	137(25%)	15(3%)
Released	110(23%)	21(4%)	159(33%)	46(10%)	129(27%)	13(3%)
Remanded	11(14%)	7(9%)	31(41%)	8(11%)	17(22%)	2(3%)

were remanded to custody; and a disproportionately lower percentage of persons originally charged with violent crimes were remanded to custody.

Table XXX compares the types of bail conditions imposed on the general defendant population, on the released defendants, and on the defendants remanded to custody. Among those remanded defendants with secured bond conditions, 21 had posted cash bonds

TABLE XXX

TOTAL DEFENDANTS, DEFENDANTS RELEASED, AND
DEFENDANTS REMANDED, BY TYPES OF BAIL

Defendants	Type of Bail			
	OR	Unsecured or 10% Bond	Secured Bond	Other
Total	165(28%)	76(13%)	295(50%)	52(9%)
Released	165(34.5%)	76(16%)	225(47%)	12(2.5%)
Remanded	24(32%)	14(18%)	33(44%)	5(6%)

and 12 had secured their release with a property bond. The category of "other" types of release includes work releases, releases to psychiatric institutions, etc. No significant differences appear between the percentages of the various types of bail conditions among released defendants and the percentages of the various types of bail conditions among remanded defendants. OR releases did not result in any higher percentage of remands than secured money and property bonds.

Table XXXI shows the disposition of the original offense charged against remanded defendants. Fifty-nine remanded defendants ultimately were convicted. If the defendants with open cases (2 defendants) are excluded in computing the conviction rate, 80% of defendants remanded to custody were convicted. The conviction rate for all Anchorage defendants during 1973 was 68%,⁴⁸ indicating a much higher conviction rate among remanded defendants. Dismissals as "insufficient for prosecution" include cases dismissed for insufficient evidence, because key witnesses were unavailable, because of constitutional infirmities, because the speedy trial rule was violated, because of faulty indictments, etc.

TABLE XXXI

DISPOSITION OF ORIGINAL CHARGE
AGAINST REMANDED DEFENDANTS

Disposition	Remanded Defendants
Conviction	59 (78%) *
Dismissed - Insufficient for Prosecution	10 (12%)
Dismissed - Plea Negotiations	5 (7%)
Cases still pending, Dec., 1974	2 (3%)
TOTAL	76 (100%)

* 80% if defendants with open cases are excluded.

2. Characteristics of Defendants Remanded for New Crimes. This subsection focuses on those defendants who were "the recidivists while on bail" during 1973. They are the persons accused of crime and released pending trial who were subsequently rearrested, charged and convicted of an offense allegedly committed while released. During 1973, 40 individuals or 8% of the 507 defendants released from custody pending trial were subsequently charged with a repeat offense, and 27 defendants or 5.3% of the total 507 defendants released were ultimately convicted of that second offense.

As noted elsewhere in this Report, comparisons of Anchorage bail statistics with bail statistics for other cities are frustrated by the facts that few such studies are available and that those few studies often use different definitions for data bases. According to one source, "Numerous studies of pre-trial indictment rates show that on the average in an urban court 7 to 10 percent of defendants free pending trial will be rearrested before trial and 3 to 6 percent will actually be convicted on these charges."⁴⁹ However, no citations to the "[n]umerous studies" are provided.

One study indicates that, on a "national average" for 72 cities across the United States, 6.4% of defendants released OR and 8.2% of defendants released on money bail were "rearrested."⁵⁰ Finally, the Washington, D. C. Crime Commission found "that of 2,776 persons released on felony charges, 7.5% were arrested⁵¹ for felonies allegedly committed while at liberty."

Table XXXII compares by race the percentages of "accused recidivists" (i.e. charged but not convicted yet) with the

percentages of defendants remanded, defendants released, and total defendants. Blacks appear as a disproportionately high percentage of accused recidivists, compared to the percentage of this race remanded and the percentage of this

TABLE XXXII

TOTAL DEFENDANTS, DEFENDANTS RELEASED, DEFENDANTS REMANDED, AND ACCUSED RECIDIVISTS, BY RACE

Defendants	Race			
	Caucasian	Native Alaskan	Black	Other & Unknown
Total	67%	15%	5%	13%
Released	69%	13%	5%	13%
Remanded	61%	18%	14%	7%
Accused Recidivists	60%	18%	20%	2%

race released. In the racial group called "Other and Unknown," there is a 5% decrease from the "Remanded" category of defendants. However, this is not a significant change because the "unknown" percentage of the defendant population decreased as the analysis focused on the remanded and accused recidivist classes.

Of the 40 defendants remanded with new charges, 34 or 85% were male and 6 or 15% were female. Analyzed in conjunction with Table XXVII above, it appears that the proportion of female-to-male recidivists was higher than the proportions by sex of remanded or released defendants generally.

Table XXXIII is an extension of the information provided in Table XXVIII. It indicates that fully 85% of the accused recidivists had prior records at the time of their release. This compares with only 38% of the total released defendant population who had prior records at the time of their release. Whereas defendants with prior felony records

represented 21% of the released population and 38% of the remanded population, they now appear as 45% of the accused recidivists. This indicates a greater likelihood of a defendant with

TABLE XXXIII

TOTAL DEFENDANTS, DEFENDANTS RELEASED,
DEFENDANTS REMANDED, AND ACCUSED
RECIDIVISTS BY PRIOR CRIMINAL RECORD

Defendants	Felony Record	Misdemeanor or Juvenile Record	No Prior Record	Unknown
Total	140 (24%)	99 (17%)	295 (50%)	54 (9%)
Released	106 (21%)	85 (17%)	271 (53%)	45 (9%)
Remanded	29 (38%)	26 (34%)	18 (24%)	3 (4%)
Accused Recidivists	18 (45%)	16 (40%)	6 (15%)	--

a prior felony record being a recidivist than a defendant with no prior record; however, the reader is cautioned to note also that only 18 of 106 released defendants with prior felony records (i.e. 17%) were accused of committing a subsequent crime. Hence, defendants with prior felony records cannot be condemned generally as poor risks for bail.

Table XXXIV portrays the crime categories of the original charge for purposes of placing accused recidivists in context with other relevant defendant populations by crime types. Trends apparent from comparing the crime categories of released defendants and remanded defendants, continue to be manifest for accused recidivists. A disproportionately small percentage of persons accused of violent crimes are subsequently rearrested as accused recidivists; a disproportionately large percentage of persons accused of robbery and property offenses are subsequently

TABLE XXXIV

TOTAL DEFENDANTS, DEFENDANTS RELEASED,
DEFENDANTS REMANDED, AND ACCUSED
RECIDIVISTS BY CATEGORY OF ORIGINAL CRIME CHARGED

Defendants	Crime Categories					
	Violent	Robbery	Property	Check or Fraud	Drug	Other
Total	134(24%)	33(6%)	187(33%)	53(9%)	137(25%)	15(3%)
Released	110(23%)	21(4%)	159(33%)	46(10%)	129(27%)	13(3%)
Remanded	11(14%)	7(9%)	31(41%)	8(11%)	17(22%)	2(3%)
Accused Recidivists	3(7%)	6(15%)	21(53%)	2(5%)	8(20%)	--

rearrested as accused recidivists. While persons charged with check and fraud offenses appear as a consistent percentage of the total, released and remanded population, these defendants then appear as a disproportionately small percentage of the accused recidivists.

Table XXXV compares types of bail releases for different defendant populations. While defendants released on secured

TABLE XXXV

<u>TOTAL DEFENDANTS, DEFENDANTS RELEASED,</u> <u>DEFENDANTS REMANDED, AND ACCUSED</u> <u>RECIDIVISTS, BY TYPES OF BAIL</u>				
Defendants	Type of Bail			
	OR	Unsecured or 10% Bond	Secured Bond	Other
Total	165(28%)	76(13%)	295(50%)	52(9%)
Released	165(34.5%)	76(16%)	225(47%)	12(2.5%)
Remanded	24(32%)	14(18%)	33(44%)	5(6%)
Accused Recidivists	13(33%)	9(22%)	16(40%)	2(5%)

bonds represented 47% of the released population, they subsequently appear as only 40% of the accused recidivists. Conversely, defendants released on unsecured or 10% bonds represented 16% of the released population and 22% of the accused recidivists. No significant change is apparent for persons released OR. They represent a similar proportion of the released-defendant population (34.5%) and the accused-recidivist population (33%).

Table XXXVI compares the original charge against the accused recidivist with the second charge brought while released on bail. The category designated "Property to Robbery"

TABLE XXXVI

ORIGINAL CHARGE AND NEW CHARGE
AGAINST ACCUSED RECIDIVISTS, BY CRIME CATEGORIES

Crime Category	Defendants	
	Number	Percentage
Repeat Robbery	2	5%
Repeat Property	14	35%
Repeat Check	1	2%
Repeat Drug	7	18%
Property to Robbery	4	10%
New Charge Different	12	30%
TOTAL	40	100%

includes four defendants who originally were accused of theft and subsequently accused of robbery as the repeat offense. If these defendants are included as part of the group who committed a similar offense while on bail, then fully 28 accused recidivists, or 70%, committed a similar crime to the original charge

while released on bail. One can also observe from Table XXXVI that repeat property offenses appear as a relatively high percentage among the accused recidivists.

Table XXXVII shows the dispositions of the charges against accused recidivists, as the first offense compares with second offense, and as either or both offenses compare with the dispositions of charges against remanded defendants generally.

TABLE XXXVII
DISPOSITIONS OF CASES AGAINST
REMANDED DEFENDANTS AND
AGAINST ACCUSED RECIDIVISTS

Disposition	Defendants		
	Remanded	Accused Recidivists First Offense	Accused Recidivists Second Offense
Conviction	59 (78%)	26 (64%)	27 (68%)
Dismissed - Insufficient for Prosecu- tion	10 (12%)	9 (23%)	6 (15%)
Dismissed - Plea Nego- tiations	5 (7%)	4 (10%)	5 (12%)
Still Pending	2 (3%)	1 (3%)	2 (5%)
TOTAL	76 (100%)	40 (100%)	40 (100%)

The conviction rate among accused recidivists for first and second offenses is similar: 64% and 68% respectively. While these conviction rates are lower than the 78% for remanded defendants generally, they represent a comparable or higher conviction rate than the 64% for all Anchorage defendants during 1973. (See p. 50 above.)

Nine of the 10 remanded defendants who ultimately had their original charge dismissed for reasons defined here as

"insufficient for prosecution" (see page 50 above for definition), were defendants subsequently charged with a second offense. Some or all of these defendants were convicted, however, of the subsequent offense charged. (Specifics of this detail must await a subsequent, more focused study of bail recidivists.)

The "legal" recidivism rate of persons released on bail in Anchorage during 1973 is finally discernible from Table XXXVII. Of the 507 defendants released on bail, only 27, or 5.3%, were both charged and convicted of committing another offense while released. As noted earlier in this subsection, 8% of the released population were charged with a subsequent crime committed while on bail. The 2.7% difference between these two figures represents defendants who were acquitted of the second offense and defendants who obtained dismissals of the second offense. As noted earlier, dismissals are obtained for various reasons, not always indicating conclusively that the criminal act was not committed. Hence, if one assumes that at least some of the 2.7% that did not result in convictions were dismissals for "technical" reasons (or plea bargains), then the actual recidivism rate of persons released on bail in Anchorage during 1973 is higher than 5.3% but lower than 8%.

3. Characteristics of Accused Recidivists Released Again Pending Trial. Of the 40 defendants remanded to custody for new criminal charges, 26 or 65% were released again on bail. Of the 26 accused recidivists obtaining this second release, 19 or 74% were rearrested again and charged with a third offense

(second offense while on bail). At least 11 of these 19 were released a third time and subsequently remanded and charged with a fourth offense. At least 5 of these 11 were released a fourth time and subsequently remanded and charged with a fifth offense. Table XXXVIII presents the details of the odyssey of these 19 "repeat-recidivists" through releases and rearrests--eight times for one defendant.

Ten of these "repeat-recidivists" were Caucasians, 8 males and 2 females. Eight of the 10 were under 25 years of age. One female was 28 years old, and one male was 32 years old. Four of these Caucasians were known addicts; four had no evidence in the court files of being associated with addictive drugs; and the other two were charged with drug-related offenses but with no evidence of use of hard drugs or addiction. Two of these defendants (1 male and 1 female) had prior felony records. Two (1 male and 1 female) had prior misdemeanor records. Four of the defendants had records of prior arrests but no convictions, and two had no prior records.

Eight of the "repeat-recidivists" were Black, 7 males and 1 female. Their ages ranged from 21 to 35 years old, with 4 of these defendants 28 and over. (The average age of Black "repeat-recidivists" was older than Caucasians.) Five of these Black defendants were users of hard drugs, addicts, or charged with hard drug offenses. Another defendant was listed as having an "alcohol problem." There was no evidence of hard drug involvement for 2 defendants. Four Blacks were prior felons, 2 had prior misdemeanor records, 1 had a long history of arrests

TABLE XXXVIII

REPEAT RECIDIVISTS BY CRIME TYPES,
RACE, AND FREQUENCY OF REARREST

RACE	Charge							
	First	Second	Third	Fourth	Fifth	Sixth	Seventh	Eighth
1. Cauc.	Rape	A & B	FTA	Rape Violated Bail Cond.				
2. Cauc.	Larc.	Larc.	Larc.					
3. Cauc.	Burg.	Incite Comm. of Felony	FTA	Drug Poss.				
4. Cauc.	Rob.	Burg.	FTA	Soft Drug Sale				
5. Cauc.	Soft Drug Sale	Soft Drug Sale	Soft Drug Sale					
6. Cauc.	Burg.	Check Forg.	Check Forg.	Check Forg.	Burg.			
7. Cauc.	Larc.	Rob.	Rob.	Rob.	Larc.			
8. Cauc.	Larc.	ADW	FTA	Larc.	Larc.	FTA	FTA	Violated Bail Cond.
9. Cauc.	Burg.	Felon Poss. Fims.	Psych. Test	Hard Drug Poss.	Unk.			
10. Cauc.	Drug Poss.-- Sale	Soft Drug Sale	Soft Drug Sale					

TABLE XXXVIII - (cont.)

RACE	First	Second	Third	Fourth	Fifth	Sixth	Seventh	Eighth
11. Black	Rob.	Check Forg.	Larc.	Hard Drug Sale				
12. Black	Burg.	Check Forg.	Rob.					
13. Black	Rcv. & Conceal	FTA	ADW	Check Forg.	FTA	Check Forg.		
14. Black	Burg.	Burg.	Burg.	FTA				
15. Black	Hard Drug Sale	Hard Drug Poss.	FTA					
16. Black	Access., Prop.	Larc.	Larc.	Bondsman W/draw				
17. Black	Burg.	Rob.	Hard Drug Sale					
18. Black	Hard Drug Poss.	Hard Drug Sale	Hard Drug Poss.					
19. Native Alaskan	Larc.	Burg.	Larc.	FTA	FTA			

ABBREVIATIONS

- A & B = Assault and Battery
- Access. = Accessory
- ADW = Assault with a Deadly Weapon
- Burg. = Burglary
- FTA = Failure to Appear
- Larc. = Larceny
- Psych. Test = Psychiatric testing (administrative remand)
- Rcv. & Conceal = Receiving and Concealing Stolen Property

with no record of convictions, and it is unknown whether the other Black "repeat-recidivist" had any prior record.

The one Native Alaskan was a female, 19 years old. She was a heroin addict with many prior arrests but no prior convictions.

4. Characteristics of Persons Remanded for Failures to Appear at Some Stage of the Proceeding. Twenty-two defendants, or 4% of the 507 released defendants, were rearrested for failing to appear at a court proceeding regarding their pending case. Once again, comparisons are questionable because of the paucity of similar studies. According to the National Advisory Commission on Crime, 6.8% of defendants released ^{OR}₅₂ from the Los Angeles Superior Court failed to appear. One attempt to establish a "national average" showed failures over 72 cities to be 2.8% of defendants released ^{OR}₅₃ and 3% of defendants released on money bail; however, this study included misdemeanors and hence is probably a low percentage for purposes of present comparison. Still another study in progress in California concludes tentatively that "most jurisdictions have ⁵⁴ failure to appear rates ranging from five to ten percent." Other failure to appear rates ranging from one to three percent have been reported in jurisdictions where active bail projects ⁵⁵ are in operation.

As Table XXXIX indicates, of the 22 persons remanded for failing to appear in court in Anchorage during 1973, 18 were males and 4 were females. Thirteen of 22 defendants (59%) were

were Caucasian, while 6 (27%) were Native Alaskan and 1 (5%) was Black. The most interesting feature of Table XXXIX is that 3 of 4 women remanded for failure to appear were Native Alaskan. There were only 11 Native Alaskan women released on

TABLE XXXIX
FAILURES TO APPEAR, BY
RACE AND SEX

	Caucasian		Native Alaskan		Black		Unknown	
	M	F	M	F	M	F	M	F
	12	1	3	3	1	0	2	0
TOTAL	13		6		1		2	

bail, and hence the failure to appear rate for that group is 27%, as compared to a 7% failure to appear rate for all Native Alaskans, and a 4% failure to appear rate for all released defendants.

Table XL shows failures to appear by types of bail releases. It indicates a remarkably high percentage of defendants

TABLE XL
FAILURES TO APPEAR,
BY TYPES OF BAIL

Type of Bail	Defendants
OR	16 (73%)
Unsecured or 10% Bond	1 (5%)
Secured Bond	5 (22%)
Other and Unknown	--

released OR are remanded for this reason. The total number of defendants obtaining OR release during 1973 were 28% of the

total defendant population, 34.5% of the released defendant population, 32% of the remanded defendant population, and 33% of the accused recidivist population. Here suddenly defendants released OR become 73% of the defendants failing to appear at a stage of the proceeding against them.

Table XLI presents the defendants who were remanded for failing to appear, by the category of the offense charged.

TABLE XLI
FAILURES TO APPEAR
BY TYPE OF CRIME

Type of Crime	Defendants
Violent	5 (23%)
Robbery	1 (5%)
Property	7 (32%)
Drugs	4 (18%)
Check & Fraud	3 (14%)
Other	2 (8%)
TOTAL	22 (100%)

The only figure with possible statistical significance is the 18% accused of drug offenses. That category accounted for 27% of the released defendant population, indicating that persons accused of drug offenses are more likely to appear than persons accused of other crimes, given only the proportional representation in the defendant population.

Finally, Table XLII focuses on the age categories of defendants remanded for failing to appear. Sixty-eight percent of the defendants in this category were 25 years of age or younger. This compares closely with the percentage of the total

defendant population in this age group (see pp. 13-14 above).

TABLE XLII

FAILURES TO APPEAR
BY AGE GROUPS

Age	Defendants
18-19	6 (27%)
20-21	3 (14%)
22-25	6 (27%)
26-30	3 (14%)
31-35	1 (5%)
36-45	2 (8%)
46-60	1 (5%)
over 60	--
Unknown	--
TOTAL	22 (100%)

D. DEFENDANTS REMAINING IN CUSTODY
THROUGHOUT THE PROCESS

Of the 588 persons arrested and charged with felonies in Anchorage during 1973, 81 defendants or 14% were unable to meet bail conditions and remained incarcerated throughout the criminal proceeding against them. Table XLIII compares the racial composition of defendants who remained incarcerated with the racial composition of the total defendant population. Blacks and Native Alaskans represent a disproportionately high

TABLE XLIII

RACIAL COMPOSITION OF TOTAL DEFENDANTS
AND DEFENDANTS REMAINING INCARCERATED

Defendants	Caucasian	Black	Native Alaskan	Other & Unknown
Total Population	394(67%)	32(5%)	87(15%)	75(13%)
Remaining Incarcerated	46(57%)	8(10%)	22(27%)	5(6%)

percentage of defendants unable to make bail and hence remaining in custody throughout the proceeding.

Seventy-nine defendants remaining in custody, or 98% of that population, were males. Only 89% of the entire defendant population were males, and hence a disproportionately high percentage of males remained in custody pending trial.

Table XLIV shows prior record information of defendants remaining in custody, compared with the prior record distribution over the whole defendant population during 1973. As might be expected, a disproportionately small percentage of defendants

TABLE XLIV

PRIOR RECORDS OF TOTAL DEFENDANTS
AND DEFENDANTS REMAINING INCARCERATED

Type of Record	Defendants in Custody	All Defendants
No prior record	24 (30%)	50%
Misdemeanor record only	14 (17%)	17%
Felony record	34 (42%)	24%
Unknown	9 (11%)	9%

with no prior record remain in custody, and a disproportionately large percentage of defendants with prior felony records remain in custody. This may indicate that prior record information plays a substantial role in the determination of the amount of money bail required for release, unless it appears in follow-up studies that defendants' financial abilities play a more significant role in determining who remains incarcerated than the dollar amount of the bail per se. (Many such conclusions require inquiries across a number of variables discussed individually in this Report. These conclusions must await subsequent analyses and reports, however.)

Table XLV compares the distribution of the defendant population in custody and the total defendant population by crime categories. A disproportionately higher percentage of defendants accused of violent crimes and robbery remain in custody, while a disproportionately lower percentage of defendants accused of drug offenses remain in custody. This observation comports with the analysis of Tables XIV and XVI at p. 36 above.

TABLE XLV

CRIME CATEGORIES OF TOTAL DEFENDANTS
AND DEFENDANTS REMAINING INCARCERATED

Crime Category	Defendants in Custody	All Defendants
Violent	24(30%)	137(23%)
Robbery	12(15%)	35(6%)
Property	28(35%)	189(32%)
Check & Fraud	7(8%)	56(10%)
Drugs	8(10%)	152(26%)
Other	2(2%)	19(3%)

As noted in Table XXIV at p. 44 above, money bail amounts required as a condition of release for defendants accused of violent crimes have a relatively low median amount; and robbery and drug offenses show a relatively high median amount required.

Thus far in this subsection, it has been noted that a disproportionate percentage of Blacks and Native Alaskans did not secure pretrial release, and that a disproportionate percentage of defendants charged with violent crimes and robbery did not secure release. It appears from further statistical analysis that there was a correlation between these two observations: that Blacks and Native Alaskans who committed either violent crimes or robberies were more likely to remain incarcerated after bail conditions were imposed. Sixty-seven percent of the Native Alaskans who remained in custody were accused of violent crimes or robbery; 60% of the Blacks who remained in custody were accused of violent crimes or robbery; but only 35%

of Caucasians who remained in custody were accused of violent crimes or robbery.

Tables XLVI and XLVII show the breakdowns of bail amounts, first for defendants who remained incarcerated without obtaining a bail hearing after the initial hearing, and then for defendants who remained incarcerated even with subsequent bail hearings. Among this latter group, 17 obtained one hearing, 9 obtained two hearings, and 3 obtained three or more hearings. At the hearings, 9 of 29 (31%) secured bail reductions; one was changed from a summons to a secured bond. Seven were sent to psychiatric institutes, and the remaining 12 either obtained no change or were allowed only work release.

TABLE XLVI

BAIL SET FOR DEFENDANTS REMAINING
IN CUSTODY WITHOUT HEARINGS

Bail Amount	Defendants
\$500 or less	3(6%)
\$1,000	7(13%)
\$2,000-3,000	6(12%)
\$5,000	9(17%)
\$10,000-20,000	13(25%)
\$25,000-50,000	6(12%)
\$100,000	1(2%)
Unknown	7(13%)

TABLE XLVII

BAIL SET FOR DEFENDANTS
REMAINING IN CUSTODY WITH
SUBSEQUENT BAIL HEARINGS

Bail Amount	Defendants
\$500	2 (7%)
\$1,000	1 (4%)
\$2,000-3,500	3 (10%)
\$5,000	5 (17%)
\$7,500-10,000	4 (14%)
\$15,000-25,000	5 (17%)
\$50,000	2 (7%)
Psychiatric Custody	7 (24%)

Table XLVIII portrays defendants remaining in custody who obtained hearings and who did not obtain hearings, by whether they were represented by public or private counsel. As might be expected, fully 85% (at least) were represented by the Public Defender Agency. Sixty-seven percent of those defendants represented by the Public Defender Agency did not obtain a bail

TABLE XLVIII

TYPE OF COUNSEL FOR DEFENDANTS
REMAINING INCARCERATED

Type of Attorney	Defendants in Custody
Public Defender	
Hearing	23 (28%)
No Hearing	46 (57%)
Private Counsel	
Hearing	2 (2%)
No Hearing	3 (4%)
Unknown	7 (9%)

hearing, and 60% of defendants represented by private counsel did not obtain a bail hearing. Given the great discrepancy in numbers of cases, the percentage differences are not significant.

Table XLIX sets forth the disposition of the charge against each of the 81 defendants who remained incarcerated pending trial. Fifty-five defendants remaining in custody were ultimately convicted. If the defendants with open cases (4 defendants) are excluded in computing the conviction rate, 71% of defendants remaining in custody were convicted. This compares with 68% of all Anchorage defendants convicted during 1973. (See p. 50 above). Among the 17 dismissed as "Insufficient for prosecution," 8 defendants were declared insane, 5 defendants had their cases dismissed "in the interests of justice,"

TABLE XLIX

DISPOSITION OF CASES
AGAINST DEFENDANTS REMAINING
IN CUSTODY PENDING TRIAL

Disposition	Defendants in Custody
Conviction	55 (68%)*
Dismissed - Insuffi- cient for Prosecution	17 (21%)
Dismissed - Plea Negotiation	5 (6%)
Pending	4 (5%)
TOTAL	81 (100%)

3 defendants had cases dismissed due to insufficient evidence, and 1 defendant's case was dismissed "with prejudice."

* 71% if defendants with open cases are excluded.

APPENDIX I

SUMMARY OF STATISTICAL ACTIVITY AND ANALYSIS:

Problems Encountered and
Recommendations for Solutions

By Teri White, Statistical Analyst

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I. Procedures for Data Collection

The data in this bail study were collected primarily from the superior court case files in Anchorage and from the fingerprint files of the Department of Public Safety in Juneau. The procedure for determining which defendants to study was as follows:

- Step 1. Obtain names of all 1973 superior court defendants from alphabetical files of the Alaska Court System, Anchorage.
- Step 2. Eliminate all files (a) that were appeals from district court, (b) that had superior court numbers but most activity took place in district court, and (c) that were secret indictments with no arrest yet.
- Step 3. List all case files associated with 1973 defendants, beginning with January 1965 and ending with March 31, 1974. (The purpose of this step was to assemble as complete a "profile" as possible for each defendant for purposes of the sentencing study proceeding with the bail study.)
- Step 4. Record pertinent data for each defendant on a field sheet (one for each case). At this point, more defendants were eliminated for the following reasons:
 - A. sealed case, no data available;
 - B. defendant's records in judge's chambers (for appeal, or because some of his

While the statistical base of "cases" defined above is most accurate for discussing the judicial process of bail, it does not lend itself to an analysis of bail activity by individual, personal characteristics--the criteria a judge must apply in determining the appropriate bail for each defendant. A separate data base was necessary for measuring this activity.

Hence, the data base of "defendants" is defined as the total number of individual persons charged with one or more felony offenses during 1973.

Ideally, it would have been preferable to count persons two or more times when they re-enter the judicial process a second or more times during the year, thus using a "defendant" data base equal to the number of criminal events processed through the courts. However, this definition would have resulted in distortions of such information as the percentage of defendants (as persons) who recidivate while on bail, or the percentage of defendants who remain in custody during the judicial proceeding against them. As discussed earlier, there was also the problem of attempting to distinguish criminal events, when two or more might be found in one file without clear information in the file indicating that the two charges indeed did occur at different times.

As the above discussion illustrates, no one unit of analysis can be said to be a complete or wholly accurate picture of occurrences transpiring after a given criminal event. For example, there are 720 "cases" but only 588 "defendants." As another illustration, an attempt was made at the beginning of the data-analysis stage to determine the disposition of "counts" in Anchorage. It was found that 51% of all "counts" were dismissed.

However, only 48% of all "cases" were dismissed, and only 41% of "defendants" have all of the "cases" and all of the "counts" against them dismissed!

Consequently, the unit of measure chosen for each section of the Report was chosen because that unit offered the most accurate picture of the particular situation being analyzed. For example, defendants remained in pretrial custody in 95 "cases," but only 81 "defendants" remained in custody. From one perspective, one can observe that in 95 court events, judges set bail so high as to preclude release. From another perspective, one can observe that 81 individual persons remained incarcerated pending the outcome of their criminal proceeding. The choice of the data base depends on whether the purpose is to analyze the activity of judges, the processing of events, or the impact of the bail system on individual defendants (or, indeed, the impact of individual defendants on the bail system).

During 1973 (and preceding year) there was no uniform "set" of information recorded in court files, and hence the composite of data retrieved for each defendant is quite variable. In the bail data, the information on a second charge recorded in a defendant's file at a later date and while that defendant was released on bail, did not always include the date when the crime was committed. It was necessary in some situations for the data analyst to decide subjectively whether the second filing was sufficiently later than the first filing to permit the conclusion that the second offense had occurred while the defendant was released on bail, and hence should be counted as "recidivism while on bail."

Finally, it should be noted here that bail conditions by "crime categories" are slightly distorted, to the extent that only the "most serious" felony count is considered in the data base as the criminal charge producing the particular type of bail. (See Appendix II for a detailed discussion of "crime categories.")

IV. Recommendations

In the original funding proposals for the Bail and Sentencing Studies, one of the objectives stated was to provide "recommendations concerning how the record-keeping of the Court System can be improved so that bail (and sentencing) programs and policies can be evaluated periodically without great expense and effort." Many of the problems in attempting to retrieve meaningful data for these studies will be ameliorated when the Alaska Justice Information System (AJIS) is fully operational sometime during 1975. However, the 1973 (and 1974) information on any given felony defendant is recorded in several places according to several different record-keeping systems. The defendant is arrested, booked and fingerprinted at the local jail. His fingerprint card showing date and charge are kept on file at the Juneau office of the Department of Public Safety. The "booking sheet," containing much more information (such as bail at arrest and extensive description of the defendant, charges, and the custodial status), is sent to the Juneau office of the Division of Corrections, where some records are preserved and others are destroyed.

The defendant is arraigned, usually in the district court, and a Court System case file is opened at this time. During 1973 in Anchorage the defendant also may have been interviewed by personnel from the Court System's Pretrial Services agency, and his district and superior court file might contain a report by this interviewer. Later the defendant would be arraigned in superior court and a new file opened under his name. At the time of sentencing (if the defendant is ultimately convicted of the felony offense), the Division of Corrections may submit a presentence report (not mandatory during 1973) with recommendations.

Thus, in order to obtain a complete picture of any one "event" in the criminal justice process, the researcher must grapple with at least three and often more sets of independently maintained files. (The magnificent irony of the record-keeping bureaucracies of police, courts and corrections is that none of these agencies have information systems designed to analyze their substantive effectiveness in fulfilling their respective responsibilities in the criminal justice process. That is to say, each agency maintains files designed primarily to measure internal operational and management efficiencies in the mechanical administration of the agency's function. None of the agencies have information systems specifically designed to capture a meaningful body of information about the accused defendant from earlier stages in the process, or to retrieve substantial feedback about the accused defendant from later stages in the process, such that the respective functions of law enforcement, adjudication and disposition might be improved from knowledge of where

they are working at cross-purposes, or where no agency is functioning effectively.)

A. Court Records. During the time these statistical studies have been in progress, the Alaska Court System has been revising its docket sheets. On the old docket sheet, for example, bail information was extremely limited. At the suggestion of the research staff involved in this study, the new docket sheet of the Court System will include more detailed notice of bail hearings and remands to custody. However, while the information on the new docket sheet will provide much general information and will serve as an indicator for cases of special interest, the sheet still does not allow space to record the defendant's custodial status at each point in the process, or the attorneys actually present at each hearing or court event.

There is also much information contained on the booking sheet which should be of interest to the judge setting bail and sentencing convicted defendants. However, there presently is no procedure by which that information would reach the judge. The Court System should consider some procedure for transferring a copy of the booking sheet to the court file or placing responsibility on the investigators of the Bail Project for making relevant information from the booking sheet available to the judge.

Another problem experienced with court records in this study has been alleviated somewhat since 1973. Researchers found little or no information in superior court files concerning bail activities in the district court during initial hearings and re-hearings. Sometimes the superior court judge requested information from the district court determination, but as often the

superior court judge simply imposed bail without detailed information.

Consolidation of court administration in Anchorage, Fairbanks and Juneau either has already eliminated this fragmentation of recordkeeping or is presently in the process of eliminating it. For purposes of bail information, the results can only be beneficial. But there are other locations in the state where no formal move toward consolidation is contemplated, and some procedure should be adopted to ensure that the information in the district court file is available to the judge of the superior court when the defendant is arraigned again in the higher court.

B. Incomplete Information in Files. Another difficulty for the researchers during these studies was the fact that much information available and normally expected to be recorded simply was not recorded in the files. This was a far more frequent problem in Fairbanks and Juneau files, although it also occurred in Anchorage.

Once again, the new docket sheets presently being introduced throughout the state will provide specific questions and spaces for deputy clerks and in-court clerks to complete. However, there will be no guarantee that court personnel will complete the forms unless they are made to understand the long-range importance of doing so. The Court System should ensure that employees understand why particular information is being required, and should ensure that employees are adequately trained in the recordkeeping to make the process meaningful. For 1973, the files of Juneau and Fairbanks were so incomplete that no

meaningful relationships and observations concerning bail could be developed.

Minute Orders. In all of the courts studied, minute orders recorded in long-hand by the in-court clerk caused some difficulty. The minute order forms provide space to record the nature of the hearing (arraignment, bail review, omnibus hearing, etc.), the attorneys present, the defendant's custodial status, a summary of remarks by parties and attorneys, and the outcome of the hearing.

The forms are not always completed by the clerk, so that the defendant's custodial status, names of attorneys, or nature of the hearing are omitted. In addition, the handwriting of the clerks ranges from excellent to almost unreadable. Because minute orders provide a very important summary of events when the researcher is unable to take the time to listen to the taped recording of every court hearing, the Court System should encourage both completeness and legibility in these forms.

C. Case Numbering. The closest definition one can find for the word "case" among court administrators and employees is a court file. As described earlier, "case" is a very artificial and elusive word. It may include several defendants and/or several events. It also may include more than one criminal "count." The term is not used with any consistency around the state, or even within one city. In one area, a new case number is assigned to each count against a particular defendant; in another area, all counts are included under one case number, even if some of the counts charge the defendant with criminal activity at another time.

The confusion is further complicated by re-indictments and informations filed pursuant to plea negotiations. It appears from interviews with Court System employees in Anchorage that during 1973 the policy was to open a new case file for a re-indictment arising from the same event, but to keep the original file active where a felony count was dismissed and the defendant pled to a lesser included offense for the same event.

An illustration of an extremely confused sequence of events would be the situation where the defendant was charged with two counts of sale of narcotics, each occurring at different times, and one count of burglary. If the two counts of sale were reduced through plea negotiations to possession of narcotic drugs and the defendant filed an information to these reduced charges, and if procedural errors in the grand jury indictment required reindicting the defendant on the charge of burglary, the filing activity would occur as follows: The original file would first record three separate criminal events (two sales and one burglary), and then would continue as an open file recording two criminal events (possession). The burglary charge would appear to be dismissed if one looked at the original file. However, a second file would then be opened to record judicial activities regarding the original burglary event, now proceeding against the same defendant who had been reindicted.

Still another filing practice that causes difficulties is to include multiple defendants in the same court file. Sometimes these co-defendants are charged with different crimes arising from the same event. In many instances, the files were incomplete for one or more of the co-defendants. Deputy clerks

claim that it is more difficult to ensure that all information is recorded when the file includes records on more than one person.

Ideally, it would be desirable for the Court System to develop a uniform (statewide) filing system that distinguishes between co-defendants and among criminal events, and that also maintains some continuity to ensure that subsequent activities related to the same criminal "event" (e.g. following reindictment) remained in the original file. The Court System could, for example, develop a filing system that not only distinguished between criminal events (such as the above burglary being designated file #75-101 and the narcotic sales being designated file #75-102), but also distinguished between co-defendants (such that the co-defendants in the burglary would have separate files designated file #75-101A and file #75-101B).

Minimally, the Court System should require that separate files be maintained for all co-defendants, to ensure that files do not become so voluminous that they cannot be checked effectively for completeness with regard to each of the defendants. Also, the Court System should require that subsequent activities relating to the same event, such as reindictments and informations filed for a lesser included offense, will always continue to be recorded in the original file rather than being subject to the arbitrary decision of a deputy clerk concerning whether a new file should be opened or not.

Finally, it has been suggested by some Court System personnel that prosecutors have the primary responsibility for the determination of how a case will be filed, because "case"

is defined according to the information and counts charged in the indictment. However, this claim shifts far too much of the responsibility for recordkeeping on the prosecutors. There is nothing compelling upon the Court System to define its files according to the form of the indictment. On the other hand, prosecutors should accommodate the filing system of the courts to whatever extent possible, and may even assist substantially in some of the inevitable discretionary decisions which will be required of deputy clerks (e.g., at what point do two counts become separate criminal "events" for filing purposes?).

D. Future Analysis of Bail and Sentencing. These studies of 1973 data have resulted in two major products. The first is a body of data offering significant insights to the operations of the criminal justice system in 1973. The second is the development of a structure for future reports. Well over 100 graphs and tables have been designed already. Procedures for collecting and encoding the required information have been developed and refined in the face of extreme obstacles. All of this preliminary work and experience ensures that future reports can be compiled more quickly and more easily.

Studies for the years succeeding 1973 should proceed, not only to provide interested persons with an analysis of the criminal process during each year, but also for purposes of comparing data from one year to the next. For example, no evidence of "pipeline impact" is discernible from the data and analysis in the present 1973 reports. However, a subsequent study of 1974 data would provide the desired comparison.

The question, however, is what agency should conduct the research in future years. A realistic approach to the agencies of the criminal justice process is to view them as consciously independent "components." It is unrealistic to suppose that any one agency (police, prosecutors, public defenders, courts or corrections) would be willing or able to conduct such data collection studies that require cross-agency correlations of information. Yet the desirability of such data collection efforts is undisputable.

Hence, the Governor's Commission on the Administration of Justice should endorse such activities annually by the Criminal Justice Planning Agency. If the Criminal Justice Planning Agency does not have the staff or resources to conduct such studies, that agency should subcontract with the Alaska Judicial Council, or, in the near future, with the Research Department of the University of Alaska Law Center. In any event, action should be taken to ensure that the experience developed in this effort is not lost, and to ensure that the process of interagency data collection becomes more refined and more extensive during future years.

APPENDIX II

QUALIFIERS FOR THE ANALYSIS OF BAIL BY CRIME CATEGORIES

(1) Where the defendant was charged with both a felony and a misdemeanor, only the felony was recorded for purposes of determining the crime category for that defendant. Most often, the misdemeanor charge against the defendant was a charge arising from the same criminal occurrence.

(2) Where the defendant was charged with two or more felonies in the same crime category, they are recorded as a single felony offense. No allowance was made for more than one felony per defendant, and hence some of those defendants required to satisfy the more stringent conditions of bail within crime categories may be defendants with more than one felony count against them. Section B of Table L describes the 140 defendant-situations where this qualification of the data would apply.

(3) Where a defendant was charged with two or more felonies in different crime categories, the bail conditions were recorded in the crime category of the "most serious" offense charged. There were only 15 defendant situations where this qualification was required. Section C of Table L describes the different felony charges against each defendant, and also defines "most serious" by showing the crime category where the event was recorded.

cases were still open and unavailable);

C. files could not be found (this was more often true of cases prior to 1973);

D. case was open and the defendant had been arraigned, but no other events had occurred and the information available was deemed too scanty to be of any value.

Step 5. Record race, age, sex, and prior record for each defendant from Public Safety fingerprint files in Juneau.

Step 6. Record arrest date and bail at arrest. It had been planned that the "booking sheets" (information recorded at the jail in each area at time of defendant's arrest) would be used for this purpose. Unfortunately, most "booking sheets" are not kept in any permanent location. The jails send them to the Division of Corrections in Juneau; and as far as the research staff was able to discern, the Division of Corrections keeps only selected "booking sheets" on file. Therefore, the arrest date was recorded from the fingerprint files of the Department of Public Safety, as often as was possible. It was not possible to obtain the amount or type of bail set at arrest, however.

Step 7. Prepare data for computer; key-punch; computer sort. To allow a reasonable margin for coding and key-punch errors, a factor of plus or minus 2.5%

should be allowed on most figures in the statistical analysis.

To the extent possible, every relevant 1973 Anchorage felony case was studied. Some cases which originated in a bush area were arraigned in Fairbanks or Bethel, transferred to Anchorage and transferred back to Bethel. These cases were eliminated from the Anchorage data base. Too little information was available to allow such cases to be included.

II. Court Records

The superior court case file for each defendant contained a variety of information. Usually the indictment, minute orders of all hearings (short notes of discussions, custodial status of defendant, and names of judge and attorneys), and the final judgment (showing final disposition of case) are included. There also may be information on the defendant submitted by the Court System's Pretrial Services, information on district court events (if any occurred), information about the defendant's personal circumstances (military, alcohol problems, etc.) and information on post-sentencing events (probation revocations, expunging of record in deferred prosecutions, appeals, etc.).

However, the superior court file does not always give a complete picture of the defendant's contacts with the court. In Fairbanks and Juneau bail information for 1973 and prior years was so sketchy that a decision to exclude these cities from the study was necessary. A typical remark in the Fairbanks superior court file for arraignment might be, "Bail OK as is"--with no

indication of what type or amount of bail had been required or whether or not the defendant remained in custody. Anchorage bail information was generally more complete but still lacking in many instances.

Other types of information not clearly recorded in many files included the defendant's custodial status at each hearing or court event, the type of attorney (private or public defender) representing the defendant, and, most importantly, the attorneys' and judge's recommendations and reasons for a given bail condition. The latter is particularly important information for determining why two similar defendants with the same charge were treated differently. Unless such information is recorded and capable of retrieval, the criminal adjudication process may be subject to unfounded and unnecessary criticism for apparent disparities and seeming irrationalities, which cannot be explained.

Only superior court actions were studied for each defendant and case. The research omitted a fairly important aspect of court action by not studying district court actions; however, the reason was the formidable difficulty of searching, finding and correlating the file of a defendant in one court with the corresponding file of the same defendant in the other level of court. There simply was not enough time or money to undertake this ambitious task. Consequently, the data in this study does not capture a representative picture of bail set at the initial proceeding in district court.

III. Cases, Counts, and Defendants

One of the most difficult tasks in the effort to achieve statistically meaningful and accurate data bases, was understanding and adjusting for imprecise useage of such words as "cases," "counts" and "defendants." For example, two court files (often discussed loosely as "two cases") might represent a continuation of the same adjudication rather than a new criminal event. If a person is indicted for one felony that is negotiated by counsel to a lesser included offense, the new charge usually will proceed by "information" (waiver of a new grand jury indictment), and there appears to be no standard in court record-keeping for whether the deputy clerk will record the new charge in the original file or whether the deputy clerk will open a new file. Determining when subsequent files for any one defendant constituted a new criminal event was a laborious and time-consuming activity during this study.

Similarly, one court file (commonly referred to as a "case") might include many criminal "counts" charged for the same criminal event or may include multiple "counts" for more than one criminal event. In Anchorage, all "counts" (even for more than one criminal event) were usually included in the same court file if all charges appeared in the same indictment; but in other locations around the state, each count might appear as a separate file, or each criminal event might be recorded in a separate file.

Hence, total numbers of case files do not represent a statistically accurate data base for analyzing such phenomena

as incidence of criminal activity, frequencies and volume of bail hearings, workloads of judges or attorneys, numbers of defendants, incidence of recidivism, or even workload of court staff (other than the activity of the staff in making new files).

For purposes of studying bail activities, the statisticians and lawyers working on this project sought a definition of "cases" that would prove accurate for presenting and analyzing bail determinations as a judicial "process"--in terms of the frequency of the court event (the bail hearing), the timeframe to the court event and between these court events, and the volume of the judicial event. While total court files would be an inaccurate measure for these purposes, an ideal modification of that index was economically impossible to accomplish. The definition of "case" that ultimately was chosen for the statistical base is far more accurate than "court files," but still suffers some level of inaccuracy that the reader must allow for throughout the study.

"Cases," as that term is used in this study, are the total number of court files, minus newly opened files that simply represent a charge-reduction or continuation of a criminal event already recorded and processed. Hence, adjustments have been made in the data base for (1) case filings that are only reductions of charges, and (2) case filings that are only reindictments for the same criminal event. However, no adjustment has been made for the fact that some files contain charges for more than one criminal event, or charges for more than one count in the same criminal event. Thus, the data base is not an accurate measure of the incidence of criminal activity brought to the courts.

TABLE L
DISTRIBUTION OF MULTIPLE FELONY
 CHARGES AGAINST DEFENDANTS

A. Defendants with One Felony Charge

Crime Category	Number of Defendants
Violent	93
Robbery	31
Property	158
Check & Fraud	39
Drugs	86
Other	<u>10</u>
TOTAL	417

B. Defendants with More Than One Felony Charge in Same Crime Category, by Numbers of Felony Charges

Crime Category	Total Number of Charges					Total Number of Indictments
	2	3	4	5	6 or more	
Violent	24	11	-	-	-	35
Robbery	-	-	-	-	-	0
Property	27	1	1	1	2	32
Check & Fraud	6	3	-	2	1	12
Drugs	30	18	7	1	2	58
Other	-	2	-	1	-	3
	TOTAL:					140

TABLE L - continued

C. Defendants with More Than One Felony Charge in Different Crime Categories, by Crime Category Coded for Statistical Purposes

Defendant	Multiple Charges	Crime Categories Represented	Crime Category Coded
1.	Rape Robbery Sodomy	Violent Robbery	Violent (rape)
2.	Robbery Assault with a Dangerous Weapon	Violent Robbery	Robbery
3.	Robbery Assault with Intent to Rob	Violent Robbery	Robbery
4.	Robbery Burglary in Dwelling	Robbery Property	Robbery
5.	Rape Burglary in Dwelling	Violent Property	Violent (rape)
6.	Assault with a dan- gerous weapon Burglary in Dwelling Larceny in Building	Violent Property	Violent
7.	Assault with a Dangerous Weapon Burglary in Dwelling	Violent Property	Violent
8.	Sale of Soft Drug Contributing to Delinquency of a Minor	Drug Violent ("Other Sex")	Drug
9.	Sale of Soft Drug Contributing to Delinquency of a Minor	Drug Violent ("Other Sex")	Drug
10.	Sale of Soft Drug Felon in Possession of a Firearm	Drug Violent	Drug

TABLE L - continued

C. Defendants with More than one Felony Charge in Different Crime Categories, by Crime Category Coded for Statistical Purposes - continued

Defendant	Multiple Charges	Crime Categories Represented	Crime Category Coded
11.	Burglary not in a Dwelling Grand Larceny Receiving & Concealing Sale of Soft Drug	Property Drug	Property
12.	Possession for Sale of Soft Drug Obtaining Money by False Pretenses	Drug Check & Fraud	Drug
13.	Embezzlement by Employee Receiving & Concealing	Check & Fraud Property	Check & Fraud
14.	Embezzlement by Employee Receiving & Concealing	Check & Fraud Property	Check & Fraud
15.	Fraud Receiving & Concealing	Check & Fraud Property	Check & Fraud

FOOTNOTES

1. According to the majority of Anchorage district attorneys and judges interviewed, May-September, 1974.
2. Id.
3. Interviews with the Anchorage district attorney, July, 1974.
4. Ak. R. Crim. P. 5(a), (c).
5. Ak. R. Crim. P. 5(e). This first appearance is alternately called arraignment, because the defendant is told of the substance of the charge against him, or "arraigned." At a true arraignment, however, the defendant is also called upon to plead. Most first appearances of felons in Alaska occur in district court, which has no jurisdiction to take pleas in felony cases and thus such appearances are not full arraignments, but preliminary arraignments. Later the defendant must be "arraigned" again and enter a plea in superior court. Many attorneys nonetheless refer to the first appearance as "arraignment."
6. AS 12.30.020; Ak. R. Crim. P. 5(c).
7. Interviews with personnel of the Alaska Court System, Pretrial Services, August, 1974.
8. AS 12.30.020(a).
9. AS 12.30.020(b).
10. AS 12.30.020(b).
11. AS 12.30.020(c).
12. Amendment to AS 12.30.020(a), Ch. 39 SLA 1974.
13. Interviews with attorneys of the Alaska Public Defender Agency, June-September, 1974.
14. AS 12.30.020(h).
15. Interviews with Anchorage superior court judges, August-September, 1974.
16. AS 12.30.010.
17. Interviews with attorneys of Alaska Public Defender Agency.
18. AS 12.30.020(f).
19. Id.

20. Id.
21. Interviews with Anchorage superior court judges.
22. Id.
23. AS 12.30.030(a).
24. Memorandum from Presiding Judge C. J. Occhipinti to the Public Defender and the District Attorney, January 15, 1974.
25. AS 12.30.030(b).
26. Id.
27. AS 12.30.020(e).
28. Interviews with Anchorage district attorneys and superior court judges, June-September, 1974.
29. Id.
30. AS 12.30.060, Ak. R. Crim. P. 41(d)(1).
31. Interviews with Anchorage district attorneys.
32. Interviews with Anchorage district attorneys and Anchorage superior court judges.
33. AS 12.30.040(a).
34. AS 12.30.040(b), amended by Ch. 39 SLA 1974.
35. AS 12.30.020(c)(2).
36. Table
37. AK. R. Crim. P. 34(d).
38. Ak. R. App. P. 34(c). No such cases existed in 1973.
39. Martin v. State, 517 P.2d 1389, at 1398 (Alaska 1974).
40. Interviews with superior court judges in Anchorage.
41. Interviews with superior court judges and attorneys of the Alaska Public Defender Agency.
42. Hindelang, et. al., Sourcebook of Criminal Justice Statistics, 1973. U.S. Department of Justice, Law Enforcement Assistance Administration, National Criminal Justice Information and Statistics Service. Table 4.5, p. 270.
43. Id. at Table 4.7, p. 272.

44. Wice, Bail and Its Reform: A National Survey, U. S. Dept. of Justice, Law Enforcement Assistance Administration, National Institute of Law Enforcement and Criminal Justice, 1973, p. 63. The study noted that 75% of the cities with populations larger than 200,000 have a detention rate above the "national average" of 16%. p. 64.

45. Wayne H. Thomas, Center on Administration of Criminal Justice, University of California, Davis, Letter of July 25, 1974, to Beverly W. Cutler. The figures offered were stated as "tentative results."

46. The 540 cases represented in Table VII are not cases where the defendants remained incarcerated until superior court arraignment. They are the total number of cases where information concerning the timeframe was available. In at least some (and perhaps many) of these cases, the defendant was released prior to the superior court arraignment.

47. The reader is cautioned that the exact percentage comparison here is not as significant as the "trend" apparent from the wide discrepancy between 6% and 36%. Exact percentage comparisons may be distorted by the numerical distinctions in the sampling bases (33 and 134).

48. This figure derives from data developed by the Judicial Council during the sentencing study, due to be published within weeks of the date of this Report.

49. Morris (staff writer), Struggle for Justice: A Report on Crime and Punishment in America, 1971; pp. 78-79.

50. Wice, supra at n. 44. Presumably this term "rearrested" generally means charged with a subsequent offense because the study deals separately with defendants who "forfeited," i.e., failed to appear.

51. When the District of Columbia Crime Commission prepared its report in 1966, it conducted, among other things, a survey of persons charged with committing a new crime while on bail for another offense. This survey showed that of 2,776 persons who came before the United States District Court for the District of Columbia during the survey period, 207 (or 7.5 percent) were charged with committing a new crime while on bail, 124 of them (or 4.5 percent) with a crime of actual or potential violence. It is to be noted that these figures and percentages refer only to charges, not to convictions. The conviction rate in the District Court is approximately 75 percent, so that in actuality only about 3 percent of all those released on bail during the survey period were found to have committed a violent crime while out on bail.

Can anyone really believe that a judge could predict, with a degree of accuracy, which one out of every 33 defendants who

come before him is likely to commit another crime while on bail? If such predictability is impossible--as I think it is--then the community can be safe from crimes of violence by defendants during the pre-trial period only by preventively detaining the 32 who predictably will not commit such an offense, in order to be sure to keep off the streets the one defendant who will. I think that, even with the appalling crime situation with which we are confronted, this is too high a price to pay.

52. NACC, "Police," 1973; p. 84.

53. Wice, *supra* at n. 44.

54. Wayne H. Thomas, *supra* at n. 45.

55. E.g., Sturz, The Manhattan Bail Project, National Bail Conference 43 (1%). Molleur, Bail Reform in the Nation's Capital 31 (3%). Freed and Wald, Bail in the United States 68 (survey of federal courts releases OR with default rate of 2.5%).