

Factors of Pretrial Release Conditions in a Felony and
Misdemeanor Court:

An Analysis of Six Models

By

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A dissertation submitted to the Graduate Faculty in
Criminal Justice in partial fulfillment of the requirements
for the degree of Doctor of Philosophy,

The City University of New York

2009

This manuscript has been read and accepted for the Graduate Faculty in Criminal Justice in satisfaction of the dissertation requirement for the degree of Doctor of Philosophy.

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Abstract

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The purpose of this study was to identify the predictors of pretrial release (defined as release on recognizance and bail), custodial status and failure to appear among felony and misdemeanor defendants within a California Superior Court. Analyses were derived from a sample of defendants (N=1076) who were considered for release through the Court's pretrial service agency. The findings supported the earlier literature in that defendants who had a failure to appear history, probation history (felony court only) or were charged with a current violent crime were significantly less likely to be released on recognizance. Female defendants were more likely to be granted recognizance release in the felony and

misdemeanor courts than male defendants. The study also found that race was a significant indicator of pretrial release status. Hispanic defendants were significantly more likely to be released on own recognizance than other defendants in the misdemeanor court, whereas Black defendants were more likely to return for court appearances after they were released.

Findings of the present study contributed to the literature in two important ways. First, the study set forth to describe the similarities and differences in pretrial court processing among misdemeanor and felony courts. Secondly, the study demonstrated that misdemeanor courts adhere to state bail guidelines by restricting lenient release conditions when misdemeanants are charged with violent crimes.

Future studies that include new methods of analysis (such as path analysis), the inclusion of extensive court and defendant variables and ongoing and longitudinal assessments of pretrial service agencies are suggested.

ACKNOWLEDGEMENTS

In the past six years, I have been extremely fortunate to be supported by a village of people from academic, professional, community and personal circles. I cannot be more appreciative.

I am grateful to my dissertation chair, Dr. Larry Sullivan for his support, good humor and excellent advice. I am also indebted to committee members Dr. Candace McCoy for her thoughtful comments and encouragement and to Dr. Michael White for remaining on my committee despite being several thousand miles away. Collectively, this committee has strengthened this work tremendously. A special thank you to Maggie Smith for her feedback during the early development of this work.

This study was funded by the City University of New York, Doctoral Research Grant Program. I am thankful to Director, Linda Merman for her assistance with this project. Additionally, I am grateful to Executive Officer Dr. Karen Terry, Dr. Joshua Freilich and Paul Giovine for their support and assistance.

This study would not have been possible without Susan Bookman, for her assistance in accessing data and most importantly for introducing me to the world of pretrial services and to Victoria Robinson for spending her summer collecting data. I am deeply appreciative to Fabiola Ceballos, a dear colleague, friend and a partner in the organization of the data collection and database of this study.

I am grateful to Eric Sweeting, Phoebe Lynch and Kelly McGrath at New Alternatives for Children for their support

and flexibility. I could not have been in greater company with such committed people.

I am very thankful to Mady Bribiesca, Sue-Lin Wong, Kenneth Herrarte, Odessa Simms, Misha Lars, Meredith Dank, and Jacqueline and Lee Moulton for tolerating all my bad jokes.

I am particularly grateful to my dearest friends, Veronica Ortiz and Hollis Williams for everything.

My family means the world to me and I am thankful to my mom, Phyllis Green and my sister, Kimberly Latigue who helped me haul seven rather large boxes across the country (to a city that none of us had ever been to) and for their constant encouragement. I am also thankful to my dad and my brother for the support.

Finally to Joe, for teaching me how to appreciate all the little details.

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CHAPTER 1 INTRODUCTION

In most non capital felony and in nearly all misdemeanor offenses, defendants are assigned bail as a financial or conditional guarantee that they will return for future court appearances. Constitutional protections under the Eighth Amendment and legislation under the Bail Reform Acts direct that bail and release conditions should not be excessive and should be least restrictive based upon the circumstances surrounding the criminal charge and characteristics of the defendant. Under the Bail Reform legislation, judges have the discretion to detain defendants without bail if they have been charged with certain capital or serious felonies that carry penalties of lengthy prison sentences or if they are considered a flight risk if they were to be released prior to trial.

Pretrial release has an effect among all parties involved in the criminal court process. The judge must take into consideration the crime allegedly committed, the perception of dangerousness, and the likelihood that the defendant will return for future

appearances (Demuth, 2003, p. 873). The defendant is most directly affected by the pretrial release decision. The consideration of pretrial release has a tremendous impact on his or her ability to be connected to family and community, to maintain employment, and to be an agent in his or her own defense. Typically, defendants who remain in custody while their cases are heard in court have limited options, are confined in the same conditions as convicted inmates which arguably, is deemed an unjust punishment (Feeley, 1979).

Finally release decisions can deeply impact the level of punishment during the penalty phase (Dhami, 2005, p. 368). Defendants who are detained at pretrial are more likely to receive harsher sentences than defendants who bailed out. Also, the dynamics of race, class and gender in pretrial court processing is important to consider as well. According to the National Institute of Justice (2002), minority defendants represented nearly 70% of defendants who were processed through American courts in addition to the overwhelming rate of indigent defendants who are represented by the public defender's office or who

remain in jail because of their inability to secure bail.

Statement of the Problem

The Bail Reform Acts of 1966 and 1984 have provided the courts with the discretion to release defendants with the least restrictive pretrial release condition or detain them because of concerns of dangerousness; there are still three problems that remain. The first is that it is not clearly understood how municipal and superior courts have interpreted these Acts as a foundation in making decisions about the release conditions of their defendants. Bail guidelines are designed to inform (or regulate) judges in determining pretrial release conditions based upon a defendant's likelihood of being a danger to the community or flight risk. In fact, both case law and empirical studies have suggested that in some jurisdictions, bail guidelines are extremely broad and fail to provide the courts with structure in minimizing risk of defendant misconduct. It is also unclear as to what extent non legal factors such as race, gender or class influence release decisions. This is particularly important in

court jurisdictions where there is no clear rubric as to how release decisions are made. A second problem is the concern that there is little understanding as to how judges determine the release conditions of misdemeanants. Certainly, misdemeanor convictions yield lesser punishments than felony charges and are generally assigned bail in most situations. However, misdemeanor charges of domestic violence, drug possession, and assault are offenses that can bring about serious harm to the defendant, witnesses and victims. While misdemeanor charges may not be as serious as felony charges, such offenses can still create the potential for danger to the victim, danger to society and can create a situation where defendants are likely to fail to appear for court appearances. The third problem involves the accuracy of the judicial decision in determining release conditions. If judges are making release decisions hastily it may lead to poor outcomes of defendant misconduct after release or it may lead to defendants who do not pose a future threat to society yet remain detained because they cannot make bail.

These problems are relevant in understanding pretrial release decisions for several reasons. First,

county criminal courts process criminal cases at exceedingly high volumes each year and it is important to assess the factors that judges use in determining release conditions. Moreover, the general public have become increasingly attentive with the criminal processing of defendants in their communities based upon world events such as terrorism, the increase in legislation pertaining to dangerous offenders (such as three strike laws, sex offender registries and sexually violent civil commitment laws) and the increase in "real crime" media programming (such as Tru TV, prison documentaries, and high profile criminal cases). Recent celebrity involvement in the criminal justice system has led to scrutiny over the privilege and equitable treatment in the criminal justice system. There is a demand from both community and academic circles to assess (or reevaluate) this area of the judicial making process clearly.

Secondly, these problems are relevant in understanding release decisions of misdemeanor defendants because defendants who are charged with misdemeanor crimes may not be distinct from defendants who are charged with felony crimes. A defendant who is arrested on felony charges for a dangerous offense

may be arraigned on misdemeanor charges because of the lack of evidence or the prosecution's assessment that felony charges are unlikely to yield a conviction. It is also possible that a defendant who is charged with a misdemeanor may have an extensive criminal history of violent behavior and numerous felony convictions.

Finally, it is relevant to identify whether judges are making good predictions based on the type of release condition that is rendered. The judge is making a clinical diagnosis of the defendant's likelihood to return to court (Feeley, 1979). The result of this decision can evolve into several realities. The ideal situation would be that the judge predicted correctly in releasing defendants who posed no greater risk than someone currently at liberty and detaining the defendant who posed the greatest dangerousness to the community. Other results remain problematic. One outcome could be that the defendant is denied pretrial release but in fact would not have committed any other crime while on release and would return to all court appearances. The result of this error could be an inefficient use of taxpayer resources in detaining the defendant in custody and a denial of freedom when the arrestee is regarded as

innocent until proven guilty. In an opposite outcome, a defendant is released from custody and commits an illegal act (or harms someone) while on release or failure to appear. This could pose a threat to the safety of the victim and general community. Pretrial release decisions have both immediate and long-term effects and it is worth investigating the patterns of judicial decision-making on pretrial release.

Description of Present Study

This study will engage the previously stated problems associated with the judicial determination of pretrial release conditions and their outcomes.

Specifically, the purpose of this study is threefold:

1. To identify the factors that judges consider in making decisions about the pretrial release conditions of misdemeanor or felony defendants.
2. To determine whether non legal factors such as race, class, or gender influence pretrial release conditions.
3. To assess if the pretrial release condition that was rendered was the correct decision as determined by the pretrial performance of the defendant.

To respond to these concerns, the study will analyze from a dataset comprised of defendants considered for pretrial release in a county Superior Court (N=1076). The dataset includes several categories of variables which include the demographic characteristics of the defendant, current and prior criminal history, the pretrial release decision type and pretrial misconduct of defendants who were released. Findings will shed light on the factors that influence release decisions in local courts.

This study will provide an overview of the history of bail, bail reform legislation and case law. The literature review will also present prior research that has explored the factors of pretrial release in state and local court decisions and the role that non legal factors such as race, gender or class may also play in the determination of pretrial release decisions. The methods section will offer a thorough description of how the study will be carried out. A detailed account of the population to be studied, sampling frame, data collection, variables to be analyzed and the statistical techniques to be employed will also be discussed.

CHAPTER 2 LITERATURE REVIEW

Bail

The central element surrounding the judicial determination of pretrial release is the issue of bail. Bail refers to the general financial or conditional guarantee that a defendant secures in order to be released from custody. The purpose of bail is to guarantee that the defendant will return for future court appearances. The financial guarantees of bail are divided among four categories: surety bond, deposit bond, property bond, and full cash bond. A surety bond is a financial agreement between the defendant and the bail bondsmen. The defendant pays a non refundable premium (generally 10% of the bail) to the bondsman and the bondsman pays the entire bail to the court. If the defendant does not appear in court, the bondsmen will forfeit the entire amount. Defendants assigned a deposit bond pay a percentage of the assigned bail to the court as a condition of release. Defendants who utilize property bonds as a condition of release must surrender the deed and insurance policies of their property to the court.

Full cash bond requires that the full amount of the bond be posted before release.

Non-financial forms of bail are divided among own recognizance, conditional and unsecured release.

Release on own recognizance (ROR) is the release on the defendants' written promise to return for future court appearances. Unsecured bail is the written promise that the defendant will return to court but that the judge will impose the full cash amount of bail if the defendant fails to appear. A conditional bond also releases the defendant without a financial guarantee; however, the court may impose conditions such as a restraining order, curfew, or abstaining from the possession of firearms and alcohol.

Table 1. Rate of Release by Offense

	Released On Bail	Non- Financial Release	Unable to Bail Out	Denied Bail
Violent offenses	34%	17%	41%	8%
Property offenses	27%	29%	37%	6%
Drug offenses	32%	28%	35%	5%
Public-order offenses	38%	27%	30%	5%
Driving-related	46%	24%	27%	4%
Other public- order	30%	36%	28%	6%

Source: Bureau of Justice Statistics 2004

According to the Bureau of Justice Statistics (2004), most defendants, regardless of their current criminal charge, will be issued a condition for pretrial

release. However, a third of all defendants (regardless of the offense they are charged) will be held in custody because of their inability to make bail (i.e. to pay the money the court requires as represented in Table 1).

From the judge's perspective, he or she must consider many factors in deciding the pretrial release condition, most often in a short period of time. In addition to making decisions quickly, judges may not have the complete information regarding the case or of the defendants before them (Schlesinger, 2005). At the heart of this is actuarial criminology where judges either depend on structured or informal guidelines in order to assess the risk of a defendant's flight or danger to the community to make such decisions. Steffensmeier and Demuth (2004), Albonetti (1991) and Schlesinger (2005) have suggested that judges use focal concerns in determining release and sentencing. The "focal concern" hypothesis takes into account three important areas that judges consider: the blameworthiness of the defendant, the severity of the offense charged and the defendant's criminal history. With the exception of the first focal concern, this project has operationalized the severity of offense by

analyzing release decisions of misdemeanor and felony courts. The defendant's criminal history is measured by analyzing a series of variables including prior convictions, prior imprisonment and prior failure to appear for previous court appearances.

History of Bail in America

The development of policies in the United States pertaining to bail stem from England's Common Laws and more specifically the English Habeas Corpus Act of 1679 and Bill of Rights of 1689. The transfer of these English provisions to the U.S. Bill of Rights protected the rights of the accused from judicial abuse and reinforced their rights to liberty while their cases were heard in court. It was based on these concerns that that led to the drafting of the Eighth Amendment of the American Bill of Rights that asserted that "Excessive bail shall not be required..." (U.S. Const., amend. XIII, § 1.).

The excessive bail clause does not state that there is a right to bail. Foote (1965) suggests that the absence to the right to bail in the Bill of Rights was an error carelessly omitted by the drafters of the constitution. He argues that George Mason, the drafter of the Virginia Declaration of Independence

(which later became the template for the Bill of Rights), made the assumption that the right to be free of excessive bail was synonymous with the right to bail (p.986).

The Eighth Amendment states that it is unconstitutional for courts to warrant bail amounts that are disproportional to the charged offense. However, there is no clear definition as to what is considered proportional or excessive. These decisions are decentralized, left to the individual states to determine, and therefore there is great variability in the definition and operationalization of bail. In fact, "...there is widespread disagreement about the exact social control function that the bail system should serve, most agree that the bail system is in need of reform" (Ebbesen & Koncêni, 1985, p.180).

Most defendants in custody in county detention facilities are unable to pay for their bail. For indigent defendants in jail, a bail that is set between five hundred and one thousand dollars is just as impossible to secure as bail that is set at one million dollars. Such failure to pay bail has been a leading factor in jail overcrowding and unsafe conditions in city and county facilities (Feeley,

1979; Goldkamp, 1977; Phillips, 2004). Ability to secure release hinges on financial resources regardless of whether the accused is charged with serious or minor crimes.

Bail can create a clear division between the affluent and the indigent. Defendants who are charged with dangerous or socially offensive crimes are released because of their ability to pay, whereas individuals who are charged with minor vagrancy are imposed to bail jail conditions due to indigence. Not only do these concerns call into question the issues of fairness and equity, but it creates a logistical issue of overcrowding conditions in the criminal justice system because of the high rate of poor defendants who cannot afford bail (Goldkamp, 1986).

Role of the Bail Bond Industry

The bail bonds industry has a unique role within the criminal justice system and pretrial release. Bail agents are (arguably) in a better position than judges to determine which defendants will be released from custody. With certain exceptions (such as parole or probation violations where judges may deny bail altogether), most defendants will be granted bail at arrest and arraignment, but it is up to the bail agent

to establish the terms of the bail agreement and for the defendant to meet these obligations. The role of the judge is to grant pretrial release conditions on the basis of the flight risk and danger to the community; the objective of the bondsmen is solely financial gain. Despite these differences, the courts rely on bondsmen to minimize the overcrowding jail population as well as "assisting the courts administratively by clearing up mistakes and by identifying mandated court dates" (Baker et. al, 2008, p.125). In popular culture and particularly in the genre of reality television, society has come to look at bail agents as integral members of the criminal justice system that hold defendants accountable in meeting their responsibilities in appearing in court.

Despite certain benefits of the services from bail bondsmen (i.e. the ability to pay a fraction of the cost of bail), the bail bonds industry has had a much longer storied and controversial past. A great deal of scrutiny has been targeted at skip tracers and/or bounty hunters (either the bail agent themselves or other personnel contracted through the bail agent who locate defendants who jump bail) and their practices in locating and returning defendants

back to court. Critics argue that bail bondsmen pursue absconders beyond the scope of the rule of law through the use of "excessive use of force, and apprehend suspects without government authorization" (Baker, et al. p.128). Additionally, allegations of corruption involving bribery among bail agents and judges have called into question the ethical nature of their business practices (Baker, 2008).

The greatest concern, however, is whether the bail industry is able to provide liberty to the accused at a fair market price. Caleb Foote, a legal critic of the social inequities of bail, has written extensively on the *quasi* criminal justice role that the industry plays in determining freedom. One of Foote's major criticisms is the line between what constitutes appropriate and excessive amounts of bail as stated in the Eighth Amendment. It is a matter that remains largely unsettled as the courts continue to have a lot of latitude in setting bail as established in the ruling of *Stack v. Boyle* (342 U.S. 1, 5 (1951),). The reality is that not every defendant is able to meet the financial obligation of bail. However, a defendant's inability to secure bail does not make the bail amount unconstitutional:

Bail must be in a prohibitory amount, more than the accused can reasonably be expected under the circumstances to give, for if so it is substantially a denial of bail within the constitutional provision. However, a mere inability to procure bail in a certain amount does not itself make such amount excessive (Foote, 1965, p.960).

Indigent defendants face the greatest obstacles in securing bail. Foote argued this group of socially disadvantaged defendants is less likely to be released and is more likely to experience the severity of punishment through incarceration before being convicted (Foote, 1965, p.960).

Foote had further expressed in a series of articles (1956, 1960, and 1965) that the unintended purpose of bail is the means to socially control the undesirables in society. Due to the ability of the courts to set bail without significant oversight, judges have set bail high enough to make it impossible for defendants (or their associates) to be able to afford it. In his observations of the courts in Philadelphia he noted the overt discriminatory practices where Judges were quick to throw unkempt, intoxicated, or out of town loiterers in the Philadelphia House of Detention without much thought or due process (Foote, 1956). This haphazard and

questionably unconstitutional response to defendants in Philadelphia (as well as other jurisdictions across the country) was perhaps responsible for the overpopulation of many of America's county jails.

The Relationship between the Race and Bail Decisions

The role and impact of race, gender and class in bail decisions is a complicated issue to assess concretely for several reasons. In one sense, American jurisprudence requires as a matter of due process rights of the accused, equal protection under the law for any defendant who comes before the court without regard to race, gender or class membership. The Bill of Rights provides the accused with explicit protections such as the right to an attorney, the right to remain silent, the right to a trial by one's peers without consideration to the "extralegal" factors of the accused.¹ In the interest of justice a judge or bail commissioner would not publicly admit that they take such factors into consideration for risk of professional and ethical scrutiny and public concern.

¹ "Extralegal," as Nagel (1983) and Zatz (2002) characterize it, is not synonymous with illegality but factors that, as Nagel defines, as "extra to the law, not specifically prescribed in the relevant statutory law" (Nagel, 1983, p.482).

In another sense, the United States has a rich, documented history of discrimination and the violation of civil rights among the socially disenfranchised populations. Such injustices were not limited to isolated incidents but were mirrored and reproduced within the criminal justice system and particularly within the courts. In many respects, gone are the overt days of Jim Crow and de jure segregation and in its place are the

[S]ubtler matter, proceeding with a series of screens that filter [minorities] into more or less promising statuses, progressively dividing them along the lines full of implications for the economic futures and in the face of natural disaster, their very lives (Katz and Stern, 2008, p.63)

The impact of race permeates through all areas of life and subsequent life chances. Racial minorities are more likely to live below the poverty line, more likely to attend inferior schools and receive subpar educational opportunities. Racial minorities are more likely to face barriers to employment, healthcare, housing and citizenship. Such communities are more likely to be under greater surveillance of law enforcement and are also in greater likelihood of

being arrested in comparison to their White counterparts.

Race carries tremendous weight within the larger context of society and subsequently affects relevant issues that are constantly raised within the criminal justice system. Attribution theory as tested in Schlesinger's (2005) article explains that judges assign cultural stereotypes and generalizations to defendants when defendants are charged with offenses that are often carried out by members of that racial or ethnic group (p.173). When a defendant's criminal behavior is inline with the stereotype of the ethnic group, the defendant is less likely to be seen as favorable in the court (Schlesinger, 2005). Similar to attribution theory, racial threat perspective (Albonetti, 1991; Free, 2005) suggests that defendants of color are more likely to receive harsher pretrial release conditions as a means to maintain racial dominance by the White establishment.

Hinderaker and Johnson (2001) directly assert that racial injustice in the courts is commonplace and "...has become so widely accepted that it is no longer subject to debate" (p.26). Racial discrimination manifests in many opportunities particularly in

"racial profiling by the police, disproportionate poverty, incarceration and capital punishment" (Katz, & Stern, 2008, p.62).

The literature on the influence of race on pretrial release offers varying theories and measures as to how race is factored into the bail decision process. By some accounts, the findings remain inconsistent (Albonetti, 1991, 247). Zatz (2000) points out that race affects bail decisions based on the type of crime that is alleged. In her work, the race of the defendant has a greater influence in bail decisions that involve less serious cases without the use of a firearm than defendants who are charged with serious felony cases where a gun is involved and when the victim is black. Petee's (1994) research points out that Non- White defendants are collectively less likely to be released on own recognizance than White defendants. Demuth (2004) argues that race is not a significant factor to pretrial release decisions but is a factor that is entangled with socioeconomic status. In this work, Demuth sums up that "...if minority defendants are less able to pay for bail, then this disparate impact may amount to a form of de facto racial and ethnic discrimination" (Demuth, 2000,

p.877; Demuth & Steffensmeier, 2004). Turner and Johnson (2006) contend that African American males are more likely to receive higher bails than any other offender category. In a 2004 study of a cross borough analysis of New York City, White defendants were significantly more likely to be released without paying bail than defendants of color (Phillips, 2004, p.20). Research from Schlesinger (2005) also reveals that race has a significant effect in pretrial release. This study revealed that Blacks were more likely to be denied bail, were less likely to be granted a non financial alternative to bail and were less likely to make bail if issued. Schlesinger's (2005) work also revealed that Hispanic defendants were more likely to be released than Blacks but not as likely as Whites (p.183).

In his work, Demuth (2003) points out that there are several reasons that minority defendants experience stricter pretrial release terms. One reason is that despite the court's position to only consider the defendant's criminal information, pretrial release is also based upon the stereotypes associated with the defendant's "race, ethnicity, gender and social class." Hispanic defendants, who

are detained near border states, may be stereotyped as drug traffickers and are likely to become increasingly scrutinized in the criminal court.

Free's (2005) meta-analysis of 30 studies that focus on the impact of race and ethnicity on pretrial release further suggests that collectively, it is difficult to determine the impact that race has on pretrial release. While over half of the studies suggested that race was a significant factor in unfavorable pretrial release conditions, Free noted that there was wide variability among the dependent and independent variables that were used in the studies. Some studies did not differentiate Black defendants from other minority defendants and simply created a variable using White/non White values. Other studies cited in the meta-analyses analyzed small sample sizes that may call into question if the analysis was representative of any racial differences in the larger population.

The Relationship between Class Differences and Pretrial Release

As race and ethnicity dictate life choices, they are most often linked to social stratification and class. As with race, class distinctions have tremendous influence on life opportunities in the

larger scope of society and it is particularly evident within the court processing of defendants. Indigent defendants face far more challenges than their affluent counterparts. While most defendants charged with a crime will have their bail set, it is only those defendants who have resources to meet that financial obligation who will be released. Poor defendants (regardless of racial or ethnic category), who have limited social and family networks, are unemployed or are unable to secure bail bonds through collateral or other financial means will remain in custody.

Defendants who remain in jail during pretrial hearings also face significant consequences both in perception and in reality. Detained defendants are perceived as being guilty because they appear before the court in jail clothes and handcuffs. Though they have not been convicted of a crime, defendants are generally housed in the same detention center as convicted inmates who have been sentenced. Defendants who are unable to afford legal representation on their own are assigned to a public defender, and while these attorneys are generally no more or less qualified than a private attorney, public defenders are burdened with

extremely large caseloads and may not be able to offer as much attention to each client. According to the Bureau of Justice Statistics (2006) 80% of felony defendants were represented by a public defender. Indigent defendants who remain in custody are more likely to be found guilty and are more likely to receive harsher sentences than defendants in more favorable economic circumstances (Goldkamp, 1986; Feeley, 1979).

One way of looking at the effects of class within court processing is by analyzing the sentencing literature. Wooldridge and Thistlethwaite (2004) found that charging, conviction and sentencing while controlling for all other factors, was significantly related to a defendant's race and socioeconomic status (p. 417). Their findings revealed that defendants who come from socially and financially disadvantaged backgrounds were more likely to receive more punitive legal consequences than defendants who were able to make bail.

In looking at class differences, Richard Quinney's development on social conflict theory (1980) makes two important points: 1. The State and specifically the coercive power of law is responsible

for maintaining the status quo of the elite and 2. The power of the state has led to "...social injuries [of oppression] resulting in sexism, racism, and economic exploitation" (p.353). Quinney's theory suggests that criminal involvement and criminal history have differential effects on the affluent and the indigent in terms of income, resources and social status.

The Relationship between Gender and Pretrial Release

Much of the literature pertaining to the influence of gender on pretrial release is limited. A major reason for this is that most of the prior research has focused exclusively on the effect of gender on arrest and sentencing outcomes (Turner & Johnson, 2006; Demuth, 2003; Steffensmeier & Demuth, 2000). Another reason is that gender has an interaction effect on pretrial release decisions in connection with other factors such as race, class, type of crime alleged and external factors such as marital or parental status.

In Turner and Johnson's work, the gender variable, when controlling for other factors such as race, criminal history and age, was not a significant factor in determining bail (p.61). Moreover, when race and gender were combined, the results revealed

that White women and women of color were more likely to receive lower bail amounts than their male counterparts. In the assessment of Seattle and New York City Courts, Daly's research (1989) found that married female and male offenders were more likely to receive lenient provisions compared to unmarried defendants (p.151). However, separated women who have children were more likely to receive lenient pretrial release conditions compared to separated male defendants with dependents. Similarly, Kruttschnitt and McCarthy (1985) pointed out that female offenders were more likely to receive lenient court outcomes when such defendants present as having strong involvement with their family.

One alternative explanation that has been woven into most of the research pertaining to the effects of gender on pretrial processing is based upon paternalism and the theory of the "Chivalry Hypothesis." This framework suggests that women require the assistance of the state (i.e. the criminal justice system) in rehabilitating them from unlawful actions. It is suggested that "females are more likely to receive 'discretion' and are screened out of the criminal justice system at the point of arrest" (Knox,

2008). It is the idea that women, particularly those who have committed traditionally "feminine" crimes, such as prostitution, petty theft, and other minor offenses are considered offenders who have been led astray. It is considered socially appropriate to provide leniency and rehabilitation rather than punish and incarcerate. Turner and Johnson assert that "[w]hen women behave in ways that are in harmony with traditional female roles of purity and submission; they receive lenient or preferential treatment" (p.58). Conversely, women who commit traditionally masculine crimes (such as crimes of violence) are "violating social norms" and may be subjected to harsher treatment (Erez, 1992).

Bail Reform in America

There have been a series of challenges to address the social and economic inequities that exist within the court system. In 1961, the Manhattan Bail Project (Ayres, 1961) sponsored by the Vera Institute of Justice, was the first large-scale study to test whether indigent defendants would be just as likely to return to court on non-financial conditions of bail as defendants who were assigned a monetary amount of bail. In this study, defendants were randomly assigned

into an experimental group (evaluated by the community ties they had in the community) and control group (released on bail). Defendants in the experimental group were asked about their personal history such as marital and employment status, local residence, criminal history and a professional or personal reference who could verify the information given by the defendant. Information obtained from this interview was assigned values or points, where higher points increased the defendant's eligibility for being released from custody on own recognizance. Determining a defendant's ties to community through verification of local address, employment and position in society was argued to be more equitable than the traditional monetary bail system. The results of this study revealed that defendants released on their own recognizance were more likely to return to court than defendants who were released on bail. One explanation for this was that defendants who were released on their own recognizance had established community ties that required them to be productive citizens. Defendants who were married, had children or were gainfully employed were more likely to be responsible and therefore were more likely to appear in court.

Defendants who were released on bail may not have had the community involvement necessary to prevent them from absconding or from participating in further criminal behavior. In fact, a recent article reveals that fugitive defendants in a major city owe nearly a billion dollars in unpaid bail because they have failed to appear for court (Phillips & McCoy, 2009).

The study had several implications. First, the use of release on recognizance saved detention facilities money in the cost of housing and transporting detainees to and from court. Secondly, it reduced the size of the jail population by utilizing alternative, non financial methods of release. Third, the impact of the Manhattan Bail study helped to inform Congress of the inequities of treatment of various classes of defendants in the criminal justice system. The bail project's findings drew attention on the political stage and helped to inform legislators of alternative forms of the pretrial release of the accused. The result was the development of the 1966 Federal Bail Reform Act (18 U.S.C. § 3142):

The judicial officer shall order the pretrial release of the person on personal recognizance, or upon execution of an unsecured appearance bond

in an amount specified by the court, subject to the condition that the person not commit a Federal, State, or local crime during the period of release, unless the judicial officer determines that such release will not reasonably assure the appearance of the person as required or will endanger the safety of any other person or the community (1966 Bail Reform Act).

The 1966 Act provided the court with the option of releasing defendants in non-capital cases without the use of bail or other forms of financial guarantee. Additionally, the legislation provided courts with a variety of conditions that could be assigned to released defendants ranging from psychiatric evaluations to travel restrictions. This was a watershed moment in bail reform in addressing the social and financial inequities that existed for the accused. Another important impact of the 1966 Bail Reform Act led to the creation of many pretrial service agencies across the country designed to assist the courts in processing and considering defendants for pretrial release. New York City was the first city in the country to implement pretrial services in the court system, followed by Philadelphia, San Francisco and Chicago. Due to the emergence of many pretrial agencies that were implemented across the country, the National Association of Pretrial Service

Agencies (NAPSA) was developed to provide structure and consistency among the standards employed in the growing cadre of pretrial services. To accomplish this, NAPSA developed the Performances Standards and Goals for Pretrial Release and Diversion (1971). The guidelines provided a thorough course of action for the role of pretrial agencies in the court system. The guidelines offer instruction regarding the defendant's voluntary participation, eligibility criteria of defendants considered for pretrial release as well as additional services available to the defendant at pretrial. The Pretrial Services Resource Center (PSRC) was established to serve as a clearinghouse for research and information pertaining to pretrial service agencies across the United States. PSRC provides technical support and assistance to agencies in ensuring public safety as well as defendant's rights during the court process.

Implications of the 1966 Bail Reform Act

Despite the development of the act, courts in general were not releasing defendants without the financial guarantee that bail provides. In fact, "...while legislation and court rules allowed for conditional release, it remained underutilized and [in

fact] high detention levels persisted in many jurisdictions [as a result] of the overly cautious policies of courts (Pretrial Services Resource Center, 1999, p. 5-6). Courts that utilized non financial forms of release, as specified by the Bail Reform Act, experienced high rates of pretrial misconduct among defendants who were released from detention. In particular, the District of Columbia experienced exponential rates of violent crime between 1960 and 1970:

General public dissatisfaction with the bail-bond system in the District of Columbia spurred Congress, in 1970, to enact an amendment to the District of Columbia Code allowing detention without bond of defendants charged with certain "dangerous crimes" where "no condition or combination of conditions . . . will reasonably assure [the] safety of the community." (Washington, 1988, p.1).

Due to the increase in crime rates as well as the crime among defendants who were previously conditionally released, the District of Columbia drafted its 1970 Court Reform Act. The reforms indicated in the 1970 D.C. Court Reform Act were significant in that it provided the template for the Federal Bail Reform Act fourteen years later. Under the 98th Congress, the Federal Government drafted the 1984 Federal Bail Reform Act. The 1984 reform act

subsequently amended the 1966 act by allowing additional discretionary powers to the court in assuring a defendant's return to court. The amended act provides judges with the discretion to detain defendants in custody when "... such release will not reasonably assure the appearance of the person as required or will endanger the safety of any other person or the community" (18 U.S.C. § 3142(b)).² Specifically, the 1984 act authorizes judges to detain if the defendant is charged with one of the following offenses:

1. Crimes of violence³
2. Crimes where the penalty is life in prison or the death penalty.
3. Drug offenses that carry a maximum of ten years in prison.
4. Prior convictions of a crime of violence, drug offenses that carry penalties of ten years or more, or convictions that carry life in prison and death penalty.
5. Defendants that pose a serious flight risk if they were to be released from custody.

² 44 states and the District of Columbia have statutes similar to the 1984 Bail Reform Act (Pretrial Service Resource Center, 1999).

³ Violence is defined as the following per 2332b (g)(5)(B) (1) Offenses.— Whoever, involving conduct transcending national boundaries and in a circumstance;
(A) kills, kidnaps, maims, commits an assault resulting in serious bodily injury, or assaults with a dangerous weapon any person within the United States; or
(B) creates a substantial risk of serious bodily injury to any other person by destroying or damaging any structure, conveyance, or other real or personal property within the United States or by attempting or conspiring to destroy or damage any structure, conveyance, or other real or personal property within the United States;

6. Defendants who are charged with obstruction of justice or tampering with a witness or jury.

Under the Act, defendants who are considered for detention without bail must have their matter heard through a detention hearing. The purpose of the hearing is to assess whether the defendant is likely to be a flight risk or a threat to society upon release. The decision to detain is based upon several factors:⁴

1. Clear and convincing evidence that the defendant committed one of the eligible charges under the act.
2. Past and present conduct.
3. There is no condition or combination of conditions of release which will reasonably assure the safety of any other person or the community.

Challenges to bail reform legislation derive from case law, legal commentary as well as empirical research. It is suggested that these reforms are inconsistent and unconstitutional (Washington, 1988). *Salerno v United States* (481 U.S. 739) was one of the first legal tests to the 1984 act. Anthony Salerno, a leader of the Genovese crime family was charged with racketeering and violent charges that made him eligible for preventive detention under the act. On appeal, the plaintiff alleged that the preventive

⁴ §23-1321(A)(B)(C)

detention clause of the Bail Reform Act was a deprivation of liberty and due process. On appeal, the appellate court in the second circuit agreed with Salerno and vacated the judgment for detention on the grounds that it went against the Federal Constitution standard of due process. However, the Supreme Court held that preventive detention is constitutional and does not violate a defendant's liberty. The holding from Chief Justice Rehnquist makes three important points. First, while the decision to detain is at the discretion of the judge, Congress developed the guidelines that have executed this policy. Secondly, defendants are afforded with due process safeguards such as having a lawyer present, cross-examining witnesses and evidence. Finally, the judicial officer may impose preventative detention in the same manner that has been imposed upon juveniles⁵, dangerous aliens and the mentally ill.

Rehnquist stated:

In our society liberty is the norm, and detention prior to trial or without trial is the carefully limited exception. We hold that the provisions for pretrial detention in the Bail Reform Act of 1984 fall in that carefully limited exception. The Act authorizes the preventative detention of

⁵ Under *Schall v. Martin* 467 U. S. 253 (1984) -this has been established as the standard.

arrestees charged with serious felonies who are found to pose a threat to the safety of individuals or to the community which no condition of release can dispel (*Salerno v. United States*, 481 U.S. 739 (1986)).

Justice Marshall in his dissenting opinion stated the following:

"There could be no more eloquent demonstration of the coercive power of authority to imprison upon prediction, or of the dangers which almost inevitable abuses pose to the cherished liberties of a free society" (*Salerno v. United States*, 481 U.S. 739, 1986).

Washington (1988) argues that the decision in *Salerno* represents the arbitrariness of how dangerousness is characterized in the Bail Reform Act. Washington points out that prior to the Supreme Court's decision on detention, Salerno was granted pretrial release even though the defendant was charged with crimes that would bring him 100 years in prison. Salerno's codefendant Vincent Calfano was granted pretrial release for "health reasons." This argument suggests that there is no explicit definition in determining dangerousness even when such legal framework such as the Bail Reform Act is legislated (Washington, 1988, p.5). Similarly, Ward and Wright

(1999) point out that the 1984 act is vague in terms of its definitions of crimes of violence and dangerousness. The authors suggest that "...the act is unclear [where] similarly situated criminal defendants in the federal system may suffer disparate treatment" (Ward and Wright, 1999, p.3).

Berg's (1985) critique of the 1984 act offers compelling points regarding the blurred distinction of crimes of violence as grounds for pretrial detention. He argues that the reform's definition of crimes of violence is too abstract and may be misinterpreted by the courts. Specifically, he refers to defendants who are detained without bail based upon on the charges of conspiracy to commit armed robbery and possession of pornography.⁶ Berg argues that if the bail reform legislation is expected to be interpreted in an abstract manner that does not take into consideration the use of coercion as a requirement for crime of violence, it is suggested that the "...1984 act will be applied more than what Congress intended" (Berg, 1984, p.9).

⁶ See *US v. Chimurenga* 760 F.2d 400, (2d Cir.1985); *2nd & United States v. Yeaple* 605 F. Supp. 85, (M.D. Pa. 1985).

There were other legal challenges to preventative detention after *Salerno*. In *Hilton v. Braunskill*, 481 U.S. 770 (1987), Chief Justice Rehnquist offered a similar opinion that he had delivered in *Salerno*, stating that the defendant was not being deprived of his liberty as a result of his sexual assault and knife indictment.

Court decisions suggest that the crimes of violence requirement have been interpreted in varied ways. For example, in *Stinson v. United States* 508, U.S. 36 (1993), the plaintiff argued that the mere possession of a firearm by a felon does not necessarily constitute a crime of violence. In rejection of *Stinson's* claim, the Eleventh District Court of Appeals offered this opinion that "...the offense of weapons possession by a felon "by its nature" imposes a "serious potential risk of injury" (508 U.S. 36). However, the decision of the Ninth Circuit Court of Appeals in *US vs. Canon* (993 F.2d 1439, 1441) and the Fifth Circuit Court of Appeals in *US vs. Jennings* 195 F.3d 795, 799 n.4 (5th Cir. 1999) ruled that possession of a firearm (and more specifically, possession of a firearm by a convicted

felon) does not constitute, on its face, a crime of violence.

Findings from empirical studies have also echoed the sentiments of the legal community, suggesting that it is unclear which charges would result in preventative detention. A state analysis by Goldkamp (1985) found that there are a variety of offenses that are considered a danger to society. For example, in states such as California, a defendant may be detained if it is determined that he or she is likely to commit bodily harm. In Georgia and Alabama, defendants may be detained if they are a danger to property.

Literature from the fields of forensic psychology and criminal justice suggest that the judicial assessments used to determine release conditions "... [are] not founded on a scientific basis" (Grisso & Applebaum, 1992, p.622; Goldkamp, 1983; 1993, Feeley, 1977). Tonry (1987) evaluates the tension between the use of judicial prediction, classification and preventative detention. With regard to judicial prediction, he argues that for the most part, judicial predictions on pretrial release have occurred based "... [Upon] intuition with wide divergence in the decisions that are reached (p.388,

Dhami, 2004). Additionally, in a simulated bail study, Dhami (2005) reveals that "...judges presented with identical cases varied in their judgments and decisions" (p. 381). Additionally, Tonry suggests that judicial prediction should be based upon sound empirical support (p. 388). Washington (1988) states that "research indicates that for every one person accurately found to be dangerous and preventatively detained, five to ninety-nine or more individuals are wrongfully detained by inaccurate predictions of dangerousness" (p.8).

While the Bail Reform Acts provide courts with the capacity to release and detain defendants, in no way do they provide explicit guidelines of bail decisions (Goldkamp & Gottfredson, 1979; Goldkamp, Gottfredson, Jones & Weiland, 1995, p. 10-11). Each state has interpreted the federal acts differently as reflected in their respective state constitutions, statutes and penal codes.

Identifying Predictors of Pretrial Release

A substantial amount of literature focuses on the factors that are likely to influence pretrial release conditions. In preliminary work in Philadelphia, Goldkamp and Gottfredson (1979) identified several

important predictors that influence ROR and cash bail. Employing a stepwise multiple regression model (independent variables entered into the model included demographic, health, legal, criminal history and current charge categories) for each dependent variable, the findings revealed that the type of criminal charge, seriousness of prior arrest, seriousness of prior convictions, number of current charges, warrants, open cases in other matters, and hospitalization due to mental illness had a negative association to being released on ROR. Defendants with a working telephone in their home had a greater likelihood of being released without bail. The research also suggested that weapons charges, number of prior arrests, seriousness of prior arrests and whether spouse was likely to secure bail influenced the amount of cash bail that was issued.

What is salient about these findings is that the factor of community ties was shown to have little influence on release conditions. With few exceptions, this seems to be a consistent finding in most of the studies on pretrial release (Wheeler & Wheeler, 1981; Goldkamp, 1977; Goldkamp & Gottfredson, 1979; Goldkamp & Gottfredson, 1985; Goldkamp et. al, 1995; Siddiqi,

2002; Phillips, 2004). Community ties have the greatest influence in models that predict failure to appear (Ayres, 1961, Wheeler & Wheeler, 1981; Siddiqi, 2002, p. 23) or as interaction with the current charge variable in influencing bail amounts (Goldkamp and Gottfredson, 1985)

Goldkamp sums up these findings by stating that, ultimately, dangerousness has the greatest influence on release decisions:

It seems clear that dangerousness was an important concern for most of the judges interviewed; and, although it may have been assessed differently by different judges, the nature of the current charge and the past record were the principal criteria used in deciding who was considered dangerous (Goldkamp, 1977, p. 311).

Goldkamp and Jones (1988) implemented an experimental study in court populations in Milwaukee, Wisconsin and Prince George County, Maryland. The researchers hypothesized that defendants would most likely refrain from committing pretrial misconduct if they were tested for drugs and that judges could use results of drug testing to determine whether a defendant would fail to appear. The results revealed that there was no significant difference in pretrial misconduct or failure to appear across experimental

groups (being drug tested) and control groups (not being drug tested). The research suggested that rather than rely on one predictor to determine release, it may be warranted to consider a series of predictors as well as the way in which drug testing is implemented in a court setting (Goldkamp & Jones, 1988, p.7).

These laws are sensitive to the sensibilities of the community and legislators that have created these guidelines, however, these policies reaffirm that there is a lack of consistency when it comes to assessing the pretrial liberties of the accused. Identifying known drug abusers has generally occurred by self-report at the pretrial service agency, which calls into question concerns of reliability and validity (Goldkamp & Jones, 1988).

The Role of Judicial Discretion

Unregulated judicial discretion in determining pretrial release decisions is another important subject within the current body of literature. Goldkamp and Gottfredson (1979) suggest that release decisions which are arbitrarily issued without structured guidelines are likely to result in higher rates of defendant misconduct than courts that rely on

structured guidelines. In a later study, Goldkamp (1983) reiterates that informed judicial decision-making is critical for accurate prediction. The study compared the rates of misconduct among a sample of defendants who were released from custody without any judicial qualification to defendants who were released from custody by judicial decision.⁷ The results revealed that defendants who were not qualified for release were more likely to engage in pretrial misconduct than defendants who were qualified by some prediction by a judicial officer. In fact, 53% of defendants who were not qualified failed to appear for future court appearance as compared to 26% of defendants who went through normal legal channels (Goldkamp, 1983, p.1581). Findings in Goldkamp's work suggest that informed prediction in judicial decision-making provides greater accuracy than no prediction at all.

A second concern related to bail guidelines is the equitable treatment among defendants. It is understood that defendants who have similar criminal

⁷ Defendants who were released without judicial qualification was based on the ruling in Jackson V. Hendrick No-71-2437 Pa.Ct. of Common Pleas, 1972, Philadelphia Court of Common Pleas which authorized the immediate release of defendants who had bail under \$1500.

court characteristics should generally receive similar bail conditions. The difficulty in maintaining equitable treatment in bail guidelines is two-fold. One obstacle is that there is no clear standard or rubric in terms of how judges perceive similar circumstances. Judges have discretion to determine bail conditions based on the factors of current charge, community ties, and criminal history and their decisions may fluctuate based on the defendants who appear before them. Another obstacle is that there is little or no understanding of bail decisions that occur over time for one specific judge or decisions that occur across judges. Goldkamp and Gottfredson suggest that "[w]ithout some mechanism that can systematically provide feedback about bail dispositions in previous cases to the decision makers responsible for them, consistency will be difficult to attain and equity will be problematic"(p. 235). Bail decisions are generally determined without explanation as to what factors were used in making the decision. This is especially relevant to defendants who are assigned cash bail as a condition of release. Despite bail schedules, judges have autonomy and discretion to deviate from those guidelines without court oversight

or explanation. While assignment to cash bail alone "does not directly determine pretrial custody," it is definitely a factor for defendants who are economically disadvantaged and are unable to secure any amount for release (Goldkamp & Gottfredson, p.235; Goldkamp, 1993, p. 32).

The Development of Bail Guidelines from Empirical Study

The lack of transparent and consistent bail guidelines and judicial practices has been the catalyst for social scientists to assess the factors that determine release decisions. Goldkamp and Gottfredson's (1985) work in the Philadelphia Municipal Courts is an example that demonstrated how empirical work could inform the development of bail guidelines. In the first phase of the study, the researchers collected 200 variables (in the areas of criminal history, performance during pretrial release, current charges, community ties and demographic information) for 4800 bail decisions. The sample was stratified by the judge and type of charge. In the modeling phase, the dependent variables were the release decisions ROR (measured in yes and no values) and cash bail (measured on an interval level). Logit analyses of the ROR decision revealed that a

defendant's gender and current charge provided the greatest predictors of being issued ROR. Defendants who were charged with serious crimes were less likely to be released. In a final model, current charge, number of different crimes, crimes against person, number of prior convictions for serious crime, age and the presiding judge were shown to influence the amount of bail. It was also discovered that among the judges, there was a high rate of disparity in the assignment of bail amounts (Goldkamp, et al., p. 32). In assessing pretrial failure (failure to appear and rearrest), the findings revealed that rates widely differed by judge.

In the second phase, the findings were presented to the judges. The researchers acknowledged that while judges were concerned with the disparity in bail decisions, they were reluctant to depend solely on statistical calculations to make bail decisions. A hybrid model (also known as the bail guidelines judicial worksheet) was developed as a combination of the status quo approach (where judges could still maintain discretion and autonomy in court decisions) and an actuarial approach (a statistically driven model based on the predictions of pretrial

misconduct). The bail guidelines consisted of a 40 cell table that consisted of 4 levels of failure by 10 levels of charge severity. Each cell represented a release condition (automatic ROR, ROR or Bail, or automatic bail) based upon the level of failure and severity that was statistically calculated in earlier models. Higher levels in risk and severity would result in higher bail amounts. Defendants who were determined to have lower risk were issued lower bail amounts or outright release on own recognizance. If the judges' decision departs from the bail guidelines, they are required to state the reason on the guidelines form.

To test whether the judges would use the bail guidelines in making decisions, Goldkamp and Gottfredson randomly assigned 8 judges to an experimental group who were selected to use the guidelines and 8 judges in the control (who set bail without the guidelines). Judges in the experimental group stayed in the guidelines in 76% of all cases as compared to 57% of cases in the control group. The results also showed that in 65% of the decisions that deviated from the guidelines, judges in the experimental group indicated their reasons. Most

judges noted that the current charges were too serious to be considered for ROR or bail.

The results of this work tell a great deal about the patterns of judicial decision making as well as the willingness of court officers to voluntarily use empirically informed bail guidelines. The results show that judges take into consideration danger and flight risk in determining bail amounts and ROR. In many respects, both the researchers and judges discovered that structured guidelines can reduce the issues of inequitable treatment of defendants across courtrooms and also offers for greater accountability of judges who make the decisions.

An important subsequent component in the determination of release conditions is the establishment of frameworks that ensure defendants will return for court appearances. The role of most pretrial service agencies (in addition to providing defendant information to the court so that the court can make an informed decision about release conditions) is to monitor and supervise released defendants.

In a series of four experiments, Goldkamp and White (2006) tested whether court supervision had an

impact on the defendant's pretrial performance. The first experiment sought to determine whether notifying the defendant of their court obligations (verbally and in writing) reduced the rate of pretrial misconduct. The second experiment assessed whether the frequency and intensity of supervision during the pretrial period had an impact on pretrial performance. The third experiment tested whether telephone reminders reduced the rate of failures to appear and rearrest. The final experiment assessed whether pretrial service agencies improved the rate of absconders coming into compliance by contacting them by telephone. The results revealed that there was no significant difference in pretrial misconduct among the experimental group (where the intense supervision intervention was employed) and the control group (where normal courtroom practices were employed).

Despite these findings, there were other discoveries in the work. As a basis for the first experiment, it was suggested that defendants required verbal and written reminders about returning to court because it was inferred that they were confused or "disorganized" about the court process (Goldkamp & White, 2006 p.152). Findings from the test confirmed

the contrary: defendants were aware of their responsibilities upon release. A lesson from the second experiment is that defendants are more likely to make court appearances if supervision has a direct way of contacting them. Finally, bringing absconders into compliance through telephone notification (fourth experiment) helped to fortify the bail guidelines in that defendants who fail to come to court will be detected (p.174).

Bail Guidelines

While it is difficult to describe the bail guidelines of individual jurisdictions, the Bureau of Justice Assistance (2003) surveyed nearly 200 pretrial release agencies to assess how defendants are considered for pretrial release. The results of the survey found that less than 25% of the reporting agencies rely on an objective risk assessment, 42% use a combination of subjective and objective risk instrument while 35% of the pretrial agencies employed a strictly subjective tool (BJA, 2003).

Under the California Constitution Article I section 12, most defendants charged with felony offenses and all defendants charged with misdemeanor offenses are issued bail. In each county in the state

of California, Superior Courts assign bail amounts using a uniform bail schedule based upon arrest charge and is modified at arraignment (refer to appendix A for the bail schedule). Despite the schedule, bail can be modified based on the seriousness of the current offense, prior criminal record and flight risk (Cal Penal Code § 1269c). Bail (including the determination of release on recognizance) can also be determined at the judge's discretion if an offense is not indicated on the bail schedule (see Cal. Penal Code § 1269(b) (f)). Judges may also consider releasing a defendant on own recognizance based upon the defendant's community ties such as employment, income, place and duration of residence, family ties, prior court appearances as well as the severity of the current charge and punishment if convicted. Defendants charged with misdemeanor or infraction offenses can be arrested and released on citation to appear in court at the discretion of the arresting officer.

The exceptions to bail in the state of California include the following offenses:

1. Capital crimes⁸
2. Felony offenses that involve acts of violence on another person. Included in this category is felony sexual assault
3. Felony offenses involving acts of violence on another person and the court finds convincing evidence that the defendant would carry out this behavior.

4. Defendants brought to court on an arrest warrant.⁹

Beyond the bail schedule, there are no structured bail guidelines in place that help to inform judges in assessing flight risk of the defendants that appear before them. As a result, it is unclear how judges determine whether defendants are issued bail (as well as the amount of bail assigned) or how defendants are considered for release on recognizance. A way to approach this is by looking at the defendant's pretrial service report that is submitted to the judge by the county pretrial service agency.

⁸ Capital Crimes are defined as crimes that if convicted may lead to a punishment of death. In California, there is an extensive range of offenses that can be tried as Capital cases. *Please see appendix B for list of eligible offenses.*

⁹ Per California Penal Code § 1269a, "...no defendant charged in a warrant of arrest with any public offense shall be discharged upon bail except upon a written order of a competent court or magistrate admitting to bail.

Some states consider prior flight risk, severity of current charge, and prior convictions as important factors in determining release conditions such as assigning bail or releasing a defendant on their own recognizance. Other states refer to something completely different. Despite the state guidelines, judges exercise tremendous discretion in determining release conditions. In fact:

The heterogeneity of criteria recommended for decision-maker use in statutes and court rules in the States reflects not only an uncertainty over the criteria that ought to be considered in the bail decision making, but also the ambiguity about the function of the bail decision itself (Goldkamp and Gottfredson, 1979, p.231).

Summary

There is a great deal to learn from the literature. First and foremost, it is unclear how individual states and courts have interpreted the Bail Reform Act. The intention of the legislation is to provide the least restrictive measures of pretrial release that would ensure a defendant's return to court while detaining defendants who were likely to be a danger to society. Goldkamp and others have indicated in their respective studies that there is great deal of variability across state jurisdictions and in courthouses. Decisions of the courts have

varied as to what is considered dangerous and particularly what is considered a crime of violence. What has been considered a crime of violence is a broad range of charges ranging from misdemeanor domestic violence to felony gun possession.

Secondly, the literature suggests that informed decision making through the praxis of release guidelines, classification of seriousness and rigorous empirical support provides the best practice in informed decision making. In their work, Goldkamp and Gottfredson demonstrated that voluntary bail guidelines can reduce the inequity, provide greater visibility and provide greater accountability of the court. Literature has also established that pretrial agencies can reduce the rates of pretrial misconduct. Finally, the best prediction models involve informed classification by methodologically sound research.

However, there are several areas within the body of the literature which require further study. One issue is that there is limited research that focuses explicitly on the pretrial processing of misdemeanor defendants. This is an important issue because misdemeanor cases are processed at greater rates yet go through the same court process as felony

defendants. In fact, Ryan (1980) points out that pretrial processing of misdemeanants significantly outweighs any punishment the defendant is expected to receive at final disposition:

[Misdemeanor defendants] need to make bail, hire an attorney, be present at court appearances , and even help prepare one's defense drain the economic and psychological resources of many defendants , whether they are adjudicated guilty or innocent. By contrast, the punishments meted out to defendants upon conviction appear insubstantial (Ryan, 1980, p.79).

Little is also known about the factors that judges use to determine pretrial release decisions in misdemeanor courts. The literature suggests that the severity of the current charge influences the release condition in the felony court, but there is limited understanding as to whether this influences the decisions on the misdemeanor level. It is also worth understanding whether the factors of race, class and gender play a role in the determination of pretrial release conditions. This is especially important to assess in jurisdictions that have judicial discretion without explicit bail guidelines.

There have been few studies which have assessed misdemeanor conduct after the defendant was released at pretrial. This is also an important issue for court

administrators who are attempting to assess the risk of misdemeanor defendants who fail to come to court or are rearrested at release. This is particularly understudied in jurisdictions where the bail guidelines are extremely broad and where judges make decisions without any oversight or accountability.

The aim of the following chapters is to put to the test a series of research questions that evaluate if (and how) demographic, current criminal involvement, and criminal history in a defendant's background impact the likelihood of being granted certain conditions of pretrial release, non release as well as failure to appear after pretrial release. As mentioned previously, it is unclear how closely judges in the current study follow the bail guidelines in both misdemeanor and felony courts. The focus is to assess whether judges in a specific jurisdiction take into consideration flight risk and the perceived threat that the defendant may have on the community.

Contribution to the Literature

The findings from this study will shed light in an important way on what influences judges to determine pretrial release conditions as well as what influences pretrial misconduct. What sets this study

apart from other projects is that it assesses pretrial processing in misdemeanor courts. In most courthouses, misdemeanor cases reflect a substantial portion of criminal court processing, yet the attention is usually directed at felony courts. Felony case processing certainly deserves significant attention since it involves serious offenses and the sanctions are more punitive than in lower courts. However, it should also be pointed out that misdemeanor crimes can also infringe on the well-being of the offender, victim and public safety. Crimes such as domestic violence, stalking, drunk driving and battery are classified in most jurisdictions as misdemeanors; however all these offenses cause emotional and physical harm and have the potential of having fatal outcomes. Misdemeanor defendants face similar formal and informal consequences as their felony counterparts: they must remain in custody if they cannot afford bail, they risk losing their job or disrupting their personal relationships if it is discovered they are being detained.

This work presents an opportunity to look beyond felony defendants particularly in jurisdictions where judges are making release decisions without structured

bail guidelines. The data in this study reflects pretrial release decisions made in the discretion of the judges in absence of court guidelines other than state law. This work seeks to pinpoint the specific characteristics of the defendant and the offense in an effort to assess patterns of judicial decision making and determine possible policy implications and responses.

Results from this study will also contribute to the existing literature by evaluating the likelihood of pretrial misconduct or future offenses based on the initial pretrial release condition. Most of the literature pertaining to future offending stems from forensic psychology research on mental health patients or simulated courtroom studies in general criminal justice work. The research represents data that was collected from an actual courtroom with actual pretrial release decisions. As a result, findings from the study will provide an accurate picture regarding release outcomes in the criminal courts. Findings from the study will provide the participating court with insight into certain patterns of the judicial decision making process that occurs in their courthouse. Such findings may serve as the beginning

towards developing classification and prediction measures in determining pretrial release of the defendants that come before them.

Finally, the results of this study will revitalize the conversations regarding the issues of race, class and gender in criminal court proceedings. While certain protections in the form of due process are afforded to all defendants, history has suggested that defendants who come from underrepresented communities may continue to be disenfranchised when it comes to pretrial release decisions and the criminal court process in general. In many respects, the disparity between the affluent and the poor has been extensively highlighted in recent years as the criminal justice system has been scrutinized over favorable treatment of celebrity defendants. This is especially evident for defendants who may not have the financial supports to bail themselves out of jail. It is expected that the results from the work may serve as a catalyst towards rethinking the current approached to pretrial release and how they may reflect underrepresented populations.

CHAPTER 3
RESEARCH QUESTIONS
&
RESEARCH HYPOTHESES

In the previous chapter, the literature review provided an overview of the legal and demographic factors that determine the pretrial release condition. Additionally, the last chapter brought forward the factors of pretrial release, the realities of judicial discretion and how these concerns relate to the lower misdemeanor courts. The purpose of this study is to address these issues by answering the following two questions:

Research Question #1:

What factors do judges consider in determining whether to release defendants on recognizance?

The present study will test the following hypotheses:

Hypothesis #1: Defendants who are charged with violent crimes will be less likely to be released in the least restrictive release condition (release on own recognizance) than defendants who are charged with other offenses.¹⁰

Hypothesis #2: Defendants who are on probation at the time of arraignment are less likely to be released on their own recognizance than defendants who are not on probation.

Hypothesis #3: Defendants with prior convictions are less likely to be released in the least restrictive release condition (release on recognizance) than defendants with no prior convictions.

¹⁰ Defined as Assault, Battery, Robbery, Domestic Violence, Corporal Action on a Child, or Child Abuse

Hypothesis #4: Defendants who have a history of failure to appear will be less likely to be released on own recognizance than defendants without a history of failure to appear.

Hypothesis #5: Defendants who have established community ties (such as employment and place of residence, participation in military at the time of arraignment) are more likely to be released on bail or release on recognizance than defendants who remain in custody.

Hypothesis #6: Defendants who are homeless at the time of arrest are less likely to be released on their own recognizance than defendants who have a residence.

Hypothesis #7: Female defendants are more likely to be released based upon the least restrictive release condition (release on own recognizance) than male defendants.

Hypothesis #8: Black defendants are less likely to be released on their own recognizance than defendants of other racial groups.

Research Question #2:

Are judges accurately predicting the defendants who are likely to make their court appearances as well as defendants who are likely to commit pretrial misconduct (defined as failing to appear in future court appearances or rearrest during pretrial release)?

The present study will also test the following

hypotheses:

Hypothesis #9: Misdemeanor defendants who are released on own recognizance or posted bail are less likely to commit pretrial misconduct than felony defendants who were released on own recognizance or posted bail.

Hypothesis #10: Defendants who are charged with drug possession and were released on their own recognizance or posted bail are more likely to commit pretrial misconduct (defined as failing to appear for future court appearances) compared to defendants who were

charged with other offenses who were released on recognizance or posted bail.

The purpose of the second research question is to evaluate the strengths and weaknesses of the pretrial release decision. As in the first research question, the purpose of the research question #2 is to compare the level of pretrial misconduct between misdemeanor and felony defendants.

Hypothesis #10 states that defendants who are charged with drug possession or under the influence of a controlled substance are more likely to violate the pretrial release conditions. Goldkamp and Jones (1992) found that the relationship between drug addiction and pretrial release is significant; drug-involved defendants were less likely to be reliable in making future court appearances. This study will extend that work by assessing how drug possession influences a defendant's likelihood to return court in both the misdemeanor and felony courts.

Hypothesis #9, assumes that misdemeanants are more likely to return to court than felony defendants. Misdemeanants are charged with lesser crimes and are exposed to lesser penalties as compared to felony defendants and thus might have less to lose if they

return to court and are convicted. Defendants who are released on own recognizance or are released on bail are in essence in the "good grace" of the court. Moreover, the defendants' ability to be released from custody may also be due to their connection to the community, family, financial resources and employment. Because they have much more to lose in the community, it is likely that they are more likely to return to court upon release.

CHAPTER 4 METHODS

Description of Data Collection Site

The data collection site is an urban pretrial service agency in Northern California that has been in operation for over thirty years. The agency began in the 1970s in cooperation with a large urban university. In 2002, the pretrial service agency was funded and operated under the auspices of the County Superior Court. The agency's objectives are threefold: 1. to identify eligible defendants to the court for consideration of release from custody without posting bail. 2. To provide referrals for treatment to defendants charged with domestic violence. 3. To identify, monitor and refer defendants charged with drug possession to appropriate drug diversion programs.

The pretrial service agency operates during regular court hours, Monday through Friday. Employed personnel consist of a small group, including the director, a pretrial officer and a pretrial services specialist. However, the agency relies heavily on pre-law interns from local colleges to conduct the daily

defendant interviews. The pretrial service agency only operates in one courthouse, located downtown near other municipal and city offices.¹¹ The pretrial service agency interviews defendants from five courtrooms: two arraignment courts for misdemeanor and felony cases, two misdemeanor pretrial courts and one felony pretrial court. According to the State of California Court Statistics Report in 2006, the county had 345,906 criminal filings, 307,832 dispositions and 249 jury trials (Judicial Council of California, 2006).

Description of the Court Jurisdiction-City and County

The courthouse is situated within a large urban county in Northern California. County residents reflect diversity in race, ethnicity, income and educational attainment. According to the Census Report (2006), statistics show that over 82% of its residents have graduated from high school and nearly a third had an undergraduate degree. The rate of home ownership in the county is 54% with a median home value at \$303,000. White residents represent over half of the county population while Asian residents reflect 24%

¹¹ As of August 2006, there were 13 Superior Courthouses in the County.

and Black and Hispanic residents are represented by 14% and 21%, respectively. The preliminary statistics from the FBI's Uniform Crime Reports in 2007 (Table 2) shows the county has higher rates of murder, rape, robbery, aggravated assault and motor vehicle rate than the national average.

Table 2. Crime Rate Comparison: County and National (per 100,000)

	Murder	Forcible Rape	Robbery	Aggravated Assault	Property	Burglary	Vehicle Theft
COUNTY	14	38	442	470	2953	619	1240
NATIONAL	5.6	30	147	283	3263	722	363

Source: FBI Uniform Crime Reports 2007

Population and Sample Selection

In this study, the sample represents a 6 month sample of all misdemeanor and felony defendants who were considered for release on own recognizance at the pretrial service agency in 2004 (N=1076). The sample represents typical defendants who were considered for own recognizance release and is representative of defendants of any of the criminal court houses in the county. The defendants in this sample were selected because they met the following conditions for consideration of release on recognizance.

1. The defendant was not in violation of parole or probation that would have revoked their

opportunity to be eligible for bail at the time of current charge.

2. The defendant was not charged with a capital crime that would automatically deny bail as determined by the State of California.
3. The defendant was not charged with public disorder crimes such as prostitution or drunk in public offenses (these matters are generally settled at the time of arraignment).
4. Defendants charged with a domestic violence offense must have a verified alternate place to live (away from the complaining witness) while the case is being resolved in court.

Pretrial Service Decision's Interview Protocol

On the day of arraignment, the agency identifies eligible defendants that the court may consider for release without bail. At the beginning of each court day, personnel from pretrial services retrieve the list of charged defendants from the district attorney's office. Defendants are considered eligible if they are charged with a bailable offense at the time of arrest.

At the beginning of the interview, the pretrial service worker asks the defendant in custody basic

biographical information, such as address, employment history, military history and education. Additionally, the defendant is asked to provide prior arrest and conviction history that occurred outside of the county. Finally, the defendant is asked to provide references (e.g. family members, employers) who can verify the information provided. Once the information supplied by the defendant is verified by references, probation and parole departments (if applicable), the report may be submitted to the court for consideration of release.

The purpose of the report is to inform the judge of the personal and criminal background of the defendant. It is an objective report that does not provide recommendations regarding release. The district attorney's office may bring forward evidence before the court to establish the unlikelihood of the defendant's return to court.¹² However, the decision of the release condition is determined only by the judge. Per California Penal Code Section 1318, defendants who are granted release on recognizance are required to comply with the following agreement:

¹² *Van Atta v. Scott* 166 Cal. Rptr. 149 (1980).

1. Defendant promises to appear in court at all times
2. Defendant promises to obey all reasonable conditions set forth by the court.
3. Defendant promises not to leave the State of California
4. Defendant agrees to waive extradition if he or she is apprehended outside the State of California
5. Defendant signs acknowledgement that he or she has been informed of the consequences and penalties applicable to violation of the conditions of release.

If the defendant is released from custody on own recognizance, the pretrial service agency monitors and calls each client to remind him or her of subsequent court appearances. If the defendant was not released on own recognizance, the agency continues to monitor the case until the defendant is no longer in custody, posts bail, until the case is dismissed, or if the defendant pleads guilty.

In the instance where a released defendant fails to appear (FTA) for court appearances and a bench warrant has been issued, the agency will contact the defendant and the references provided during the interview to inform them of the defendant's current court status. In many cases, the agency can contact

the defendant about the bench warrant earlier than the criminal clerk's office.

Data Collection

The data collection process consists of three periods. The first wave of data collection began in May, 2005. The first period of data collection was for pre test purposes. This period of data collection consisted of collecting information from the first 100 cases of the sampling frame. The first wave of data collection served as a means to address several logistic concerns (i.e. reliability of the data collection instrument as well as the reliability of the individuals collecting the data). This period served to assess whether additional items should be incorporated in subsequent versions of the data collection sheet and codebook.

The second wave of data collection was collected in June, 2005. The sampling frame included all defendants who were interviewed by the pretrial service agency from July 2004 to December 2004. The third wave of data collection (collected in the summer of 2007) consisted of collecting additional information for each of the defendants represented in the sample. In this wave of data collection the

amount of bail issued by the judge, number of rearrests that occurred while released during pretrial and the release condition issued from the second rearrest were collected for each of the cases within the sample.

Data Collection Instrument

The data collection instrument is a modified survey that is used by the Bureau of Justice Statistics' State Court Processing Statistics (SCPS, 2003; refer to Appendix C for a copy of the instrument). The data collection instrument is divided into four categories: demographic information of the defendant, current charge, criminal history, and final disposition of current charge. Specifically in this study, the independent variables consist of race, gender, age, type of residence at the time of arrest and as well as employment status or form of unemployment support if unemployed. Current charge information consists of the amount of bail, whether the defendant was arraigned in the misdemeanor or felony court, the type of legal representation, the type of offense with which the defendant is charged, as well as the type of pretrial release that was

determined for each defendant. Criminal history includes prior misdemeanor and felony convictions, prior failure to appear and prior prison commitments.

Analyses-Logistic Regression

In order to test the hypotheses, several methods of analysis were used. First, descriptive statistics in the form of frequency and cross-tabulation charts indicated the detail and distribution of the variables being analyzed in several models. The bulk of the analyses derived from binary and multinomial logistic regression. Logistic regression is designed to determine the significant likelihood that an independent variable has a relationship with the dependent variable, while maintaining other variables in the model constant. It is appropriate to employ these forms of regression because the data met the following assumptions respectively: 1. Dependent variables present binary values and 2. Certain hypotheses that include independent variables indicate more than two values.

Variables indicated in the hypotheses were entered into logistic regression in the SPSS program. Each regression analysis will include a series of

statistical summaries designed to assess the robustness of the regression model and whether the relationship between the independent and dependent variable is significant. Specifically, the following models will be analyzed:

Table 3. Logistic Regression Models

Dependent Variables	Independent Variables Entered	
MISDEMEANOR DEFENDANTS RELEASED ON OWN RECOGNIZANCE (YES/NO) N=641	SEX AGE RACE OF DEFENDANT EMPLOYMENT MILITARY STATUS	HOMELESSNESS CURRENT CHARGE PRIOR FAILURE TO APPEAR PRIOR MISD. CONVICTIONS PRIOR FELONY CONVICTIONS AMOUNT OF BAIL ISSUED PROBATION STATUS PRIOR PRISON
FELONY DEFENDANTS RELEASED ON OWN RECOGNIZANCE (YES/NO) N=423	SEX AGE RACE OF DEFENDANT EMPLOYMENT MILITARY STATUS	HOMELESSNESS CURRENT CHARGE PRIOR FAILURE TO APPEAR PRIOR MISD. CONVICTIONS PRIOR FELONY CONVICTIONS AMOUNT OF BAIL ISSUED PROBATION STATUS PRIOR PRISON
MISDEMEANOR AND FELONY DEFENDANTS WHO WERE RELEASED ON BAIL (YES/NO) N=1076	SEX AGE RACE OF DEFENDANT EMPLOYMENT MILITARY STATUS	HOMELESSNESS CURRENT CHARGE PRIOR FAILURE TO APPEAR PRIOR MISD. CONVICTIONS PRIOR FELONY CONVICTIONS AMOUNT OF BAIL ISSUED PROBATION STATUS PRIOR PRISON
MISDEMEANOR DEFENDANTS WHO REMAINED IN CUSTODY AT PRETRIAL (YES/NO) N=641	SEX AGE RACE OF DEFENDANT EMPLOYMENT MILITARY STATUS	HOMELESSNESS CURRENT CHARGE PRIOR FAILURE TO APPEAR PRIOR MISD. CONVICTIONS PRIOR FELONY CONVICTIONS AMOUNT OF BAIL ISSUED PROBATION STATUS PRIOR PRISON
FELONY DEFENDANTS WHO REMAINED IN CUSTODY AT PRETRIAL (YES/NO) N=423	SEX AGE RACE OF DEFENDANT EMPLOYMENT MILITARY STATUS	HOMELESSNESS CURRENT CHARGE PRIOR FAILURE TO APPEAR PRIOR MISD. CONVICTIONS PRIOR FELONY CONVICTIONS AMOUNT OF BAIL ISSUED PROBATION STATUS PRIOR PRISON
MISDEMEANOR AND FELONY DEFENDANTS WHO FAILED TO APPEAR AFTER PRETRIAL RELEASE (YES/NO) N=512	SEX AGE RACE OF DEFENDANT EMPLOYMENT MILITARY STATUS	HOMELESSNESS CURRENT CHARGE PRIOR FAILURE TO APPEAR PRIOR MISD. CONVICTIONS PRIOR FELONY CONVICTIONS AMOUNT OF BAIL ISSUED PROBATION STATUS PRIOR PRISON

Omnibus Tests of Model Coefficients

Chi-square determines whether the independent variables, if accounted together, have a relationship with the dependent variable. If the significance level is greater than the critical value ($p > .05$) it is interpreted that there is a relationship.

Variables in the Equation

This analysis provides the most important information pertaining to the interaction between the independent and dependent variables in the model. For each independent variable entered in the model, a B weight indicates that for every one unit increase or decrease in the independent variable, there will be a corresponding amount and direction of the dependent variable. Standard Error information (S.E.) is used to assess the difference between the parameter and 0. The Wald Chi Square offers a more specific interpretation of the relationship between all the independent variables in the model and the dependent variable than the Omnibus test. The odds ratio (indicated as Exp (B) in the chart) represents the "the impact of a one change in the independent variable has on the dependent variable" (Weisburd & Britt, 2003, p. 536). Finally, the significance test

is used to test the hypothesis. In this study, the two tailed p-value is set to .05. If the independent variables entered into the model reveal p-values that are above .05, then the interaction between that variable and the dependent variable were regarded as not significant. However, if the independent variable entered yields a p-value less than .05, the relationship with the dependent variable would be significant.

The significance test is the essential component to testing the previously stated hypotheses. If the significance test is above the critical value (.05), this may be sufficient to reject the hypothesis. If the significance test is below the critical value this would warrant a rejection of the null hypothesis. The direction and the amount of the B weight will also be considered in the hypothesis testing.

Unlike ordinary least squares regression analysis, logistic regression does not have a true r-square change, however, the analysis does yield two pseudo r squares: Cox & Snell r-square and Nagelkerke r-square. Cox & Snell r-square has a range from 0 to nearly 1 and reflects as a calculated improvement from the null model to the final model. Nagelkerke serves

as an adjustment of Cox & Snell as its calculation extends to 1. It is felt that both are to be reported since both r-squares are merely estimates of the r-square in OLS regression.

Limitations of the study

As with any research effort, limitations do exist and certainly the present study is no exception. The study is based on the analyses from defendants who were processed from one municipal court for a six month period. In light of this, the findings may not be generalized to courts outside of the data collection site or even the same court at a different date. Further, analyses in this study only represent defendants who had formal bailable charges brought against them. The data does not include defendants who were arrested on other charges, committed other offenses that were not reported to the police, or were denied bail as a result of a capital offense, parole or probation violation or whether the defendant required mental health evaluations at the time they were interviewed. There were also no variables that report whether the district attorney objects or accepts the public defender's request for release on recognizance or bail reduction.

With respect to the defendant's demographic information, there are a series of variables that are not included in this study. Marital status and number of children were not captured in this dataset because the pretrial service agency that originally interviewed the defendants did not collect this information, and subsequently it would have been difficult and impractical to retrieve such information after the final disposition of the case. Additionally, mental health status was not included as a factor in determining pretrial status.

The dataset in this study represents the defendants' self reported responses taken from pretrial interviews. Self reported responses have their own set of limitations because the responses may be under or over-reported.

Chapter 5 RESULTS

In Chapter 6, descriptive information of the independent and dependent variables as well as the results of the multivariate analyses are presented and discussed. As explained in earlier sections, the purpose of this study is to identify key indicators of pretrial release (as defined as bailed out or released on recognizance) and the indicators of custodial status. The regression analyses will also include models that identify significant indicators of defendants who fail to appear after being released on the present case.

Each of these analyses (with the exceptions to the bailed out and failed to appear models) will be split by court of arraignment (misdemeanor court and felony court). The purpose of this is to understand whether (and how) independent variables (demographic, current charge, criminal history and pretrial release condition) influence release decisions and likelihood of returning to court.

Table 4. Independent Variable-Defendant Information¹³

VARIABLE	VALUES	N	%	LEVEL
SEX	0 Male 1 Female	872 204	81% 19%	Nominal
AGE OF DEFENDANT	0 26-99 1 18-25	702 362	65% 35%	Interval M=33
RACE	1 White 2 Black 3 Asian/Islander 4 Hispanic 5 Native American 6 Other	114 710 35 179 1 1	11% 66% 3% 16% -- --	Nominal
CURRENT RESIDENCE OF THE DEFENDANT	1 Own Apartment 2 Roommates or Friends 3 Living with Spouse 4 Living with parents/relatives 5 Functionally homeless 6 Homeless 8 Not given	174 104 218 464 11 91 1	16% 10% 20% 43% 1% 8% --	Nominal
EMPLOYED AT ARREST	0 No 1 Yes 2 Not given 9 Missing	584 485 2 5	54% 45% -- --	Nominal
SOURCE OF SUPPORT IF UNEMPLOYED	1 AFDC 2 GA 3 SSI/SSA 4 Unemployment 5 Recycling 6 VA Benefits 7 Retirement 8 Family 9 Other 10 Not given 11 Odd jobs	41 37 127 16 10 4 16 152 2 128 56	4% 3% 12% 1% 1% -- 1% 14% -- 12% 5%	Nominal
MILITARY STATUS	1 Not a veteran 2 Served in the military 3 Not available	977 73 20	91% 7% 2%	Nominal
EDUCATIONAL ATTAINMENT	1 HS diploma/GED 2 No HS Diploma 3 Not Available	572 435 55	53% 40% 5%	Nominal

¹³ Values with "--" reflect negligible percentages less than 0%.

Descriptive Information of Independent and Dependent Variables

Table 4 provides an overall snapshot of the demographic information of the defendants in the sample. Male defendants represent a bulk of this population. The average age within the sample is 33 years (SD=11.6). African American defendants represent nearly 70% of the sample with Hispanic and White defendants representing roughly 10% in these racial categories. Nearly half of the defendants at the time of their arraignment stated that they were living with their parents. A total of 218 defendants reported that they were living with a spouse or partner, and 174 defendants reported that they were living independently. Less than 100 defendants reported that they were homeless. The data reflects a split among defendants who are employed and unemployed. Of those who identified themselves as being unemployed, 157 reported that they were being financially supported by their family and 127 stated that they were supported through Social Security. A majority of the defendants (977) in the sample reported that they had not served in the military

and over half (572) had at least a high school diploma or Graduate Equivalency Diploma.

Table 5. Independent Variables-Criminal Information

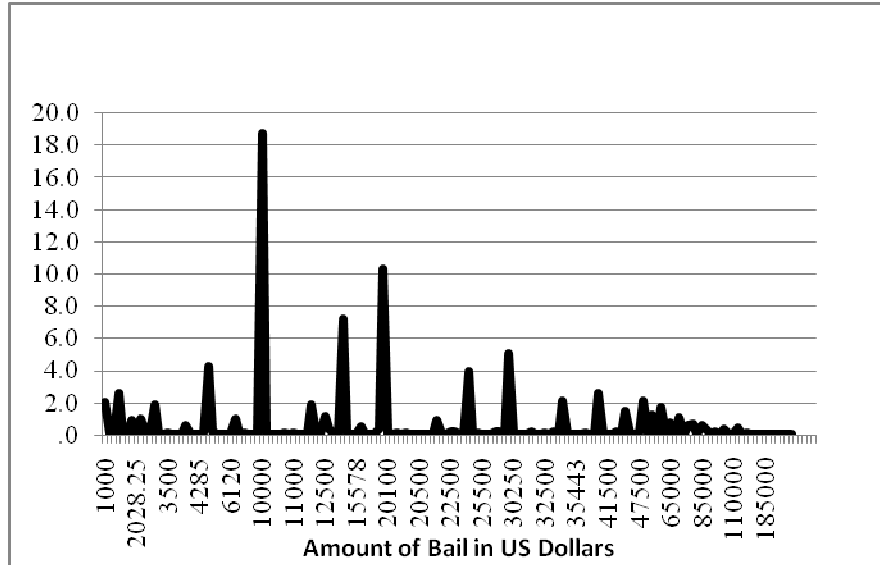
VARIABLE	VALUES	N	%	LEVEL
ARRAIGNMENT TYPE	1 Misdemeanor 2 Felony 3 Infraction/citation 9 Missing	641 423 3 9	60% 39% -- 1%	Nominal
CURRENT CHARGE	1 Violence 2 Property 3 Drugs 4 Vehicle Code (DUI) 5 Vehicle Code (other) 6 Public Order 7 Combination 8 Other 9 Missing	355 311 298 12 20 24 1 54 1	33% 29% 28% 1% 2% 2% -- 5% --	Nominal
PRIOR FTAs		M=3.78		Ratio
NUMBER OF PRIOR FELONY CONVICTIONS		M=1.57		Ratio
NUMBER OF PRIOR MISDEMEANOR CONVICTIONS		M=1.98		Ratio
PROBATION STATUS	1 Not on probation 2 Probation Closed 3 On probation 9 Missing	741 269 60 6	69% 25% 6% 1%	Nominal
AMOUNT OF BAIL (In US Dollars)	M=\$26760.00 Median=\$15000			Ratio

Table 5 describes the variables associated with the defendants' current charge and criminal history. Nearly sixty percent of the defendants were charged with misdemeanor offenses and forty percent were arraigned in the felony court. A majority of the

defendants were either charged with violent, property or drug offenses. Defendants who were in the "other" category were charged with offenses such as prostitution, resisting arrest, or a possession of a weapon. Domestic Violence is a frequent charge in both the misdemeanor and felony courts and it was therefore important to capture its prevalence within this study. In this sample, nearly 20% of the defendants were charged with domestic violence offenses. The range of prior failure to appear (FTA) in this sample is between 0 to 62 occurrences. On average, defendants who have had prior criminal court involvement have failed to appear (FTA) for court three times. On average and collectively, defendants in this sample have been previously convicted of approximately and one misdemeanor. A majority of the defendants in the sample (741) were not on formal or court probation at the time of the court appearance at the time the data was collected. Only 60 defendants were recognized as being on formal probation. On average, defendants spent nearly 4 days in custody from arraignment to release on recognizance. Defendants who were in custody (those who were not granted ror or were unable to post bail from custody), spent an average 5 days in

jail. The average of amount of bail issued was \$26,760. Figure 1, shows the distribution of bail issued in both felony and misdemeanor courts.

Figure 1. Distribution of Bail Issued by Percentage



In Table 6 (following page), the dependant variables are divided by three release conditions (released on recognizance, bailed out of custody or remained in custody) and two courts of arraignment (misdemeanor and felony courts). In this sample, a total of 241 defendants in the misdemeanor court and 118 defendants in the felony court were released on recognizance. A total of 154 defendants from both arraignment courts (and nearly 15% of the entire sample) bailed out from custody. The bulk of the defendants in the sample remained in custody during

pretrial hearings (330 defendants in misdemeanor and 223 felony defendants)

Table 6. Descriptive Information of Dependent Variables

VARIABLE	VALUES	N	%	LEVEL
MISDEMEANOR DEFENDANTS ROR N=641	00 No 01 Yes	400 241	62% 38%	Nominal
FELONY DEFENDANTS ROR N=423	00 No 01 Yes	308 118	72% 28%	Nominal
MISDEMEANOR AND FELONY RELEASED ON BAIL N=1076	00 No 01 Yes	922 154	86% 14%	Nominal
MISDEMEANOR DEFENDANTS IN CUSTODY N=641	00 No 01 Yes	311 330	49% 51%	Nominal
FELONY DEFENDANTS IN CUSTODY N=423	00 No 01 Yes	200 223	48% 52%	Nominal
MISDEMEANOR AND FELONY DEFENDANTS FTA on ROR or BAIL N=512	00 No 01 Yes	380 132	77% 23%	Nominal

The next six models will assess how defendants' demographic, criminal history, current charge and court of arraignment influence release conditions,

custodial status and failure to appear in the event that they were released at pretrial.

Misdemeanor Defendants Released on Recognizance

Table 7. Logistic Regression
Predictors of ROR in Misdemeanor Court¹⁴

	B	S.E.	Exp(B)
SEX	.639	.260	1.894**
AGE	.016	.010	1.016
WHITE DEFENDANTS	-.451	.222	.637*
BLACK DEFENDANTS	.089	.158	1.093
HISPANIC DEFENDANTS	.352	.180	1.422*
HOMELESS DEFENDANTS	-.733	.366	.480*
EMPLOYED	-.036	.155	.964
MILITARY STATUS	-.127	.275	.880
VIOLENT CHARGES	-.723	.348	.485*
PROPERTY CHARGE	.907	.428	2.478*
DRUG CHARGES	.038	.350	1.039
DUI	-.146	.805	.864
PRIOR MISD. CONVICTIONS	-.014	.032	.912
PRIOR FELONY CONVICTIONS	-.063	.134	.922
PRIOR FTA	-.040	.020	.961
PRIOR PRISON	-.172	.227	.842
ON PROBATION	-.163	.190	.850
Constant	-.358	.567	.699
NAGELKERKE R SQUARE	.174		
COX & SNELL R SQUARE	.128		
N=641			

In Table 7, (the misdemeanor regression model), the pseudo r-square report the model explains 13% of the variance in the dependent variable. In the misdemeanor release on recognizance model, the results show that the sex of the defendant was the only significant variable in the demographic category. For

¹⁴ Asterisks denote significance level (***) p<.001, **p<.01, *p<.05, + p<.10).

every 1 unit increase, female defendants were nearly twice as likely (log-odds =1.894, p<.00) as men to be released on recognizance increased by .002.

Defendants who were charged with violent or drug crime were significantly less likely to be released on this condition than other offenses. Defendants who failed to appear in court in prior cases did not produce significant outcomes within this model.

Felony Defendants Released on Recognizance

Table 8. Logistic Regression
Predictors of ROR in Felony Court

	B	S.E.	Exp(B)
SEX	.585	.280	1.809+
AGE	.035	.010	1.063***
WHITE DEFENDANTS	-.022	.804	.978
BLACK DEFENDANTS	.329	.712	1.390
HISPANIC DEFENDANTS	-.154	.792	.857
HOMELESS DEFENDANTS	-.437	.662	.646
EMPLOYED	-.193	.194	.824
MILITARY STATUS	-.199	.390	.819
VIOLENT CHARGES	-1.179	.566	.307
PROPERTY CHARGE	-.236	.505	.790
DRUG CHARGES	2.139	.401	8.495
DUI	-21.143	8,883.3	.000
PRIOR MISD. CONVICTIONS	.04	.040	1.047
PRIOR FELONY CONVICTIONS	-.216	.260	.806
PRIOR FTA	-.088	.053	.915+
PRIOR PRISON	.574	.372	1.776
ON PROBATION	-1.230	.439	.292**
Constant	-3.682	1.147	.025
NAGELKERKE R SQUARE	.387		
COX & SNELL R SQUARE	.271		
N=423			

In the felony court, the results reveal that female defendants were nearly twice as likely to be released on recognizance as male felony defendants (log-odds 1.809, $p < .10$). Additionally younger defendants aged 18-25 were significantly more likely than older defendants to be released on ror. In regards to criminal history, defendants who have a history of failing to appear in court were slightly less likely to receive recognizance release as compared to defendants without fta history (log-odds .915, $p < .10$). The results in this model also revealed that defendants who were not on probation were in no greater advantage than defendants who were on probation as it related to release on recognizance.

Felony and Misdemeanor Defendants Released on Bail

Table 9. Logistic Regression Predictors of All Defendants (Misdemeanor and Felony Defendants)

	B	S.E.	Exp(B)
SEX	-.349	.276	.705
AGE	-.009	.010	.991
WHITE DEFENDANTS	-.366	.531	.694
BLACK DEFENDANTS	-.260	.435	.771
HISPANIC DEFENDANTS	-.491	.473	.612
HOMELESS DEFENDANTS	-1.299	.605	.273*
EMPLOYED	.363	.150	1.438
MILITARY STATUS	-.724	.386	.485
VIOLENT CHARGES	1.186	.497	3.273*
PROPERTY CHARGE	-.281	.362	.755
DRUG CHARGES	.261	.329	1.298
DUI	1.865	.774	6.457*
PRIOR MISD. CONVICTIONS	-.117	.060	.890+
PRIOR FELONY CONVICTIONS	-.233	.180	.792
PRIOR FTA	.037	.022	1.038+
PRIOR PRISON	.191	.288	1.210
ON PROBATION	.372	.203	1.451+
AMOUNT OF BAIL	.000	.000	1.000
Constant	-2.915	.988	.054
NAGELKERKE R SQUARE	.094		
COX & SNELL R SQUARE	.054		
N=1076			

In Table 9, the model reveals that homeless defendants were significantly less likely than other defendants to post bail and be released from custody. Under the current charge categories, defendants who were charged with either a violent charge (who generally not granted release on recognizance) were nearly twice as likely to post bail as defendants were charged with other offenses. Defendants charged with driving under the influence were significantly more

likely (nearly 6 times as likely) to be able to financially secure their own release.

Misdemeanor Defendants who remained in Custody

Table 10. Logistic Regression
Predictors of Misdemeanants in Custody

	B	S.E.	Exp(B)
SEX	-.387	.233	.679+
AGE	.002	.008	1.002
WHITE DEFENDANTS	.418	.180	1.519*
BLACK DEFENDANTS	-.279	.132	.757*
HISPANIC DEFENDANTS	.289	.445	1.336
HOMELESS DEFENDANTS	.003	.030	1.003
EMPLOYED	-.019	.152	.981
MILITARY STATUS	.192	.240	1.212
VIOLENT CHARGES	.436	.233	1.546
PROPERTY CHARGE	.282	.241	1.326
DRUG CHARGES	-	.303	.188
	1.670		
DUI	-.673	.813	.510
PRIOR MISD. CONVICTIONS	.076	.040	1.079+
PRIOR FELONY CONVICTIONS	.247	.135	1.280+
PRIOR FTA	.056	.017	1.057*
PRIOR PRISON	-.303	.205	.738+
ON PROBATION	.004	.174	1.004
AMOUNT OF BAIL	.000	.000	1.000
Constant	-.433	.608	.649
NAGELKERKE R SQUARE	.252		
COX & SNELL R SQUARE	.177		
N=641			

In Table 10, several variables yielded significant outcomes. With respect to demographic variables, female defendants and Black defendants were significantly less likely to remain in custody. Within this model, white defendants were nearly twice as likely (log-odds 1.519, $p < .05$) to be remain in custody than defendants of other racial groups. Defendants who were charged with a drug offense and defendants which

were significantly less likely to remain in custody than defendants who were charged with other offenses. The majority of variables associated with criminal history (prior misdemeanor and felony convictions and prior failure to appear) yielded significant outcomes that significantly influenced the likelihood that a defendant would remain in custody (and not be released on recognizance or post bail). Defendants who have previously been to prison, however, were slightly less likely to stay jail (than defendants who had not been to prison).

Felony Defendants who remained in Custody

Table 11. Logistic Regression Models Predictors of Felony Defendants in Custody			
	B	S.E.	Exp(B)
SEX	-.170	.230	.843
AGE	-.055	.013	.946***
WHITE DEFENDANTS	-.564	.496	.569
BLACK DEFENDANTS	-.337	.407	.714
HISPANIC DEFENDANTS	-.745	.450	.475
HOMELESS DEFENDANTS	1.091	.591	2.977+
EMPLOYED	-.223	.152	.800
MILITARY STATUS	.319	.269	1.376
VIOLENT CHARGES	-.171	.284	.842
PROPERTY CHARGE	-.111	.292	.895
DRUG CHARGES	.759	.267	2.136
DUI	-.847	1.108	.429
PRIOR MISD. CONVICTIONS	.019	.030	1.019
PRIOR FELONY CONVICTIONS	-.061	.139	.941
PRIOR FTA	-.042	.022	.959
PRIOR PRISON	.320	.215	1.377
ON PROBATION	.521	.185	2.082*
AMOUNT OF BAIL	.000	.000	1.000
Constant	-.589	.652	.555
NAGELKERKE R SQUARE	.250		
COX & SNELL R SQUARE	.180		
N=423			

There were several independent variables that were significant in the Felony defendants who remained in custody. Age, current probation status convictions were significant predictors in this model. In regards to age, defendants who were 18 to 25 were slightly less likely to remain in custody during felony proceedings than older defendants (log-odds .946, $p < .001$). Homeless defendants were nearly twice as likely as defendants with stable housing to remain in custody during felony proceedings. Defendants who were on probation at the time of their felony arraignment were nearly twice as likely to remain in custody as defendants who were not previously on probation.

Misdemeanor and Felony Defendants who failed to appear after Pretrial Release

Table 12. Logistic Regression Misdemeanor and Felony Defendants who Failed to Appear After Pretrial Release			
	B	Sig.	Exp(B)
SEX	-.169	.531	.845
AGE	-.027	.011	.982+
EMPLOYED	.157	.393	1.170
HOMELESS DEFENDANTS	1.456	.496	4.290**
MILITARY	.340	.316	1.405
WHITE DEFENDANTS	1.424	.059	4.152
BLACK DEFENDANTS	-.323	.176	.724+
HISPANIC DEFENDANTS	.840	.237	2.317
VIOLENT CHARGE	-.312	.415	.732
PROPERTY CHARGE	.683	.061	1.980
DRUG CHARGES	.616	.097	1.851
DUI	.239	.792	1.270
AMOUNT OF BAIL	.000	.127	1.000
BAILED	.520	.440	1.683
MISDEMEANOR ROR	1.287	.059	3.620
FELONY ROR	1.372	.056	3.944
PRIOR MISD. CONVICTIONS	.068	.236	1.070
PRIOR FELONY CONVICTIONS	.475	.041	1.574+
PRIOR FTA	-.005	.838	.995
PRIOR PRISON	-.407	.215	.665
PROBATION STATUS	-.202	.493	.817
Constant	-2.219	.050	.109
NAGELKERKE R SQUARE	.156		
COX & SNELL R SQUARE	.112		
N=512			

In constructing the model, defendants who failed to appear from bail and release on recognizance were added together as the dependant variable (*i.e. did defendant fail to appear after pretrial release? yes/no*). In the model, there were several variables that yielded significant relationships to the dependent variable. Homeless defendants were identified in this model as significantly less likely

to return to court after being released in some condition of pretrial release. The model also reveals that defendants with prior felony convictions were nearly twice as likely to fail to appear for future appearances as defendants who had not previously failed to appear.

CHAPTER 6 DISCUSSION

The purpose of this study was to identify the predictors of the two release conditions (release on recognizance and bailed from custody) as well as the predictors of defendants who remain in custody in the misdemeanor and felony courts. This study was also designed to assess the factors of pretrial misconduct as defined as a defendant's failure to appear or based upon the issuance of a bench warrant. This chapter will revisit the hypotheses stated in Chapter 3 as well as a substantive conversation as to how the results (as identified in Chapter 5) relate to the major objectives set forth at the beginning of this study.

Status of Hypotheses Tested

In this study, a total of 10 hypotheses were tested. These hypotheses were based upon the literature of pretrial release, judicial decision making as well as influences of demographic characteristics. Seven of the nine hypotheses include outcomes from both misdemeanor and felony courts. The remaining two have only one outcome as the misdemeanor and felony samples were analyzed together. Table 14

provides an assessment of the hypotheses used in the previous chapter.

Table 13. Results of Hypotheses Tested

Hypotheses	Outcomes	
	Misd. Court	Felony Court
#1: Defendants who are charged with violent crimes will be less likely to be released in the least restrictive release condition (release on own recognizance) than defendants who are charged with other offenses.	CONFIRMED	REJECTED
#2: Defendants who are on probation at the time of arraignment are less likely to be released on their own recognizance than defendants who are not on probation.	REJECTED	CONFIRMED
#3: Defendants with prior convictions are less likely to be released in the least restrictive release condition (release on recognizance) than defendants with no prior convictions.	REJECTED	REJECTED
#4: Defendants who have a history of failure to appear will be less likely to be released on own recognizance than defendants without a history of failure to appear.	REJECTED	CONFIRMED
#5: Defendants who have established community ties (such as employment and place of residence, participation in military at the time of arraignment) are more likely to be released on bail or release on recognizance than defendants who remain in custody.	REJECTED	REJECTED
#6: Defendants who are homeless at the time of arrest are less likely to be released on their own recognizance than defendants who have a residence.	CONFIRMED	CONFIRMED
#7: Female defendants are more likely to be released based upon the least restrictive release condition (release on own recognizance) than male defendants.	CONFIRMED	CONFIRMED
#8: Black defendants are less likely to be released on their own recognizance than defendants of other racial groups.	REJECTED	REJECTED
#9: Misdemeanor defendants who are released on own recognizance or posted bail are less likely to commit pretrial misconduct than felony defendants who were released on own recognizance or posted bail.	REJECTED	
#10: Defendants who are charged with drug possession and were released on their own recognizance or posted bail were more likely to commit pretrial misconduct (defined as failing to appear for future court appearances or rearrested during pretrial release) compared to defendants who were charged with other offenses who were released on recognizance or posted bail.	REJECTED	

Current Charge

In this study, the findings showed that defendants charged with a violent crime were less likely than any other charge category to be granted release on recognizance. This finding in this study supports the large body of literature that judges take into account the focal concerns of danger to the community when determining the pretrial release condition (Albonetti, 1991; Dhimi, 2004). Beyond confirming the hypothesis, the results also showed that the violence charge was significant in other ways. Defendants in the misdemeanor court who were charged with a violent crime were significantly more likely to bail out of custody than defendants charged with other crimes. This finding seems to support the literature that suggests that defendants who are out of custody at the time of their court appearance (particularly for defendants who may be facing severe punishment) are more likely to face more favorable outcomes than defendants who remain in custody. For a defendant who is charged with a violent crime and may be potentially subjected to a jail or prison sentence, there are benefits for being out of custody while the

case is being heard (i.e. assisting in their own defense, wearing own clothes to court).

On the misdemeanor level, defendants who were charged with drug offenses were significantly more likely to remain in custody. One explanation is that defendants who are charged with drug crimes may have previously been involved in court mandated drug treatment. It is plausible that such defendants were rearrested for technical offenses such as failed drug test. Being rearrested and re-arraigned in the misdemeanor courts was apart of the graduated sanction in maintaining a defendant's sobriety. In the felony court, however, defendants who were charged with drug offenses were more likely than other crimes to be released on recognizance. Defendants who were charged with Driving under the Influence were also, significantly, more likely to post bail. In many respects, this finding presents as being intuitive. Defendants who are charged with a DUI are in possession of a vehicle, are likely to be employed and are likely to be financially resourceful to secure bail.

Criminal History

In nearly all of the tables in Chapter 5, prior failure to appear was the one of the most significant variables in the criminal history category. Goldkamp, et al (1993) in their respective work, point out that Judges take into serious consideration a defendants prior court appearances before determining the current pretrial release condition. In identifying predictors of release on recognizance, the results showed that defendants arraigned at the felony level were significantly less likely to be released when defendants had previously failed to appear.

The results revealed that prior misdemeanor and felony convictions were not significant factors in defendants being released on recognizance in misdemeanor and felony courts. However, defendants who had prior misdemeanor convictions were less likely to bail out of custody. However, prior misdemeanor or felony convictions were not significant factors in defendants who remained in custody in either court. Defendants who had felony convictions were significantly more likely to fail to appear after they were released on bail or on recognizance. From the findings, the data points to the reality that Judges

are making release decisions based on the current court case or appearance history.

The findings in the felony court showed that a defendant's probation status is a significant factor that judges in this jurisdiction consider when determining the least restrictive pretrial release. This finding suggests that in the felony court, judges take into consideration one facet of the defendants' criminal history and the conditions of probation more stringently than in the misdemeanor courts.¹⁵

The Impact of Community Ties

Many jurisdictions throughout the country still rely on community ties as a measure of a defendant's flight risk and likelihood that they will return to court for future appearances. Empirical studies that have previously tested the impact of community ties, however, has produced mixed results. The results from the Manhattan Bail Project revealed that defendant's who had ties to the local community were more likely to make the court appearances than defendants who posted bail and did not have extensive community ties.

¹⁵ It should be noted that in this jurisdiction, defendants who are convicted in the misdemeanor courts typically receive court supervised probation whereas felony defendants who are convicted are assigned formal probation through the county probation department.

Goldkamp (1979) in his work revealed that it is criminal history and prior failure to appear that most influences a judge's decision in determining the pretrial release condition.

In this study, the focus was to revisit the debate on whether a defendant's community ties positively influence favorable pretrial release conditions. To accomplish this, there were several variables that were included in the models as an attempt to measure a defendant's connection to the community such as military status, whether a defendant was homeless, and employment status. Overall, the impact of military and employment status was very weak and failed to yield any significant outcomes. The impact of homelessness yielded both significant and predictable results. In the felony court, homeless defendants were less likely to be released on recognizance, or post bail; controlling for other variables in the model. Homeless defendants were also more likely to fail to return to court for future appearances. Homeless defendants may be more disorganized, chaotic, and retreatist than defendants with stable housing. Subsequently, they may not

return to court until they are rearrested for a bench warrant from a prior legal matter.

Demographic Factors of the Defendant

As described in earlier chapters, female defendants were significantly more likely to be released on own recognizance than male defendants in the felony and misdemeanor courts. The results support the hypothesis that female defendants are more likely to be released on own recognizance than male defendants, but there are several explanations as to how sex influences pretrial release. Returning to Knox's work, one conclusion is that judges take into consideration if the criminal offense alleged was considered a traditionally "feminine" or masculine crime in determining the release condition. Another explanation may be other factors that were not included in the study such as number of children, marital status, or involvement in social service agencies. If the pretrial agency or the public defender made an argument to the judge that detaining her may have serious consequences for the welfare of her children, it is plausible that the court may take that into consideration.

The study also revealed that younger defendants were more likely to receive the most lenient release conditions than older defendants and were also less likely to fail to appear after they were released. In identifying significant predictors of felony defendants who were released on recognizance, as a defendant's age increased, so did the likelihood that they were released on recognizance. However older defendants were significantly more likely to remain in custody during felony court proceedings than younger defendants. In assessing the predictors of failing to appear after pretrial release, older defendants were more likely to fail to appear for future court dates than younger defendants. Several reasons may explain this outcome. One explanation is that judges may be more inclined to give younger defendants (who may have a limited involvement in the criminal system) an opportunity to demonstrate their worthiness to the court.

Finally, this study revealed that the race of the defendant yielded significant outcomes in both expected and unexpected ways. Hispanic defendants were more likely to be granted recognizance release than defendants from other racial categories. White

defendants were significantly more likely to remain in custody than other defendants and Black defendants were significantly more likely to return to court compared to other racial groups. At present, there are no previous studies that have explained these outcomes. Future work should continue to assess whether the interactions among racial groups, criminal charge, or criminal history have an effect on pretrial release in the manner in which Katz and others have initially written discussed in their respective work.

Non Significant Outcomes

The amount of bail or prior prison commitments failed to yield significant outcomes in multivariate analysis. Traditionally, the amount of bail tends to be a deciding factor of who is generally released from custody. However, the findings within this study (since homeless defendants were more likely to be released on recognizance and on bail), has demonstrated that this was not the case. Additionally, the findings in this study revealed that judges are not particularly interested if a defendant has served time in prison.

Summary: The Direction of Judicial Decision-Making

Within the present study, the findings reflect three important factors when determining release decisions. First and foremost, the results of this study suggest that current violent offenses immensely influence the type of release decision that is issued in misdemeanor courts. These findings seem to reproduce the guidelines that were set in motion within the 1984 Bail Act which provided judges with the option in being more restrictive with pretrial release conditions. This finding may also be attributed to the rates of violence within this particular community as gun violence, drug wars and youth homicides are at an all time high. The pressure that the criminal justice system has in controlling the prevalence of violent crimes in the community may in fact influence the decisions of the court (even at the misdemeanor level).

Secondly, judges at this site take prior court appearances very seriously in considering defendants (in the current case) for on recognizance release particularly at the felony level. This finding presents as being intuitive: a defendants history of being reliable typically determines future likelihood

of returning to court. Superior Courts' high rate of failing to appear not only presents as a criminal justice issue (i.e. locating fugitives from justice) but also presents as a fiscal dilemma. Courts and county taxpayers must absorb the costs associated with rearrest, detention, and future court processing expenses.

Finally, the results suggest that judges on the misdemeanor and felony level do rely (in some part) on defendants' ties to the community as a determinant of their worthiness to return to court. As expected, the findings suggest that indigent defendants are less likely than more stable defendants in being released on recognizance. Even with the supervision of pretrial services, it is difficult to contact defendants who do not have a consistent address or telephone number to remind them of future court appearances.

Findings of Current Study: Contribution to the Literature

While replication and further analysis of pretrial release measures on the misdemeanor and felony level is certainly required, there are several important implications that can be drawn from the current study. As mentioned in earlier chapters, much

of the focus of the literature pertaining to court processing has been based on the felony level. In this study, equal attention has been given to both misdemeanor and felony courts in identifying the similarities and differences in the way that judges consider pretrial release conditions. Beyond equal representation, this study demonstrated that judges on the misdemeanor level take danger to the community as seriously (in fact, more seriously) than judges on the felony level. In many respects, this study has shown that misdemeanor judges in this jurisdiction strongly adhere to the California bail guidelines with respect to current violent crimes by denying the most lenient pretrial release condition (release on recognizance). Moreover, this study has established that judges in jurisdictions who do not rely on structured risk assessments (or point based assessments) are still likely to use sensible discretion in determining pretrial release conditions.

There are several important ways that this study has contributed to the literature. First, this study is one of the first efforts to focus on pretrial release decisions in this specific jurisdiction. Secondly, this study attempted to assess how this

jurisdiction measures up to their own pretrial release guidelines. Within this effort, the results have shown that in some cases, the factors of pretrial release are in line with the bail guidelines and in other cases, they are found to be inconsistent. Thirdly, this study has been an opportunity to analyze the pretrial release decisions specifically for defendants in the misdemeanor court. As expressed in earlier chapters, misdemeanor court processing is largely understudied and it is hoped that this study will serve as a catalyst to continue important on the realities that are faced within these criminal proceedings.

Finally, it is hoped that this study will serve as an opportunity to revitalize discussion regarding matters of pretrial release conditions among its stakeholders. For researchers, this is an opportunity to revisit these issues particularly as legislation and politics change legal guidelines (specifically as it relates to terrorism and immigration). For practitioners, the use of updated studies may help inform pretrial services agencies of risk factors of certain defendant and criminal characteristics.

CHAPTER 8 CONCLUSIONS & RECOMMENDATIONS

This study set forth to accomplish three objectives. In identifying the factors that judges use to make decisions on pretrial release conditions, defendants with a current violent charge or prior failures to appear were least likely to be released on recognizance in both misdemeanor and felony courts. These findings are consistent with the research of Goldkamp and Albonetti's work of focal concerns and the bail legislation all reflect that judges consider pretrial release decisions based upon a defendant's real (and perceived) threats to the community. With respect to demographic factors, the findings in this study also found that female defendants and younger defendants were more likely to be released on recognizance. The results also revealed that homeless defendants were significantly less likely to be released on bail and on recognizance but were more likely to fail to court after being released. The results from the study are consistent with areas within the gender and crime literature (specifically, the studies from Chesney-Lind (1995), Katz & Spohn (1995) and Brennan (2006)) support that women

generally receive favorable pretrial release conditions because of the perception that women possess a vulnerable status within society.

This study also found that although there a significant, direct relationship between race and pretrial release, there was evidence to support that Hispanic defendant had an indirect effect on pretrial release as mediated through the current violent charge variable. These findings appear to support the findings in Zatz and Phillips where Hispanic (and Black) defendants were least likely to be released in the least restrictive conditions.

Thirdly, the study found that misdemeanants who were granted release on recognizance were significantly likely to fail to appear (or were issued a bench warrant) after release. This result is by far, the most unique finding of the study as there have been few prior research efforts that have focused on this specific area. Further study on the effects of misdemeanants on pretrial release and pretrial misconduct from diverse areas in the country is recommended in order to build a cache of research on this subject.

In retrospect, this study contained several limitations that should be addressed and/or remedied if replication should occur. One key area of importance is that the dependent variables (release conditions and pretrial release misconduct variables) were measured as dichotomous variables and subsequently, may have limited the opportunity to employ other methods of analysis. Due to this measurement, it was inappropriate to use traditional path analysis as this method required continuous measured dependent variables. The second major limitation is the failure to assess the performance of the pretrial agency and the effectiveness of monitoring and preventing released defendants from failing to meet their court obligations. In future studies, it is suggested that a focus be placed on the qualifying and quantifying the instances that pretrial service agencies help (or impede) the likelihood that defendants will come back to court.

The third limitation is that the study failed to include the spectrum of pretrial release conditions that are offered by the court. In this study, the courtroom only offered three conditions: citation release, release on recognizance and bail in general.

Citation and the many forms of bail were not available in this study because the pretrial agency (the site of where the data was collected) did not capture these differences in the pretrial interview.

The promise of this study, however, is that it opens the opportunity for further discussion about the distinctions and similarities between misdemeanants and felony defendants and the way in which they are considered for certain pretrial release conditions. Due to the ever increasing jail population across local communities as well as pressure from the sheriff's departments that are responsible for detained defendants, judges were influenced by these realities in making immediate decisions regarding release decisions.

Recommendations for Future Research

In looking at misdemeanants and felony defendants during the point of pretrial processing, there are four key areas that should be explored in greater detail in future research:

1. Inclusion of New Defendant Characteristics

Recently, terrorism has been a social, government and academic lighting rod and the effects that it has had on communities of Middle Eastern descent have been

both direct and arguably severe. It is of interest to assess whether Middle Eastern defendants have similar or distinct patterns of the conditions of pretrial release as Black or Hispanic Defendants. Another omission that deserves adequate attention is the overrepresentation of mental illness among the homeless group of defendants who come before the court many times over.

A third area for future study involves a better understanding as to why defendants fail to return to court for future appearances. Literature has suggested that for defendants who are charged with serious crimes and are released from custody abscond because of fear of highly punitive consequences. However, there are few studies that focus explicitly on why defendants who are charged with low level offenses abscond (particularly in convictions where the punishment may yield credit for time served or a fine). Qualitative methodologies in the form of case studies and ethnographies would be an important way to understand defendants' motivations. It would also be an appropriate complement to any quantitative effort on this subject.

a. Individual Judge and Attorney Characteristics

In this study, there was no consideration as to how individual judges determine pretrial release conditions. For the most part, past studies have conducted studies with simulated criminal conditions rather than real-time court cases (Dhami, 2004). Future studies should also continue to include the Judge variable to measure decision trends of each specific judge particularly in the path that Dhami and others have established. Another important component to study is the role of the district attorney and whether they are passive or actively against a defendant's release on recognizance or bail. Since the district attorney's office is responsible as to what crimes defendants are charged with, it would be interesting to measure their influence upon the court when the final pretrial release is rendered.

b. Ongoing Evaluation of Pretrial Release Programs Across the Country

In this study, the pretrial service agency is responsible for providing a report of verified information of a defendant rather than an assessment (or recommendation) of his or her likelihood to return to court. Across the United States, there is a wide variability as to the role of the local pretrial

service agency; ranging from defendant narratives to the court to strategic point based systems. There is a great need to conduct period evaluations of pretrial agencies as to whether they are effective in assessing risk.

c. The Addition of New Methodologies

It is worth reiterating that there are a spectrum of factors that go before the court when release decisions are decided. Unlike, regression models, judges (as with other human beings) do not concretely control for one characteristic over another. Rather, characteristics influence others in many different ways. In conducting future studies, researchers should keep in mind that while regression and other methodologies in this vein, tell a very neat story, it is by no means, the entire story. In answering future questions regarding judicial decisions, it is imperative that a comprehensive arsenal of weapons be used, such as the many forms of path analysis as well as qualitative methodologies. Path analysis and other structural equation models are used in the fields of psychology in areas of cognition and decision-making. Such methods are highly

applicable and should be employed as a means to assess judicial decision-making.

Yet, the determination of pretrial release decisions is a multifaceted approach and as such, judges do not always rely on one sole factor to make a decision regarding the release decision, but rather a consideration based on a several factors. Lizotte (1978) used path analysis of the extralegal factors within the judicial making within Chicago's criminal courts supports the importance to assess the direct and indirect factors of defendant's demographic and criminal background as it relates to their pretrial release condition (Lizotte, 1978, p.573). It is important to map out the specific factors of the misdemeanor and felony courts in order to provide a visual assessment as to how independent variables relate with mediating variables and dependent variables.

As expressed in earlier chapters, one of the concerns faced within the felony and misdemeanor courtrooms represented in this study is that it is unclear as to how pretrial release decisions (specifically release on recognizance) are reached. While judges may be equipped with the pretrial service

interview data, they are rendering decisions in a short period of time without set guidelines. The use of path analysis can quantitatively map the areas of demographic, past and present criminal information as it relates to the pretrial release condition.

Appendix A: County Bail Schedule

CA PENAL CODE	CHARGE	ARRAIGN TYPE	BAIL	SENTENCE
32	ACCESSORY - AFTER THE FACT TO A FELONY	F	\$15,000	Range of 16 months, 2 years or 3 years in Prison
148(a)(1) (a)(2)	INTERFERING WITH OFFICER AND POLICE RADIO TRANSMISSIONS	M	\$2,500	1 year
148(b),(d) PC	RESISTING AN OFFICER, ETC., WITH REMOVAL OF WEAPON	M/F	\$5,000	1 yr and \$1,000 fine
148.1	FALSE BOMB REPORT	M/F	\$5,000	1 year
166(a)(4)	CONTEMPT OF COURT: VIOLATION OF ORDER CONNECTED WITH DOMESTIC VIOLENCE	M	\$10,000	1 yr and \$5,000
192(c) (1),(3) PC	VEHICULAR MANSLAUGHTER	M/F	\$5,000	1 yr and \$1,000 (PC 672)
211	ROBBERY (FIRST DEGREE)	F	\$40,000	Range of 3,4 or 6 years in Prison
215	CAR JACKING	F	\$50,000	Range of 3,4 or 6 years in Prison
236	FALSE IMPRISONMENT WITHOUT VIOLENCE	M/F	\$5,000	1 year (M-F if certain conditions
242 PC	BATTERY	M	\$1,500	6 months
243(a)	BATTERY	M	\$1,500	6 months
243(b) PC	BATTERY ON POLICE OFFICER (W/O RESULTING INJURY)	M	\$2,500	1 yr and/or \$2,000
243(c)(1) PC	BATTERY ON POLICE OFFICER (W/ INJURY)	M/F	\$10,000	1 year or \$2,000
243(d)	BATTERY (W/SERIOUS BODILY INJURY)	M/F	\$5,000	1 year
243.2	BATTERY ON SCHOOL GROUNDS, PARKS, OR HOSPITALS	M	\$2,500	1 year
243.3	BATTERY AGAINST PUBLIC TRANSIT	M/F	\$5,000	1 year
245(a)(1) PC	ASSAULT WITH DEADLY WEAPON	M/F	\$5,000	1 yr and/or \$10,000
245(a)(2) PC	ASSAULT WITH FIREARM	M/F	\$5,000	1 yr and/or \$10,000 (6 mos. min under PC 1203.095)
246 PC	SHOOT FIREARM AT INHABITED, OCCUPIED BLDG OR VEHICLE	M/F	\$10,000	1 yr and \$1,000 (PC 672) (6 mos. min under PC 1203.095)
273a	INJURY OR ENDANGERMENT	M/F	\$10.00	1 year

	OF CHILD		0	
273d	CORPORAL PUNISHMENT ON CHILD (CRUEL OR INHUMAN)	M/F	\$12,500	1 year
273.5 PC *	DOMESTIC VIOLENCE/INFLECTING CORPORAL INJURY	M/F	\$10,000	1 yr and/or \$6,000
273.6 PC *	VIOLATION OF RESTRAINING ORDER	M/F	\$5,000	1 yr and/or \$1,000
273.65	VIOLATION OF PROTECTIVE ORDER	M	\$5,000	1 year
273.7	DISCLOSING LOCATION OF DOMESTIC VIOLENCE SHELTER	M	\$1,500	6 months
278	CHILD ABDUCTION	M/F	\$5,000	1 year
288(c)(1)	LEWD ACT WITH CHILD	M/F	\$5,000	1 year
(c)(2)	14/15 YEARS LEWD ACT WITH DEPENDENT CHILD BY CARETAKER	M/F	\$25,000	
288.2(a),(b)	HARMFUL MATTER SENT WITH INTENT TO SEDUCE MINOR	M/F	\$5,000	6 months
289	PENETRATION BY FOREIGN OBJECT BY FORCE	F	\$60,000	3,6 or 8 years in Prison
290(g)(1) PC	FAILURE TO REGISTER	M	\$2,500	1 yr and \$1,000
290.95	FAILURE TO DISCLOSE 290 REG. STATUS	M	\$2,500	6 months
314(1)	INDECENT EXPOSURE W/PRIOR CONVICTION OF P.C. 288 OR 314(1)	F	\$10,000	16 months, 2 or 3 years in Prison
368 (b)	ELDER/DEPENDENT ADULT ABUSE WITH GBI	M/F	\$5,000	1 year
369g	TRESPASS ON RAILROAD OR RAIL-LINE TRACK (JOY RIDING)	M	\$1,500	6 months
415 PC	DISTURBING THE PEACE	Infract ion	+ \$25 M: \$250	I: \$250 M: 6 months
417(a)(2) PC	BRANDISHING/EXHIBITING - THREATENING WITH FIREARM	M	\$5,000	1 year
422 *	TERRORIST THREATS, THREATS TO COMMIT CRIME	M/F	\$10,000	1 year
459	BURGLARY	M/F	\$5,000	1 year
484	PETTY THEFT	M	\$1,500	6 months
487	GRAND THEFT	M/F	\$5,000	1 year
496	POSSESSION OF STOLEN PROPERTY	M/F	\$5,000	1 year
		M =	\$2,500	
		Less	\$400	
496d	PURCHASE/RECEIVE STOLEN VEHICLES, VESSELS OR EQUIPMENT	M	\$2,500	1 year
530.5	USING PERSONAL I.D. INFO OF ANOTHER TO OBTAIN CREDIT,	M/F	\$5,000	1 year
594(b)(1)	VANDALISM MORE THAN \$50,000	M/F	\$10,000	1 year

594(b)(2)	BETWEEN \$5,000 - \$50,000	M/F	\$5,000	1 year
594(b)(4)	LESS THAN \$400	M	\$1,500	6 months
594(b)(4)(B)	LESS THAN \$400 WITH PRIOR VANDALISM	M	\$5,000	1 year
602(j)	TRESPASS TO INTERFERE	M	\$2,500	1 year
626.2	TRESPASS ONTO UNIVERSITY, STATE UNIVERSITY, OR COMMUNITY COLLEGE AFTER SUSPENSION/DISMISSAL	M	\$1,000 / \$2,500	6 months
647(b) PC	PROSTITUTION	M	\$1,500	6 months and/or \$1,000
653f(d) PC	SOLICITING THE SALE OF NARCOTICS	M/F (prior) M	\$5,000 \$2,500	6 months for first offense 1 year subsequent offenses
11350	ILLEGAL POSSESSION OF CERTAIN SPECIFIC OR CLASSIFIED CONTROLLED SUBSTANCE	F	\$10,000	16 months-2 years or 3 years in Prison
11351	POSSESSION FOR SALE	F	\$15,000	2,3 or 4 years in Prison
11352	SALE	F	\$20,000	3,4 or 5 years in Prison
11357(a)	MARIJUANA POSSESSION - CONCENTRATED CANNABIS	M/F	\$10,000	16 months, 2 years or 3 years in Prison
11359	MARIJUANA POSSESSION FOR SALE	F	\$10,000	16 months-2 years or 3 years in Prison
11360	SALE MARIJUANA	F	\$15,000	16 months-2 years or 3 years in Prison
11377	POSSESSION OF CONTROLLED SUBSTANCES	F	\$10,000	16 months-2 years or 3 years in Prison
12020 PC	POSSESS DANGEROUS WEAPONS--FIREARMS	M/F	\$5,000	1 yr and \$1,000
12021 PC	POSSESSION OF FIREARM BY EX-CON OR NARCOTIC ADDICT	M/F	\$5,000	1 yr and/or \$1,000
12025(a)(1) PC	CARRYING CONCEALED FIREARM IN VEHICLE	M	\$5,000	6 months and/or \$1,000
12034(c)	PERSONALLY SHOOTING FROM MOTOR VEHICLE	F	\$75,000	3,4 or 7 years in Prison
11378	POSSESSION PCP FOR SALE	F	\$20,000	3,4 or 5 years in Prison
11379	SALE OF DRUGS	F	\$20,000	2,3 or 4 years in Prison
10851	CAR THEFT	F	\$10,000	16 months-2 years

Appendix B:
California Constitution Article I, Section 12
Charges Eligible for Preventive Detention
In the State of California

SEC. 12. A person shall be released on bail by sufficient sureties,
Except for:

(a) Capital crimes when the facts are evident or the presumption is great. Capital charges include: The penal code provides for a sentence of death in cases of:

1. Treason, defined as levying war against the state, adhering to its enemies, or giving them aid and comfort.
2. Perjury causing execution of an innocent person
3. First-degree murder with special circumstances
4. Murder for financial gain
5. The defendant had previously been convicted of first or second degree murder
6. Conviction of multiple murders
7. Crimes committed using explosives
8. To avoid arrest or aiding in escaping custody
9. The victim was an on-duty peace officer; federal law enforcement officer or agent; or firefighter
10. The victim was a witness to a crime and the murder was committed to avoid them testifying
11. The victim was a prosecutor or assistant prosecutor; judge or former judge; elected or appointed official; juror; and the murder was in retaliation for the victim's official duties
12. The murder was "especially heinous, atrocious, or cruel, manifesting exceptional depravity"
13. The murderer lay in wait for the victim
14. The victim was intentionally killed because of their race, religion, nationality, or country of origin
15. The murder was committed during the commissioning of robbery; kidnapping; rape; sodomy; performance of a lewd act upon the person of a child under the age of 14 years; oral copulation; burglary; arson; train wrecking; mayhem; rape by instrument; carjacking; torture; poisoning
16. The defendant is an active member of a criminal street gang and was to further the activities of the gang
17. The murder was committed by discharging a firearm from a motor vehicle
train wrecking which leads to a person's death

(b) Felony offenses involving acts of violence on another person, or felony sexual assault offenses on another person, when the facts are evident or the presumption great and the court finds based upon clear and convincing evidence that there is a substantial likelihood the person's release would result in great bodily harm to others; or

(c) Felony offenses when the facts are evident or the presumption great and the court finds based on clear and convincing evidence that the person has threatened another with great bodily harm and that there is a substantial likelihood that the person would carry out the threat if released.

Appendix C
Data Collection Instrument

ID_____

DEFENDANT INFORMATION

1. Sex (Circle One)
 - a. Male
 - b. Female

2. Age_____

3. Race (Circle One only)
 - a. White
 - b. Black
 - c. Asian/Pacific Islander
 - d. Hispanic
 - e. Native American
 - f. Other
(specify)_____
 - g. Not available

4. Were references Contacted
 - a. Yes
 - b. No
 - c. None given

5. Defendant's current residence at time of arrest
 - a. Own
apartment/house/motel/hotel
 - b. Living w/roommates or friends
 - c. Living with spouse or significant other
 - d. Living with parents/other relatives/foster family
 - e. Functionally homeless/living on and off with various friends, relatives
 - f. Homeless on the streets or shelters
 - g. Not given
 - h. Other_____

6. Was current residence verified
 - a. Yes
 - b. No
 - c. No contacts

7. Was defendant employed at time of arrest
 - a. Yes
 - b. No
 - c. Not given

8. Was employment verified
 - a. Yes
 - b. No
 - c. No contacts
 - d. Not applicable

9. Was defendant enrolled in school/job training
 - a. Yes
 - b. No

10. Was enrollment verified
 - a. Yes
 - b. No
 - c. No contacts
 - d. Not applicable

11. If unemployed how supported
 - a. AFDC/Cal Works
 - b. GA
 - c. SSI/SSA
 - d. Unemployment
 - e. Recycling
 - f. VA benefits
 - g. Retirement
 - h. Family
 - i. Other_____
 - j. Not given

12. Military Status
 - a. Not a veteran
 - b. Served in the military
 - c. Not available

13. Education Level
 - a. H.S. diploma or GED
 - b. No HS diploma
 - c. Not available

14. Was charge related to violence against spouse/significant other/family/or roommates
 - a. Yes
 - b. No
 - c. Not available

ARREST/CHARGE/RELEASE AND
DISPOSITION INFORMATION

15. Date of arrest/taken into custody on this case CBQB
_____/_____/_____

16. Arrest Charge type (circle most serious offense) CBQB
 a. Felony
 b. Misdemeanor
17. Arrest Charge (code section of most serious charge)
18. Arraignment charge CBQB/CCQD
 a. Misdemeanor
 b. Felony
19. Type of charge CBQB/CCQD
 a. Violence
 b. Property/ VC 10851
 c. Drugs
 d. Vehicle code (DUI only)
 e. Vehicle code (other)
 f. Public order
 g. Combination
 h. Other _____
20. Arraignment Charge(s) CBQB/CCQD

21. Date of Arraignment CCQD
 ____/____/____
22. Was the defendant released on O.R. in this case CCQD
 a. Yes
 b. No (skip to #29)
23. If O.R. - date of release CCQD/CBQT
 ____/____/____
24. Number of days from arraignment O.R. release CCQD/CBQT
 _____ days
25. If O.R. - did defendant fail to appear on this case CCQD
 a. Yes
 b. No
26. Other type of pretrial release CCQD/CPPS/CBQT
- a. Bail
 b. Citation
 c. Other _____
 d. In custody until final adjudication
27. Did defendant fail to appear for other type of release CCQD/CPPS
 a. Yes
 b. No
 c. Not applicable
28. Final disposition of this case CCQD
 a. dismissed
 b. Pleads guilty/no contest
 c. Found not guilty after trial
 d. Found guilty after trial
 e. Other _____
29. If guilty - Sentence (circle all that apply) CCQD
 a. Court probation/jail time suspended
 b. Formal probation
 c. Restitution
 d. Fine
 e. Community service/Sheriff's work
 f. Jail sentence
 g. Prison sentence
 h. Other _____
30. Jail/Prison sentence (not suspended) CCQD
 _____ days
 _____ months
 _____ years
31. Legal representation CCQD
 a. Public defender/court appointed
 b. Private attorney
 c. Pro Per

32. Days in custody CBQT

_____ arrest to
arraignment

_____ arraignment
to final
disposition

33. At time of arrest - number of
prior convictions CPPS

misdemeanors

_____ felonies

34. Number of failures to appear
CPPS

35. Prior prison commitments #
CPPS

36. Formal probation status CPPS

- a. Not known to probation
- b. Probation activity
closed
- c. Active to probation

37. Bail amount at Arrest

\$_____

38. Was defendant rearrested if
released at pretrial?

- a. yes
- b. no
- c. not applicable
- d. missing

39. What was the release
condition at arraignment of
rearrest?

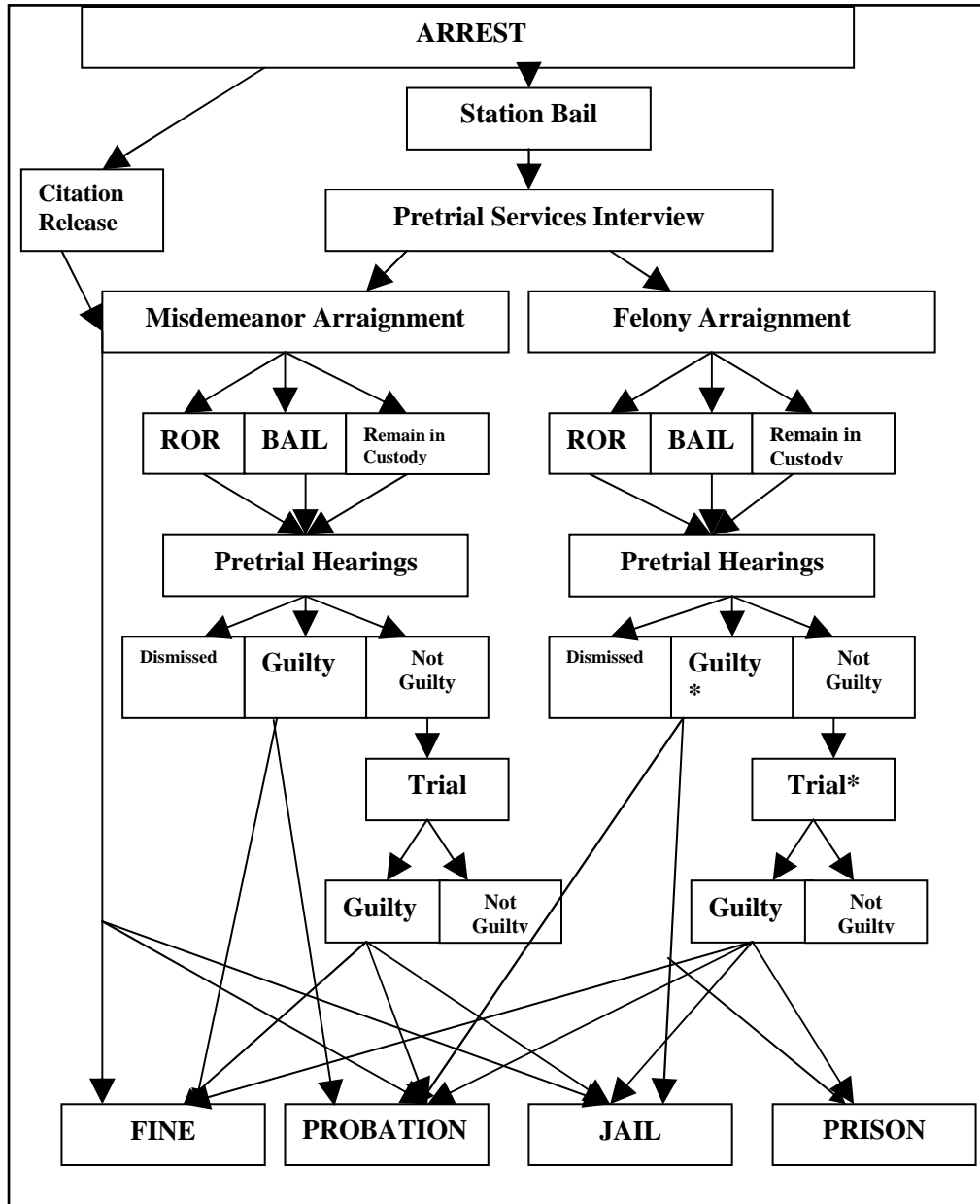
- a. Bail
- b. ROR
- c. Citation
- d. Remanded to custody
until final disposition
- e. Remained in custody-
could not secure bail

- f. Not applicable
- g. Missing

41. Did defendant receive bench
warrant?

- a. yes
- b. no
- c. not applicable
- d. missing

**Appendix D
County Criminal Court Process¹⁶**



¹⁶ All felony defendants in the county who plead guilty or proceed to trial will have their matters heard in a central county superior court.

Appendix E SPSS Syntax

```
LOGISTIC REGRESSION VAR=misdror
  /METHOD=ENTER sex age White black hispanic violent property drugs dui
  noftas priormis priorfel bail
  /PRINT=GOODFIT
  /CRITERIA PIN(.05) POUT(.10) ITERATE(20) CUT(.5) .
LOGISTIC REGRESSION VAR=felror
  /METHOD=ENTER sex age White black hispanic violent property drugs dui
  noftas priormis priorfel bail
  /PRINT=GOODFIT
  /CRITERIA PIN(.05) POUT(.10) ITERATE(20) CUT(.5) .
LOGISTIC REGRESSION VAR=felcust
  /METHOD=ENTER sex age White black hispanic violent property drugs dui
  noftas priormis priorfel bail
  /PRINT=GOODFIT
  /CRITERIA PIN(.05) POUT(.10) ITERATE(20) CUT(.5) .
LOGISTIC REGRESSION VAR=miscust
  /METHOD=ENTER sex age White black hispanic violent property drugs dui
  noftas priormis priorfel bail
  /PRINT=GOODFIT
  /CRITERIA PIN(.05) POUT(.10) ITERATE(20) CUT(.5) .
LOGISTIC REGRESSION VAR=bailed
  /METHOD=ENTER sex age White black hispanic violent property drugs dui
  noftas priormis priorfel bail
  /PRINT=GOODFIT
  /CRITERIA PIN(.05) POUT(.10) ITERATE(20) CUT(.5) .

LOGISTIC REGRESSION VAR=violent
  /METHOD=ENTER sex age White black hispanic noftas priormis priorfel
  /PRINT=GOODFIT
  /CRITERIA PIN(.05) POUT(.10) ITERATE(20) CUT(.5) .
LOGISTIC REGRESSION VAR=property
  /METHOD=ENTER sex age White black hispanic noftas priormis priorfel
  /PRINT=GOODFIT
  /CRITERIA PIN(.05) POUT(.10) ITERATE(20) CUT(.5) .
LOGISTIC REGRESSION VAR=drugs
  /METHOD=ENTER sex age White black hispanic noftas priormis priorfel
  /PRINT=GOODFIT
  /CRITERIA PIN(.05) POUT(.10) ITERATE(20) CUT(.5) .
LOGISTIC REGRESSION VAR=dui
  /METHOD=ENTER sex age White black hispanic noftas priormis priorfel
  /PRINT=GOODFIT
  /CRITERIA PIN(.05) POUT(.10) ITERATE(20) CUT(.5) .
LOGISTIC REGRESSION VAR=misdicho
  /METHOD=ENTER sex age White black hispanic
  /PRINT=GOODFIT
  /CRITERIA PIN(.05) POUT(.10) ITERATE(20) CUT(.5) .
LOGISTIC REGRESSION VAR=feldicho
  /METHOD=ENTER sex age White black hispanic
  /PRINT=GOODFIT
  /CRITERIA PIN(.05) POUT(.10) ITERATE(20) CUT(.5) .
LOGISTIC REGRESSION VAR=ftadich
  /METHOD=ENTER sex age White black hispanic
  /PRINT=GOODFIT
```

```

LOGISTIC REGRESSION VAR=ftaall
  /METHOD=ENTER sex age miltry White black hispanic violent property
drugs
  dui bail bailed misdrror felror priormis priorfel noftas priopri
formpro
  /PRINT=GOODFIT
  /CRITERIA PIN(.05) POUT(.10) ITERATE(20) CUT(.5) .

LOGISTIC REGRESSION VARIABLES MISDCUST
  /METHOD=ENTER sex age WHITE BLACK HISPANIC VIOLENT PROPERTY DRUGS DUI
noftas priorfel priormis
  BAIL
  /CRITERIA=PIN(.05) POUT(.10) ITERATE(20) CUT(.5).

LOGISTIC REGRESSION VARIABLES priorftadicho
  /METHOD=ENTER sex age WHITE HISPANIC BLACK
  /CRITERIA=PIN(.05) POUT(.10) ITERATE(20) CUT(.5).

LOGISTIC REGRESSION VARIABLES PROPERTY
  /METHOD=ENTER sex age curres emp school miltry edu legalrep priormis
priorfel noftas priopri
  formpro WHITE BLACK HISPANIC
  /CONTRAST (legalrep)=Indicator
  /CONTRAST (formpro)=Indicator
  /CONTRAST (curres)=Indicator
  /CRITERIA=PIN(.05) POUT(.10) ITERATE(20) CUT(.5).

LOGISTIC REGRESSION VARIABLES DRUGS
  /METHOD=ENTER sex age curres emp school miltry edu legalrep priormis
priorfel noftas priopri
  formpro WHITE BLACK HISPANIC
  /CONTRAST (legalrep)=Indicator
  /CONTRAST (formpro)=Indicator
  /CONTRAST (curres)=Indicator
  /CRITERIA=PIN(.05) POUT(.10) ITERATE(20) CUT(.5).

LOGISTIC REGRESSION VARIABLES VIOLENT
  /METHOD=ENTER sex age curres emp school miltry edu legalrep priormis
priorfel noftas priopri
  formpro WHITE BLACK HISPANIC
  /CONTRAST (legalrep)=Indicator
  /CONTRAST (formpro)=Indicator
  /CONTRAST (curres)=Indicator
  /CRITERIA=PIN(.05) POUT(.10) ITERATE(20) CUT(.5).

```

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