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PRETRIAL STATUS OF FELONY DEFENDANTS

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PRETRIAL STATUS OF FELONY DEFENDANTS

Detailed information on the pretrial release/detention characteristics of New York City felony defendants is sparse. This study is intended to remedy this lack as an aid to the formulation of policy for Pretrial Services Agency and other interested parties in the New York criminal justice system.

The questions addressed include the following:

1. How long are felony defendants held in detention?
What proportion obtain release on recognizance?
How long after Criminal Court arraignment does release on bail occur?

To what extent does detention time depend upon charge severity and the nature of the offense?

2. For felony defendants who do not obtain release on personal recognizance, what effect has bail amount on detention time?

At each level of bail set by the arraignment judge, how long does it take for the defendant to make bail?

How often is a cash alternative set by the arraignment judge and does it affect detention time?

3. What effect does detention or release on recognizance have on the length of time it takes for a case to progress from Criminal Court arraignment to Supreme Court arraignment or indictment?
4. Among those people who obtain pretrial release, what is the distribution by charge severity and by the nature of the offense?
5. Within categories of charge, how many detainees can be expected to be released at intervals of one week, two weeks and so on?

The data is based upon cases arraigned in Criminal Court on at least one felony charge. If the case was subsequently processed by Supreme Court, it was included in the sample. By these criteria, all felony cases which underwent charge reduction to misdemeanor as most serious charge are excluded. The sample thus includes all 157 defendants arraigned in Manhattan between November 10 and November 23, 1975 whose cases subsequently went from Criminal Court to Supreme Court. Since the court records of 6 defendants were ambiguous, a final sample of 151 defendants was used for this research.

Length of detention and days until first Supreme Court appearance are both calculated from date of Criminal Court arraignment. A defendant's charge is his or her most severe charge at arraignment. A defendant's bail amount and cash alternative is also determined at arraignment.

SECTION I - TIME IN DETENTIONNUMBER OF DAYS DETAINED

The felony defendants in the sample spent an average of 40 days in detention from the day of their criminal court arraignment to the day they obtained either a disposition on their cases or pretrial (1) release. If arraignment releases are excluded, the average detention time goes up to two months - 59 days, to be precise.

Average detention time varies considerably by charge level. Whether arraignment releases are included in the computation of the average or not, B felonies endure longer detention than any other charge category. Looking only at those not released at arraignment, B felonies had an average detention time 20% higher than A felonies; 71 days for B felonies versus 59 days for A felonies. The shortest detention is experienced by C and D felony defendants. If arraignment releases are included, D felonies have the shortest detention - 21 days on the average; if arraignment releases are excluded, C felonies have the shortest at 43 days.

The use of medians rather than averages (arithmetic means) is helpful in instances where many cases are clustered at either the high or low end of the measurement range. For instance, most felony defendants in the sample have a detention time under 5 days, yet the average detention is 40 days. To lessen the effect of extreme high values, the median can be used instead of the average. Table 3 and 4 provide detail by charge severity and type using the median.

Half of all sample cases have a detention time under the sample median of 5 days. Excluding cases released at arraignment, the median goes up to 27 days; half of the defendants were detained more than 27 days, half less than 27 days. Still excluding arraignment releases, one quarter have detention less than 5 days and one quarter are detained more than 106 days.

Using the median as the measure, B felonies again have the longest detention time and D felonies have the least, including arraignment releases. Assault and robbery are the specific classes of charge detained the longest. It will come as no surprise that most B felonies in the sample are assault and robbery. While 89% of the B felonies are assault and robbery charges, only 13% of the D felonies face those charges. A charge involving use of force is closely associated with lengthy detention. More detailed examination of the relationships between charge, severity and detention is pursued throughout the remainder of this report

Returning to the entire sample, it is no surprise to find that the proportion incarcerated decreased over time. One week beyond arraignment, 70 (46%) of the 151 defendants remained in detention.

TABLE 1.
AVERAGE DETENTION BY CHARGE SEVERITY ⁽²⁾

	<u>Including Arraignment Releases</u>		<u>Excluding Arraignment Releases</u>	
	<u>Days</u>	<u>Rank</u>	<u>Days</u>	<u>Rank</u>
A Felonies	41	4	59	4
B Felonies	63	5	71	5
C Felonies	31	2	43	1
D Felonies	21	1	53	3
E Felonies	34	3	51	2

TABLE 2.
AVERAGE DETENTION BY CHARGE TYPE

	<u>Including Arraignment Releases</u>		<u>Excluding Arraignment Releases</u>	
	<u>Days</u>	<u>Rank</u>	<u>Days</u>	<u>Rank</u>
Weapons	3	1	7	1
Drugs	23	2	32	2
Theft (excluding Robbery)	36	3	63	3
Others*	38	4	68	4
Robbery	57	5	69	5
Assault (excluding Robbery)	74	6	85	6

* Includes obstruction of justice, conduct and forgery.

TABLE 3.
MEDIAN DETENTION BY CHARGE SEVERITY

	<u>Including Arraignment Releases</u>		<u>Excluding Arraignment Releases</u>	
	<u>Days</u>	<u>Rank</u>	<u>Days</u>	<u>Rank</u>
A Felonies	5	2.5	64	5
B Felonies	44	5	63	4
C Felonies	5	2.5	8	1
D Felonies	0	1	29	3
E Felonies	8	4	28	2

TABLE 4.
MEDIAN DETENTION BY CHARGE TYPE

	<u>Including Arraignment Releases</u>		<u>Excluding Arraignment Releases</u>	
	<u>Days</u>	<u>Rank</u>	<u>Days</u>	<u>Rank</u>
Weapons	0	1	4	1
Theft	4.5	2	64	5
Drugs	5	3	5	2
Others*	8	4	31	3
Robbery	23.5	5	57	4
Assault	32	6	77	6

*Includes obstruction of justice, conduct and forgery.

After a month had elapsed, 51 (34%) defendants remained in jail, and after three months 32 (21%) were still detained.

In the next two sub-sections, defendant pretrial detention is broken down week by week and month by month for each level of charge severity and for each category of offense (robbery, drugs, etc.) The proportion of each category remaining in jail at the end of each time period is specified and tested for statistical significance.

Length of Detention by Charge Severity

Table 5 presents length of detention by charge severity at arraignment. Defendants in the sample charged with D felonies were least likely to be detained beyond one week⁽³⁾; only 9 (24%) of the 37 defendants had not been released within 7 days. The defendants charged with C and D felonies were significantly less likely to be detained beyond one month⁽⁴⁾; 14 (29%) of the 48 defendants were incarcerated longer than 28 days. No group of defendants arraigned on charges of a particular severity was significantly less likely to be detained beyond two months.

Those most likely to be detained beyond one week were defendants charged with B felonies⁽⁵⁾; 32 (71%) of the 45 defendants facing B felony charges were detained beyond that point. Those arraigned on B felonies were also the most likely to be detained after one month⁽⁶⁾; 25 (55%) of the 45 defendants charged with B felonies remained in detention after that time period. Those defendants charged with B felonies were most likely to be detained after two months as well⁽⁷⁾. Nineteen (42%) of the 45 defendants charged with B felonies at arraignment remained incarcerated for more than two months. The relationship between charge severity and length of detention is not statistically

TABLE 5: LENGTH OF DETENTION BY CHARGE SEVERITY AT ARRAIGNMENT*

Charge Severity	Total Number of Defendants Arraigned	Total # Detained after 1 week	Total # Detained after 2 weeks	Total # Detained after 3 weeks	Total # Detained after 1 month	Total # Detained after 2 months	Total # Detained after 3 months
A felony	29	11 38%	9 31%	9 31%	9 31%	7 24%	7 24%
B felony	45	32 71%	29 64%	26 58%	25 55%	19 42%	14 31%
C felony	31	12 39%	8 26%	7 23%	6 19%	6 19%	5 16%
D felony	37	9 24%	9 24%	8 22%	8 22%	6 16%	5 14%
E felony	9	6 67%	4 44%	4 44%	3 33%	2 22%	1 11%
TOTAL	151	70 46%	59 39%	54 36%	51 34%	40 26%	32 21%

* All percentages in this table represent the number of defendants as a proportion of the total number of defendants in the sample whose arraignment charge was of a particular severity. For example, 11 or 38% of the 29 defendants in the sample who were charged with A felonies at arraignment remained incarcerated beyond one week after arraignment.

significant at three months.

That defendants charged with B felonies were less likely to be released than defendants charged with more severe offenses (A felonies) is unexpected since A felonies are supposed to be more "serious" than B felonies. However, examination of the charge types comprising A versus B felonies provides an explanation. Of the 29 defendants charged with A felonies 23 (79%) had been charged with drug-related crimes. Charge type is strongly related to length of detention (see next section). Defendants charged with drug-related offenses are second only to those arraigned on weapons charges in speed of release.

Length of Detention by Charge Type

As shown in Table 6 there is a strong relationship between length of detention and type of charge at arraignment.⁽⁸⁾ Defendants in the sample arraigned on weapons' charges were the least likely to be detained beyond one week⁽⁹⁾; 24 (92%) of the 26 defendants held on weapons charges were released within one week. All of the defendants arraigned on weapons charges were released within three weeks. These defendants are consistently the least likely to be detained at all time intervals examined.

Defendants charged at arraignment with drug-related crimes were consistently second to those arraigned on weapons charges in speed of release. Only 7 (24%) of the 29 defendants held on drug charges were detained after 7 days⁽¹⁰⁾. Those with drug charges were also the least likely to be incarcerated beyond one month⁽¹¹⁾ and beyond two months⁽¹²⁾. Of the 29 defendants with drug-related crimes 4 (14%)

TABLE 6: LENGTH OF DETENTION BY CHARGE TYPE AT ARRAIGNMENT*

Charge Type	Total Number of Defendants Arraigned	Total # Detained after 1 week	Total # Detained after 2 weeks	Total # Detained after 3 weeks	Total # Detained after 1 month	Total # Detained after 2 months	Total # Detained after 3 months
Theft (excluding robbery)	16	8 50%	7 44%	7 44%	7 44%	5 31%	4 25%
Assault (without robbery)	23	15 65%	15 65%	14 61%	13 57%	11 48%	9 39%
Weapons	26	2 8%	2 8%	1 4%	0 0%	0 0%	0 0%
Robbery	48	33 69%	27 56%	24 50%	24 50%	18 37%	13 27%
Drugs	29	7 24%	4 14%	4 14%	4 14%	4 14%	4 14%
Other ¹	9	5 55%	4 44%	4 44%	3 33%	2 22%	2 22%
TOTAL	151	70 46%	59 39%	54 36%	51 34%	40 27%	32 21%

1. Other includes 3 defendants arraigned on obstructing justice charges, 2 defendants arraigned on conduct charges and 4 defendants arraigned on forgery charges

* All percentages in this table represent the number of defendants as a proportion of the total number of defendants in the sample whose arraignment charge was of a particular type. For example, 8 (50%) of the 16 defendants in the sample who were charged with theft (excluding robbery) at arraignment remained incarcerated beyond one week.

had not been released within one month. These 4 defendants remained incarcerated beyond two months and again represent the charge type that was second to those arraigned on weapons offenses in speed of release.

Defendants in the sample charged with robbery or assault (without robbery) were most likely to be detained beyond one week⁽¹³⁾; 48 (67%) of the 71 defendants charged with these charges were also most likely to remain incarcerated beyond one month⁽¹⁴⁾; 37 (52%) of the 71 defendants were detained. After two months, defendants charged with assault (without robbery) represented the single charge type most likely to be detained⁽¹⁵⁾. 11 (48%) of the 23 defendants charged with this offense at arraignment were detained longer than two months. After three months, defendants charged with assault (without robbery) were again most likely to be detained⁽¹⁶⁾; 9 (39%) of the 23 defendants charged with that crime remained incarcerated.

SECTION II - BAIL AND CASH ALTERNATIVESAverage Bail Amount

Out of the total sample of 151 defendants, 20% were released on their own recognizance at arraignment; another 4% were remanded with no bail set. This section focuses on the remaining 115 people (76% of the sample) for whom bail was set at criminal court arraignment.

For all cases, irrespective of charge, the average bail amount was \$3,695. Relatively low bail (under \$1750) was set for 53% (61 defendants) and relatively high bail (\$1750 or over) was set in 47% of the cases (54 defendants). The distinction between "high" and "low" bail was made to place approximately half of the defendants in the low and half in the high categories.

TABLE 7.

BAIL AMOUNT SET AT ARRAIGNMENT

	<u>RELEASED</u> within <u>1 week</u>	<u>RELEASED</u> within <u>1 month</u>	<u>RELEASED</u> within <u>3 months</u>	<u>NOT RELEASED</u> within <u>3 months</u>	<u>TOTAL</u>
LOW BAIL (\$1749 and under)	36 59%	12 20%	4 7%	9 15%	61 (101%)
HIGH BAIL (\$1750 and over)	15 28%	7 13%	13 24%	19 35%	54 (100%)
TOTAL*	51 44%	19 17%	17 15%	28 24%	115 (100%)

* An additional 30 defendants were ROR'd at arraignment and 6 defendants were remanded with no bail set.

$$X^2 = 17.945, \quad df = 3, p < .001$$

There is a strong relationship between arraignment bail amount and the time of release, if ever. Table 7 sets out the releases by the low bail/high bail grouping. Nearly 60% of low bail cases obtained their releases from pretrial detention by one means or another (including pleas, ROR and the making of bail) within one week after arraignment. By contrast, within three months, 65% of the high bail cases had procured release from detention. Clearly, the relationship between bail amount and release is strong⁽¹⁷⁾.

The type of charge and its severity produces pronounced differences in bail amounts (see Tables 8 and 9). The average bail amount for felonies from C down to E is in the low bail range of one dollar to \$1750. A and B felonies have average bail amounts of \$7557 and \$4071 respectively.

Defendants facing felony drug charges are afflicted with the highest average bail amount. (\$6452) Persons charged with theft, assault and weapons have average bail amounts equal to one-third those of drug defendants. Bail for robbery defendants is set at about two-thirds that of drug defendants. Given these relative bail amounts, it would appear that judges are setting bail on some basis other than pure dangerousness to the community. High bail amounts on drug cases may reflect a judicial expectation of high risk of non-appearance or it may indicate an ability-to-pay standard. Persons charged with drug offenses may be expected to have more ready access to funds than robbery and assault defendants.

Length of Detention by Bail Amount

Table 10 presents the length of detention by bail amount at arraignment. Defendants characterized by higher bail amounts

TABLE 8. AVERAGE BAIL SET AT ARRAIGNMENT BY CHARGE SEVERITY

	<u>Amount</u>	<u>Rank</u>
A Felonies	\$7,557.00	5
B Felonies	4,071.00	4
C Felonies	1,696.00	3
D Felonies	1,167.00	1
E Felonies	1,333.00	2

TABLE 9. AVERAGE BAIL SET AT ARRAIGNMENT BY CHARGE TYPE

	<u>Amount</u>	<u>Rank</u>
Others*	\$ 944.00	1
Weapons	1,125.00	2
Theft (excluding robbery)	1,600.00	3
Assault (without robbery)	2,550.00	4
Robbery	4,305.00	5
Drugs	6,452.00	6

* Includes obstructing justice, conduct and forgery charges

TABLE 10: LENGTH OF DETENTION BY BAIL AMOUNT AT ARRAIGNMENT

Bail Amount	Total Number of Defendants Arraigned	Total # Detained after 1 week	Total # Detained after 2 weeks	Total # Detained after 3 weeks	Total # Detained after 1 month	Total # Detained after 2 months	Total # Detained after 3 months
\$150-\$750	13	4 31%	1 8%	1 8%	1 8%	0 0%	0 0%
\$1,000	34	13 38%	10 29%	8 24%	8 24%	6 18%	6 18%
\$1,500	14	8 57%	6 43%	5 36%	4 29%	4 29%	3 21%
\$2,000-2,500	25	16 64%	15 60%	14 56%	13 52%	11 44%	7 28%
\$3,000-5,000	13	10 77%	8 62%	8 62%	7 54%	5 38%	5 38%
\$7,500 and up	16	13 81%	13 81%	12 75%	12 75%	10 63%	7 44%
Remand	6	6 100%	6 100%	6 100%	6 100%	4 67%	4 67%
TOTAL	121	70 58%	59 49%	54 45%	51 42%	40 33%	32 26%

NOTES: 1. All percentages in this table represent the number of defendants as a proportion of the total number of defendants in the sample for whom bail set at arraignment fell within the bail ranges shown. For example, 4 defendants or 31% of the 13 defendants in the sample for whom bail was set at arraignment at between \$150-\$750 remained incarcerated beyond one week after arraignment.

2. An additional 30 defendants were ROR'd at arraignment.

TABLE 11. AVERAGE CASH ALTERNATIVE SET AT ARRAIGNMENT
BY CHARGE SEVERITY

A Felony	\$ 490.00*
B Felony	1,336.00**
C Felony	550.00
D Felony	244.00
E Felony	100.00***

* 5 defendants held on drug charges comprise the total group of defendants charged with A felonies who had cash alternatives set at arraignment.

** 7 defendants charged with B felonies had cash alternatives set at arraignment. The cash alternative amounts ranged from \$150 (robbery) through \$200 (forgery), \$500 (a weapons, a forgery and a robbery charge) to \$2,500 and \$5,000 for 2 defendants charged with robbery and assault (without robbery) respectively.

*** One case.

TABLE 12. AVERAGE CASH ALTERNATIVES SET AT ARRAIGNMENT
BY CHARGE TYPE

Assault (without robbery)	\$5,900.00	(only one)
Robbery	675.00	
Theft (excluding robbery)	633.00	
Drugs	490.00	
Weapons	269.00	
Others*	267.00	

* Includes obstructing justice and forgery charges

exhibited slower rates of release and were more likely to remain detained than defendants for whom lower bail amounts had been set.

Defendants for whom bail was set at arraignment at \$7,500.00 or more were most likely to be detained beyond one week,⁽¹⁸⁾ one month,⁽¹⁹⁾ and two months.⁽²⁰⁾ Only three (19%) of the 16 defendants with bail set at \$7,500.00 or more were released within 7 days. During the next three weeks, only one defendant with bail set \$7,500.00 or more was released. Two additional defendants were released in the following month, leaving 10 (63%) of the 16 defendants still incarcerated.

Defendants with bail amounts set at arraignment between \$150 and \$750 were least likely to remain incarcerated at all time intervals examined. Four (31%) of the 13 defendants with bail set between \$150 and \$750 were detained beyond one week;⁽²¹⁾ only one (8%) of the 13 remained in detention beyond one month.⁽²²⁾ All defendants with bail of between \$150 and \$750 were released within two months.

Average Cash Alternative Amounts

Cash alternatives to bail amounts were set at arraignment for 28 (24%) of the 115 defendants for whom bail had been set. The average cash alternative was \$646.00. Tables 11 and 12 depict the variation in cash alternative amounts set at arraignment by charge severity and charge type.

Length of Detention by Cash Alternative Amounts at Arraignment

Defendants for whom cash alternatives were set at arraignment exhibited a higher speed of release than those for whom no cash alternative had been set. Eighteen (64%) of the 28 defendants for whom cash alternative amounts were set at arraignment were released within one week. Only three (11%) of these defendants were detained beyond 3 months. Table 13 presents length of detention by the cash alternatives set at arraignment. Defendants with cash alternatives were more likely to be released within one week⁽²³⁾ than those with no cash alternative recorded. These defendants were also significantly more likely to be released within one month,⁽²⁴⁾ within two months,⁽²⁵⁾ and within three months.⁽²⁶⁾

TABLE 13: CASH ALTERNATIVE AMOUNTS AT ARRAIGNMENT BY LENGTH OF DETENTION

Cash Alternative Amount	Total Number of Defendants Arraigned	Total # Detained after		Total # Detained after		Total # Detained after		Total # Detained after	
		1 week	2 weeks	3 weeks	1 month	2 months	3 months		
\$100-\$200	9	1 11%	0 0%	0 0%	0 0%	0 0%	0 0%		
\$250-\$300	2	2 100%	1 50%	1 50%	1 50%	1 50%	1 50%		
\$500	13	4 31%	1 8%	1 8%	1 8%	1 8%	0 0%		
\$750-\$2,000	2	1 50%	1 50%	1 50%	1 50%	1 50%	1 50%		
\$2,500 and up	2	2 100%	2 100%	1 50%	1 50%	1 50%	1 50%		
None Recorded	93	60 65%	54 58%	50 54%	47 51%	36 39%	29 31%		
TOTAL	121	70 58%	59 49%	54 45%	51 42%	40 33%	32 26%		

NOTES:

- 1 All percentages in this table represent the number of defendants as a proportion of the total number of defendants in the sample for whom cash alternative set at arraignment fell within the ranges shown. For example, 4 defendants or 31% of the 13 defendants in the sample for whom cash alternative was set at arraignment at \$500 remained incarcerated beyond one week after arraignment.
- 2 An additional 30 defendants were FOR'd at arraignment

SECTION III. DETENTION AND INITIAL SUPREME COURT ACTION

Average Number of Days until 1st Supreme Court action (27)

An average of 32 days elapsed between Criminal Court arraignment and the first Supreme Court appearance of defendants in this study. As shown in Tables 14 and 15, the average varies across defendants arraigned on charges of differing severities and types.

Of the 151 defendants arraigned, 37 (24%) made their first Supreme Court appearance within one week of their Criminal Court arraignment. Seven (5%) of the 151 defendants arraigned did not make their first Supreme Court appearance until more than three months had passed.

TABLE 14. AVERAGE NUMBER OF DAYS UNTIL 1ST SUPREME COURT APPEARANCE BY CHARGE SEVERITY

	<u>Days</u>	<u>Rank</u>
A felonies	27	3
B felonies	22	1
C felonies	25	2
D felonies	50	5
E felonies	53	4

TABLE 15. AVERAGE NUMBER OF DAYS UNTIL 1ST SUPREME COURT APPEARANCE BY CHARGE TYPE

	<u>Days</u>	<u>Rank</u>
Robbery	23	1
Drugs	25	2
Assault	29	3
Theft	33	4
Others*	52	5
Weapons	53	6

* "Others" includes obstructing justice, conduct and forgery charges

Felonies of degree A,B and C average three to four weeks between criminal court arraignment and the first supreme court action. D and E felonies take markedly longer; on the average, these cases take approximately seven weeks. Since robbery, drugs and assault are, in this sample, almost always charged at an A, B, or C felony level, the breakdown of time by charge type shows them in the three to four week range.

The Effect of Pretrial Release

Defendants who are free on bail or personal recognizance take longer to reach their first Supreme Court appearance than those who are held on bail. After four weeks have elapsed, two-thirds of the felony arraignments have been ROR'd. At that point, over half of the ROR's have not yet made their first Supreme Court appearance. On the other hand, the detainees have made at least

one appearance. Only 20% of the detainees have not appeared in Supreme Court four weeks after criminal court arraignment.

TABLE 16. TIME TILL SUPREME COURT APPEARANCE BY
RELEASE STATUS AT FOUR WEEKS AFTER
CRIMINAL COURT ARRAIGNMENT

Days Till 1ST S.C. Appearance	<u>Detained</u>	<u>Released</u>	
0-7	19 (37%)	18 (18%)	37 (25%)
8-28	22 (43%)	29 (29%)	51 (34%)
29+	10 (20%)	53 (53%)	63 (42%)
	<u>51 (100%)</u>	<u>100 (100%)</u>	<u>151 (101%)</u>

The proportion detained/release at other points in time are detailed in Table 17.

CHARGE SEVERITY

Charge severity makes a statistically significant difference to the speed with which a felony case is processed in the first instance by the Supreme Court.⁽²⁸⁾ C felony defendants are most likely to make their first Supreme Court appearance within two weeks.⁽²⁹⁾ Half (52%) were arraigned or indicted within two weeks. The slowest to reach Supreme Court were the E felony defendants.⁽³⁰⁾ None of the nine defendants in the sample arraigned in criminal court on an E felony appeared in Supreme Court within two weeks.

Defendants arraigned on B felony charges were the most likely to appear within one month.⁽³¹⁾ Thirty-three (73%) of those charged with B felony crimes made their first Supreme Court

TABLE 17: LENGTH OF DETENTION BY DAYS UNTIL 1ST SUPREME COURT APPEARANCE

Days Until 1st Supreme Court Appearance	Total # Arraigned	Total # Detained after Arraignment	Total # Detained after 1 week	Total # Detained after 1 month	Total # Detained after 2 months	Total # Detained after 3 months
0 - 7 Days	37	32 86%	24 65%	19 51%	17 46%	12 32%
8 - 28 Days	51	41 80%	31 61%	22 43%	15 29%	13 25%
29 + Days	63	31 49%	15 24%	10 16%	8 13%	7 11%
TOTAL	151	104 69%	70 46%	51 34%	40 26%	32 21%

NOTES:

1. All percentages in this table represent the number of defendants as a proportion of the total number of defendants in the sample for whom days until their first Supreme Court appearance fell within the ranges shown. For example, 32 defendants or 86% of the 37 defendants in the sample for whom first Supreme Court Appearance was within 7 days were detained after arraignment.
2. Calculation of the number of days until a defendant's first Supreme Court appearance is based on the court's first indication that a defendant's case had reached a Supreme Court part: either the date of indictment of the date of the defendant's first appearance in a Supreme Court part (including Grand Jury parts). Since both dates were occasionally available, the earlier date was consistently used in this calculation.

appearance within one month; 24 (65%) of those arraigned on D felony crimes made their first Supreme Court appearance after one month. Conversely, defendants with D felony charges were least likely to appear within one month⁽³³⁾ AND defendants with B felony charges were least likely to appear after one month.⁽³⁴⁾ Thirteen (35%) of the 37 defendants arraigned on D felony crimes made their first Supreme Court appearance within one month, and only 12 (27%) of those charged with B felonies made their first Supreme Court appearance after one month.

Table 18 arrays the time required for the Supreme Court to initiate felony proceedings within categories of charge severity.

The principal differences among charge severities are attributable to the actual charge rather than to the potential penalties mandated by the penal law and represented in the A felony to E felony ranking system. As it happens, two-thirds of the C Felonies are assault or robbery cases and these are handled most slowly. In the next section we treat charge per se in some detail..

TIME TILL FIRST SUPREME COURT APPEARANCE BY CHARGE

Charge type clearly affects the rapidity with which felony cases are processed.⁽³⁵⁾

TABLE 18: DAYS UNTIL 1st SUPREME COURT APPEARANCE BY CHARGE SEVERITY AT ARRAIGNMENT

CHARGE SEVERITY	0-7 Days	8-28 Days	29-63 Days	64-91 Days	91+ Days
A felonies	7 24%	9 31%	10 34%	3 10%	0 0%
B felonies	14 31%	19 42%	11 24%	1 2%	0 0%
C felonies	12 39%	10 32%	6 19%	2 6%	1 3%
D felonies	4 11%	9 24%	15 40%	4 11%	5 14%
E felonies	0 0%	4 44%	3 33%	1 11%	1 11%
TOTAL	37 24%	51 34%	45 30%	11 7%	7 5%

NOTES:

1. All percentages in this table represent the number of defendants as a proportion of the total number of defendants in the sample whose arraignment charge was of a particular severity. For example, 7 (24%) of the 29 defendants in the sample who were charged with A felonies made a first Supreme Court appearance within one week.
2. Calculation of the number of days until a defendant's first Supreme Court appearance is based on the court's first indication that a defendant's case had reached a Supreme Court part: either the date of indictment or the date of the defendant's first appearance in a Supreme Court part (including Grand Jury part). Since both dates were occasionally available, the earlier date was consistently used in this calculation.

Defendants arraigned on robbery charges are the most likely to make their first Supreme Court appearance within two weeks of their criminal court arraignments.⁽³⁶⁾ Twenty-nine (60%) of the 48 defendants charged with robbery offenses appeared in Supreme Court within two weeks. Defendants held on weapons counts are the least likely to appear in Supreme Court for the first time within two weeks.⁽³⁷⁾ Only 3 (12%) of the 26 defendants charged with weapons crimes made their first Supreme Court appearance within two weeks. Defendants held on robbery charges also represent the group most likely to make their first Supreme Court appearance within one month;⁽³⁸⁾ while those charged with weapons offenses are the least likely to appear within one month.⁽³⁹⁾ Thirty-six (75%) of those arraigned on robbery counts made their first Supreme Court appearance within one month while only 8 (31%) of those arraigned on weapons counts made such an appearance in the same time period.

Conversely, 18 (69%) of the 26 arraigned on weapons charges made their first Supreme Court appearance after one month, representing the group most likely to do so.⁽⁴⁰⁾ Only 12 (25%) of the 48 charged with robbery at arraignment made their first Supreme Court appearance after one month. These defendants represent the group least likely to make a first Supreme Court appearance more than one month after Criminal arraignment.

TABLE 19: DAYS UNTIL 1st SUPREME COURT APPEARANCE BY CHARGE TYPE AT
ARRAIGNMENT

CHARGE TYPE	Total # Arraigned	0-7 Days	8-28 Days	29-63 Days	64-91 Days	91+ Days
Theft (excluding robbery)	16	3 19%	5 31%	7 44%	0 0%	1 6%
Assault (w/o robbery)	23	2 9%	12 52%	7 30%	2 9%	0 0%
Weapons	26	2 8%	6 23%	11 42%	4 15%	3 12%
Robbery	48	23 48%	13 27%	7 14%	3 6%	2 4%
Drugs	29	7 24%	10 34%	11 38%	1 3%	0 0%
Others*	9	0 0%	5 56%	2 22%	1 11%	1 11%
TOTAL	151	37 24%	51 34%	45 30%	11 7%	7 5%

NOTES:

- "Others" includes obstructing justice, forgery and conduct charges
- All percentages in this table represent the number of defendants as a proportion of the total number of defendants in the sample whose arraignment charge was of a particular type. For example, 3 (19%) of the 16 defendants in the sample charged with theft made a first Supreme Court appearance within one week.

(see back for footnote)

Footnote :

1. Calculation of the number of days until a defendant's first Supreme Court appearance is based on the court's first indication that a defendant's case had reached a Supreme Court part: either the date of indictment or the date of the defendant's first appearance in a Supreme Court part (including Grand Jury part). Since both dates were occasionally available, the earlier date was consistently used in this calculation.

SECTION IV RELEASE TYPE

Pretrial release was procured by about two-thirds (70%) of the defendants. For the remaining 30% of the defendants, either they never obtained release before their cases were disposed or after three months they were still held in detention. As many defendants posted bonds as posted cash. Looking at the sample as a whole, the odds of obtaining pretrial release in felony cases are quite good. By 90 days after arraignment, of those defendants whose cases had not been disposed, fully 70% (106 of 151) procured some form of pretrial release: about half (51) were paroled, one fourth (28) were released on cash bail and one fourth (27) on bond. Many of the parolees were released after arraignment--yielding a total post-arraignment release rate of 72%. Only 30% (45) of the felony defendants were unable to obtain any release at all.

CHARGE SEVERITY AND RELEASE

Charge severity is associated with the type of release obtained in a given case.⁽⁴¹⁾ One way of demonstrating the effect is by showing the ratio of ROR's to bond/cash releases as in Table 20.

TABLE 20: RATIO OF ROR TO BOND/CASH
 RELEASES BY CHARGE SEVERITY

	<u>ROR</u>		<u>BOND/CASH</u>
A Felony	1	to	1.75
B "	1	to	2.27
C "	1	to	.93
D "	1	to	.73
E "	1	to	.20

Generally judges are more inclined to pretrial parole at the lower charge levels. With the exception of B felonies, the progression is neat. B felonies are more likely to obtain release with bond/cash than A felonies.

Table 21 presents another way of looking at releases. Defendants in the sample charged with E felonies at arraignment (42) were most likely to be released on their own recognizance. Five (56%) of the 9 defendants arraigned on E felony charges were paroled. Defendants charged with B felonies were least likely to be released through parole. Only 7 (16%) of the 45 defendants (43) arraigned on B felony charges were released in this manner.

Analysis of table 21 indicates that those charged with D felonies were most likely to be ROR'd at arraignment. 15 (40%) of the 37 defendants arraigned on D felony offenses were ROR'd (44) at arraignment. Defendants charged with A and B felonies were (45) significantly less likely to be ROR'd at arraignment. Only 4 (5%) of the 74 defendants arraigned on A and B felony offenses were ROR'd at arraignment. The data did not show a significant relationship between charge severity and probability of release on own recognizance subsequent to Criminal Court arraignment.

We failed to identify significant relationships between charge severity and the likelihood of securing release through bond versus cash bail. However, defendants arraigned on B felonies were the most likely to remain incarcerated beyond 3 months or until (46) their cases were disposed. Twenty three (51%) of the 45 defen-

dants charged with B felonies were so detained. Defendants arraigned on D felonies were the least likely to remain in detention beyond 3 months or until their cases were disposed. Thirty one (84%) of the 37 defendants charged with D felonies secured some type of release prior to three months or disposition of their cases.

RELEASE TYPE BY CHARGE

The most severe charge at the criminal court arraignment stage makes a great deal of difference to a defendant's prospects for obtaining pretrial release from detention.⁽⁴⁷⁾ In this sample, assault charges lead, in 43% of instances, to never being released prior to final adjudication. Weapons charges, contrariwise, always lead to release on bail or parole.

Defendants arraigned on weapons crimes were most likely to be ROR'd at arraignment.⁽⁴⁸⁾ As mentioned earlier in our discussion of type of release by charge severity, defendants charged with D felonies were most likely to be ROR'd at arraignment. Here it is important to note that 81% of all defendants arraigned on weapons crimes were charged with D felonies.

Defendants charged with crimes related to drugs or assault (without robbery) were the least likely to be ROR'd at arraignment.⁽⁴⁹⁾ Five (10%) of the 52 defendants charged with these crimes were ROR'd at arraignment. The data did not show a significant relationship between defendants' charge type and their likelihood of ROR post arraignment.

TABLE 21: TYPE OF RELEASE BY CHARGE SEVERITY AT ARRAIGNMENT

<u>CHARGE SEVERITY</u>	<u>Total # Arraigned</u>	<u>ROR'd at Arraignment</u>	<u>Subsequently ROR'd</u>	<u>Bail¹</u>	<u>Cash²</u>	<u>Disposed³</u>	<u>Not released⁴</u>
A felonies	29	2 7%	6 21%	6 21%	8 28%	0 0%	7 24%
B felonies	45	2 4%	5 11%	7 16%	8 18%	9 20%	14 31%
C felonies	31	8 26%	5 16%	8 26%	4 13%	1 3%	5 16%
D felonies	37	15 40%	3 8%	6 16%	7 19%	1 3%	5 13%
E felonies	9	3 33%	2 22%	1 11%	0 0%	2 22%	1 11%
TOTAL	151	30 20%	21 14%	28 18%	27 18%	13 9%	32 21%

NOTES:

1. All percentages in this table represent the number of defendants as a proportion of the total number of defendants in the sample whose arraignment charge was of a particular severity. For example, 2 (7%) of the 29 defendants in the sample who were arraigned on A felony charges were ROR'd at arraignment.
A felony charges were ROR'd at arraignment.
2. "Bail" includes all defendants who secured their release through various forms of bond.
3. "Cash" includes all defendants who paid cash bail to secure their release.
4. "Disposed" includes all defendants who were not released before their cases were disposed. Defendants who were released prior to disposition are not included here but instead appear within the appropriate type-of-release category.
5. "Not released" includes all defendants whose cases were not disposed and who remained in detention beyond 3 months.
6. Due to the small number of defendants included in each of the 6 categories of type of release, the categories have been merged as follows: 1) ROR'd at arraignment and subsequently ROR'd, 2) Bail and Cash, 3) Disposed and not released, for calculation of Chi Square.

TABLE 22: TYPE OF RELEASE BY CHARGE TYPE AT ARRAIGNMENT

CHARGE TYPE	Total # Arraigned	ROR'd at Arraignment	Subsequently ROR'd	Bail	Cash	Disposed	Not released
Assault (w/o robbery)	23	2 9%	2 9%	6 26%	3 13%	1 4%	9 39%
Weapons	26	10 38%	2 8%	4 15%	10 38%	0 0%	0 0%
Robbery	48	7 14%	8 17%	7 14%	3 6%	10 21%	13 27%
Drugs	29	3 10%	6 21%	7 24%	9 31%	0 0%	4 14%
Others	25	8 32%	3 12%	4 16%	2 8%	2 8%	6 24%
TOTAL	151	30 20%	21 14%	28 18%	27 18%	13 9%	32 21%

NOTES: 1 "Others" includes those arraigned on theft (excluding robbery) obstructing justice, conduct and forgery charges.

- 2 All percentages in this table represent the number of defendants as a proportion of the total number of defendants in the sample whose charge was of a particular type. For example, 2 (9%) of the 23 defendants with assault (without robbery) were ROR'd at arraignment.
- 3 "Bail" includes all defendants who secured their release through various forms of bond.
- 4 "Cash" includes all defendants who paid cash bail to secure their release.
- 5 "Disposed" includes all defendants who were not released before their cases were disposed. Defendants who were released prior to disposition are not included here but instead appear within the appropriate type-or-release category.
- 6 "Not released" includes all defendants whose cases were not disposed and who remained in detention beyond 3 months.
- 7 Due to the small number of defendants included in each of the 6 categories of type of release the categories have been merged as follows: 1) ROR'd at arraignment and subsequently ROR'd, 2) Bail and Cash, 3) Disposed and not released for calculation of Chi Square.

Defendants arraigned on drug related offenses were most likely to be released through payment of cash bail or posting bond.⁽⁵⁰⁾ Sixteen (55%) of the 29 defendants arraigned on drug offenses were released through the payment of bail either by cash or by bond. Defendants charged with robbery offenses are the least likely to be released in this manner.⁽⁵¹⁾ Only ten (21%) of those arraigned on robbery charges secured this type of release.

Similarly, those charged with drug related crimes were the most likely to be released within 3 months or before their cases reached final disposition.⁽⁵²⁾ Twenty five (86%) of the 29 defendants arraigned on drug charges secured some type of release. Defendants arraigned on robbery charges were the most likely to remain in detention beyond 3 months or until their cases were disposed.⁽⁵³⁾ Twenty three (48%) of the 48 defendants charged with robbery offenses were not released prior to 3 months or disposition of their cases.

TYPE OF RELEASE BY BAIL AMOUNT

The type of release by the amount of bail set at arraignment is presented in Table 23. Examination of the data shows that there is a statistically significant relationship between bail amount and type of release.⁽⁵⁴⁾ Defendants held on low bail (\$1,500 or less) are more likely to be paroled than those held on high bail (more than \$2,000).⁽⁵⁵⁾ Those held on low bail were

TABLE 23: TYPE OF RELEASE BY BAIL AMOUNT SET AT CRIMINAL COURT ARRAIGNMENT

Crim. Court Arraignment Bail Set	Total # Arraigned	Paroled	Bail	Cash	Disposed/Not Released
\$150-\$750	13	3 23%	6 46%	4 31%	0 0%
\$1,000	34	9 26%	7 21%	12 35%	6 18%
\$1,500	14	4 29%	2 14%	3 21%	5 36%
\$2,000-\$2,500	25	4 16%	8 32%	2 8%	11 44%
\$3,000-\$5,000	13	1 8%	3 23%	2 15%	7 54%
\$7,500 and up	16	0 0%	1 6%	3 19%	12 75%
TOTAL ¹	115	21 18%	27 23%	26 23%	41 36%

NOTES:

1. An additional 30 defendants were ROR'd at arraignment and 6 were remanded.
2. All percentages in this table represent the number of defendants as a proportion of the total number of defendants in the sample for whom bail set fell within the bail ranges shown. For example, 3 or (23%) of the 13 defendants in the sample for whom bail was set at arraignment between \$150-\$750 were paroled.

also more likely to pay cash to obtain their releases than those held on high bail. (56) There was no significant difference between defendants who were held on high bail versus those held on low bail in the likelihood of posting bond to secure release.

FOOTNOTES

1. Length of detention is calculated from date of arraignment until release or final disposition. A score of 152 days (5 months) was assigned to 16 defendants who were still in detention at the end of data collection in order to include those defendants in the calculation of the average days detained. The average days detained calculated for this sample may, therefore, slightly underestimate the figure for the population.
2. An analysis of variance test of the significance of the relationship between severity and length of detention produced an F of 2.57 ($p < .05$). See Appendix I for the Anova table.
3. A t-test comparing the proportion of D felonies detained beyond one week with the proportion all other felonies detained more than a week produced a t of 3.19 which is significant at less than $< .01$. In the succeeding footnoted t-tests the same strategy is followed: The proportions of a target group (or groups) held after some specified time are compared to the proportion of all other felonies held after the same cutoff point in time.
4. $t=3.10$, $p < .01$
5. $t=4.03$, $p < .001$
6. $t=3.62$, $p < .001$
7. $t=2.83$, $p < .01$
8. Anova, $F=4.83$, $p < .001$. See Appendix H for table.
9. $t=4.34$, $p < .001$
10. $t=3.59$, $p < .01$
11. $t=3.07$, $p < .01$
12. $t=2.18$, $p < .05$
13. $t=4.03$, $p < .001$
14. $t=4.49$, $p < .001$
15. $t=2.51$, $p < .02$
16. $t=2.24$, $p < .05$
17. $\chi^2=17.945$ with $df=3$, $p < .001$
18. $t=2.04$, $p < .05$
19. $t=2.86$, $p < .01$
20. $t=2.69$, $p < .01$
21. $t=2.10$, $p < .05$
22. $t=2.68$, $p < .01$
23. $t=5.29$, $p < .001$
24. $t=3.48$, $p < .001$
25. $t=2.46$, $p < .02$
26. $t=2.10$, $p < .05$
27. Calculation of the number of days until a defendant's first Supreme Court appearance is based on the court's first indication that a defendant's case had reached a Supreme Court part: either the date of indictment or the date of the defendant's first appearance in a Supreme Court part (including Grand Jury parts). Since both dates were occasionally available, the earlier date was consistently used in this calculation.

28. $X^2=22.398$, $p<.001$. ANOVA:
 $F=4.303$, $p<.001$.
29. $t=2.40$, $p<.05$
 30. $t=2.909$, $p<.05$
 31. $t=2.41$ $p<.05$
 32. $t=3.3$ $p<.001$
 33. $t=3.3$ $p<.001$
 34. $t=2.41$ $p<.05$
 35. For the variables "Time to first S.C. appearance" and "charge"
 Anova produces an F of 3.06, $p<.01$ and a X^2 of 29.445, $p<.001$,
 see Appendix F.
36. $t=4.67$, $p<.001$
 37. $t=2.59$, $p<.001$
 38. $t=2.84$, $p<.01$
 39. $t=3.105$, $p<.01$
 40. $t=3.105$, $p<.01$
41. Chi Square =22.54, $p .01$, see Appendix C for details.
 Due to the small number of defendants in each of the 6 categories
 of type of release, the categories have been merged as follows:
 1) ROR'd at arraignment and subsequently, ROR'd, 2) Bail and
 cash, 3) Disposed and not released, for calculation of the
 chi square.
42. $t=4.28$, $p<.001$
 43. $t=3.08$, $p<.01$
 44. $t=3.62$, $p<.001$
 45. $t=4.44$, $p<.001$
 46. $t=3.73$, $p<.001$
47. Due to small number of defendants included in each of the 6
 categories of type of release, the categories have been merged as
 follows: 1) ROR'd at arraignment and subsequently ROR'd,
 2) Bail and Cash, 3) Disposed and not released for calculation
 of Chi Square. Chi Square = 32.42. $p<.001$, see appendix D
 for details.
48. $t=2.61$, $p<.01$
 49. $t=2.29$, $p<.05$
 50. $t=2.34$, $p<.01$
 51. $t=2.72$, $p<.01$
 52. $t=2.10$, $p<.05$
 53. $t=3.32$, $p<.001$
 54. Chi Square=20.11, $p<.001$. see Appendix B .
 55. $t=2.35$, $p<.02$
 56. $t=2.37$, $p<.02$

APPENDIX A.

ARRAIGNMENT CHARGE SEVERITY BY CHARGE TYPE

<u>CHARGE TYPE</u>	<u>A Felony</u>	<u>B Felony</u>	<u>C Felony</u>	<u>D Felony</u>	<u>E Felony</u>	<u>Sub-Total</u>
Theft (w/o robbery)	0 0	1 2%	1 3%	8 22%	6 67%	16 (10.6%)
Assault (w/o robbery)	6 21%	9 20%	5 16%	3 8%	0 0%	23 (15.2%)
Weapons	0 0%	2 4%	3 10%	21 57%	0 0%	26 (17.2%)
Robbery	0 0%	31 69%	15 48%	2 5%	0 0%	48 (31.8%)
Drugs	23 79%	0 0%	6 19%	0 0%	0 0%	29 (19.2%)
Conduct	0 0%	0 0%	1 3%	1 3%	0 0%	2 (1.3%)
Forgery	0 0%	2 4%	0 0%	2 5%	0 0%	4 (2.6%)
Obstructing Justice	0 0%	0 0%	0 0%	0 0%	3 33%	3 (2.0%)
TOTAL	29 (19%)	45 (30%)	31 (20%)	37 (24%)	9 (6%)	151 (100%) (100%)

NOTE: Row percentages are given in the upper right corner of each cell; column percentages in the lower left corner.

APPENDIX B.TYPE OF RELEASE BY BAIL AMOUNT

<u>Bail Amount</u>	<u>Paroled</u>	<u>Bailed</u>	<u>Cash</u>	<u>Disposed/ Not Released</u>	<u>Total</u>
Low Bail (\$1,500.00 and under)	16	15	19	11	61
High Bail (\$2,000.00 and over)	5	12	7	30	54
TOTAL	21	27	26	41	115*

* An additional 30 defendants were ROR'd at arraignment
and 6 defendants were remanded with no bail set

$$X^2 = 20.11$$

$$df = 4$$

$$p < .001$$

APPENDIX C.TYPE OF RELEASE BY CHARGE SEVERITY

<u>Charge Severity</u>	<u>Paroled</u>	<u>Bail/Cash</u>	<u>Disposed/Not released</u>	<u>Total</u>
A felony	8	14	7	29
B felony	7	15	23	45
C felony	13	12	6	31
D felony	18	13	6	37
E felony	5	1	3	9
TOTAL	51	55	45	151

$$x^2 = 22.54, \quad df = 8 \quad p < .01$$

NOTE:

Due to the small number of defendants included in each of the 6 categories of type of release in Table 21, the categories have been merged in this table for purposes of x^2 calculation as follows: 1) ROR'd at arraignment and subsequently ROR'd, 2) bail and cash, 3) disposed and not released.

APPENDIX D.TYPE OF RELEASE BY CHARGE TYPE

<u>Charge</u>	<u>Paroled</u>	<u>Bail/Cash</u>	<u>Disposed/Not Released</u>	<u>Total</u>
Assault	4	9	10	23
Weapons	12	14	0	26
Robbery	15	10	23	48
Drugs	9	16	4	29
Others*	11	6	8	25
TOTAL	51	55	45	151

*Others includes theft (excluding robbery), obstructing justice, and conduct charges.

$$X^2 = 32.42 \quad df = 8 \quad p < .001$$

NOTE:

Due to the small number of defendants included in each of the 6 categories of type of release or Table 27, the categories have been merged as follows: 1) ROR'd at arraignment and subsequently ROR'd, 2) bail and cash, 3) disposed and not released, for the calculation of Chi square.

APPENDIX E.DAYS UNTIL 1st SUPREME COURT APPEARANCE BY CHARGE SEVERITY

<u>Charge Severity</u>	<u>Appeared within 2 weeks</u>	<u>Appeared within 3 weeks</u>	<u>Appeared within 1 month</u>	<u>TOTAL</u>
A felonies	9	7	13	29
B felonies	20	13	12	45
C felonies	16	6	9	31
D felonies	6	7	24	37
E felonies	0	4	5	9
TOTAL	51	37	63	151

$$x^2 = 22.398, \quad df = 8, \quad p < .01$$

Analysis of Variance - Days until 1st Supreme Court
Appearance and Charge Severity

<u>Sum of Squares</u>	<u>Degrees of freedom</u>	<u>Variance</u>	<u>F score</u>	<u>Probability</u>
SS TOTAL 212239.94	150			
SS BETWEEN 23309.59	4	5827.40	4.503	$p < .01$
SS WITHIN 188930.35	146	1294.04		

APPENDIX F.DAYS UNTIL 1st SUPREME COURT APPEARANCE BY CHARGE TYPE

<u>Charge type</u>	<u>Appeared within 2 weeks</u>	<u>Appeared within 2-4 weeks</u>	<u>Appeared within 1 month</u>	<u>TOTAL</u>
Assault	5	9	9	23
Weapons	3	5	18	26
Robbery	29	7	12	48
Drugs	9	8	12	29
Others*	5	8	12	25
TOTAL	51	37	63	151

*Others includes theft, obstructing justice, conduct and forgery charges.

$$X^2 = 29.445, \quad df = 8, \quad p < .001$$

Analysis of Variance - Days until 1st Supreme Court Appearance and Charge Type

<u>Sum of Squares</u>	<u>Degrees of freedom</u>	<u>Variance</u>	<u>F score</u>	<u>Probability</u>
SS TOTAL 212239.94	150			
SS BETWEEN 20236.08	5	4047.22	3.06	$p < .01$
SS WITHIN 192003.86	145	1324.16		

APPENDIX G.

Analysis of Variance - Days Released and Days Until 1st Supreme Court Appearance

<u>Sum of Squares</u>	<u>Degrees of freedom</u>	<u>Variance</u>	<u>F score</u>	<u>Probability</u>
SS TOTAL	150			
SS BETWEEN 51108.84	2	25554.42	6.89	p<.001
SS WITHIN 548384.90	148	3705.30		

NOTE:

Calculation of the number of days until a defendant's first Supreme Court appearance is based on the court's first indication that a defendant's case had reached a Supreme Court part: either the date of indictment or the date of the defendant's first appearance in a Supreme Court part (including Grand Jury part). Since both dates were occasionally available, the earlier date was consistently used in this calculation.

APPENDIX H.Analysis of Variance - Days Released and Charge Type
at Arraignment

<u>Sum of Squares</u>	<u>Degrees of freedom</u>	<u>Variance</u>	<u>F score</u>	<u>Probability</u>
SS TOTAL 599493.74	150			
SS BETWEEN 85613.35	5	17122.67	4.8316	$p < .001$
SS WITHIN 513880.39	145	3535.44		

APPENDIX I.Analysis of Variance - Days Released and Charge Severity
at Arraignment

<u>Sum of Squares</u>	<u>Degrees of freedom</u>	<u>Variance</u>	<u>F score</u>	<u>Probability</u>
SS TOTAL 599493.74	150			
SS BETWEEN 39382.73	4	9845.68	2.57	$p < .05$
SS WITHIN 56011.01	146	3836.37		

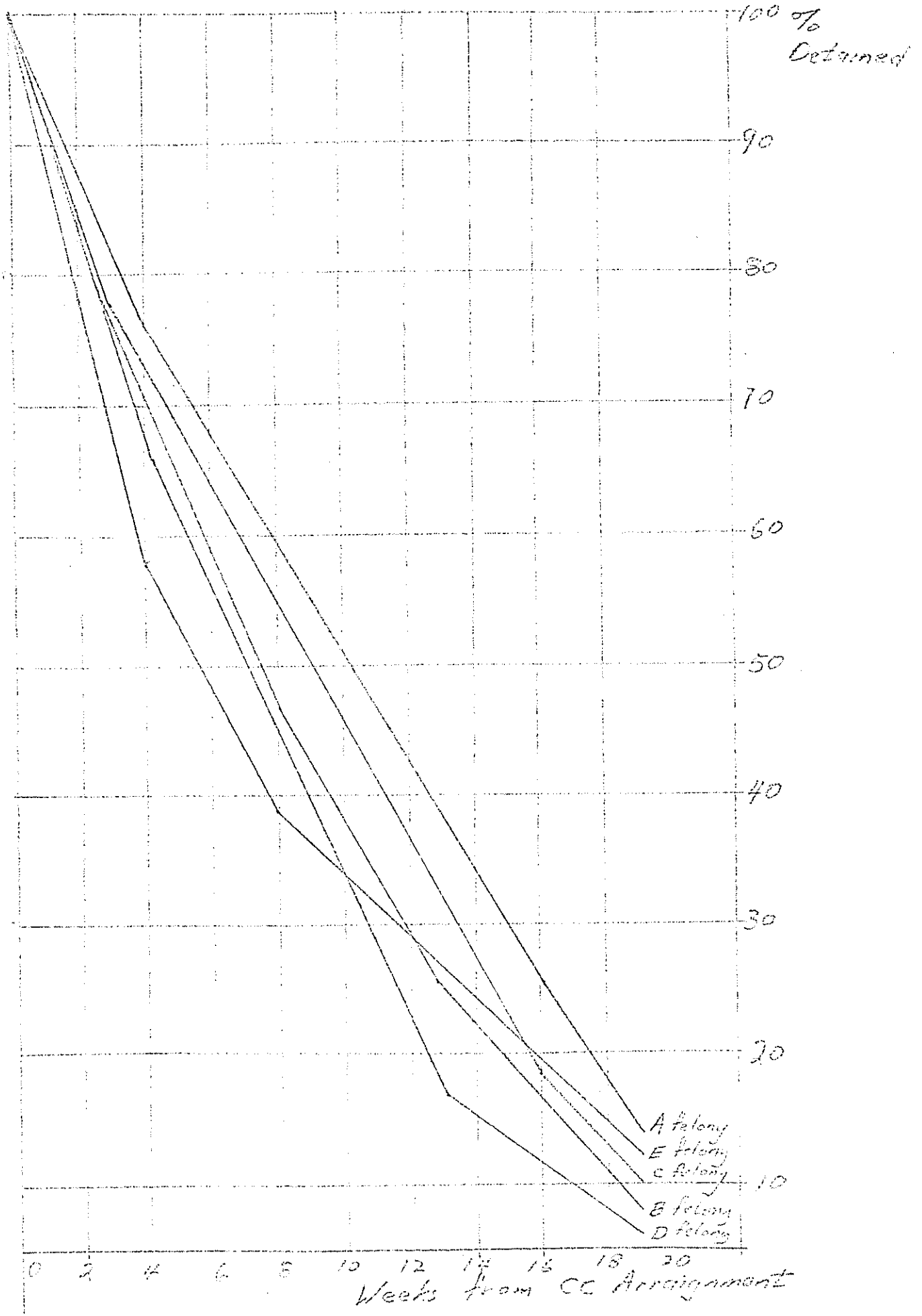
APPENDIX J - Cross-sectional Detention Time

In the body of this study, we report detention/release statuses for a fixed sample of defendants as time goes by. We take a cohort of 151 defendants arraigned in a given time period and trace the relative proportions held on bail/free on bail, free on recognizance and so on. After sufficient time has elapsed, the sample dwindles to a handful of cases. Eventually, one hopes, none of the 151 people remain in detention.

The cohort approach permits extrapolation to any in-coming group of defendants; e.g., if, hypothetically, 50% of our sample obtain release within 30 days, we can say that if 200 felony defendants are arraigned in a week then after 30 days, 100 of them will be released. What this approach fails to illuminate is our detention/release expectations at a given day, the New York City Department of Corrections has a certain number of felony defendants in custody. The arraignment of these cases took place on the given day, one day before, two days before, three days ... and so on. Of these detainees, a certain proportion can be expected to be released within one week, two weeks and so on. The cross-sectional approach to presenting our sample data permits us to say what the proportions are.

Figure A presents a cross-section of the detained felony population. It is derived from the same sample discussed in the body of this report. From it can be read the proportion

Figure A: Cross-Sectional Detention



of each felony severity grade who will remain in detention at every week, through 19 weeks, after criminal court arraignment. Of course, it can also be read in terms of release obtained at each time point. Table 24 is a tabular equivalent to Figure A. Additional derivations and notes on the construction of Figure A are found in the technical notes below.

Note that for all time periods through the ninth week, detention rates according to charge severity can be ranked: A,B,C,D,F,E, highest proportion first. After the ninth week, E felony cases begin to experience relatively slower release rates.

The rate of release is indicated by the steepness of each line. * The release rate is lowest for A felonies through the eight week. Thereafter E felonies are released most slowly, indicating a potentially fertile category of supervised releases after two months.

Technical Notes

An illustration of the difference between the cohort and cross-sectional approaches and how cohort-based data can be converted into cross-sectional data: First the cohort approach. Assume that four defendants are detained after arraignment on a given day. One week later two of them remain in detention, and at the end of the next week one remains. By the fourth week, all have been released.

* The slopes at the least-square regression lines within category of charge severity are as follows: A felony - 4.31, B felony - 4.61, C felony - 4.50, D felony - 4.76, E felony - 3.60.

TABLE 24: CROSS-SECTIONAL DETENTION BY CHARGE SEVERITY

	<u>WEEK</u>																			
	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19
A felonies	100	93	87	82	76	72	67	63	59	54	50	46	41	37	33	29	26	22	18	14
B felonies	100	92	84	77	71	65	59	53	47	42	38	33	29	25	22	19	16	13	11	8
C felonies	100	90	83	78	73	68	63	58	53	48	43	39	35	30	26	22	18	15	12	10
D felonies	100	91	83	75	67	62	56	50	44	38	33	27	22	17	15	13	12	10	8	6
E felonies	100	85	76	66	58	54	49	44	39	37	34	32	29	27	24	22	20	17	15	12

Example A.

	<u>After Arraignment</u>	<u>1 Week Later</u>	<u>2 Weeks Later</u>	<u>3 Weeks Later</u>
# detained	4	2	1	0
% detained	100%	50%	25%	0%

For the group of people entering detention at a given point in time, we know that 50% remain detained after a week and so on. At first glance, it is not apparent what we can expect of all the people in detention at a single point in time; that is, if we were to take a cross-section or snapshot of all the detainees on a single day, how many would still be in the picture in a week? If we assume that the release/detention pattern in Example A persisted week after week, then we can convert the cohort characteristics into cross-sectional characteristics.

Example B

	<u>Now -3 wks</u>	<u>Now -2 wks</u>	<u>Now - 1 wk</u>	<u>Now</u>	<u>Now +1 wk</u>	<u>Now +2 wks</u>	<u>Now +3 wks</u>
Entering Group 1	4	2	1				
2		4	2	1			
3			4	2	1		
4				4	2	1	
5					4	2	1

Proportion
detained now
who were
previously
detained:

0/7 1/7 3/7

Proportion
detained now
who will be
released:

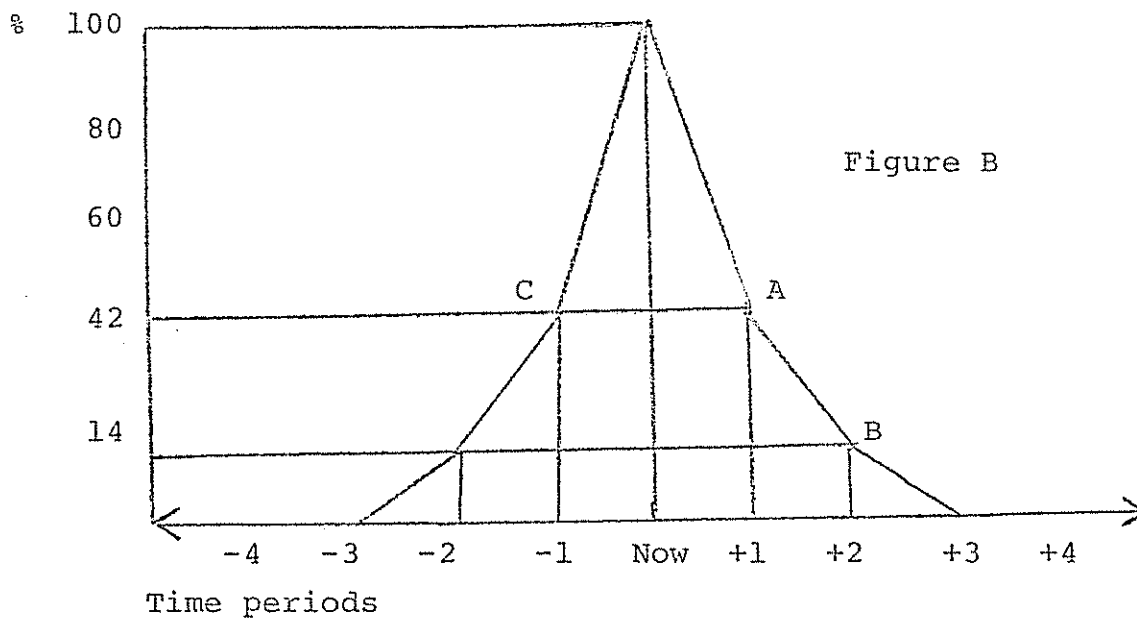
3/7 1/7 0/7

In this example, 4 new detainees enter the system every week and are added to the detained remaining from previous weeks. At the time point denoted as "Now" there are 7 people in detention. Four of them are new comers, 2 are holdovers from the previous entering group and 1 is heldover from two time periods before. The same proportion, $3/7$, will be still detained next week. One seventh of today's detainees were in jail two weeks ago and one seventh will be in jail two weeks from now.

Once we convert the fractions into percentages, we have a useful tool. Continuing the same example, for every 100 defendants in jail today, 42 will be detained a week from now. For every 50 defendants in jail today, 21 will be detained in a week.

	<u>Now 3 wks</u>	<u>Now 2 wks</u>	<u>Now 1 wk</u>	<u>Now</u>	<u>Now +1 wk</u>	<u>Now +2 wks</u>	<u>Now +3 wks</u>
% detained	0%	14%	42%	100%	42%	14%	0%

Graphing these percentages we have the following perfectly symmetrical curve:



The usefulness of the graph can be illustrated by asking and answering some questions a planner might be interested in.

1. Of the present detainees, how many will still be detained one time period (in our example, one week) from now? Reading up from the time period "+1", we intersect at point A which is 42% on the vertical axis. Thus if 1000 people were detained now, we know that 42% of them will still be detained a week from now. Conversely, 58% will have obtained their release.

2. Turning the first question around, of the present detainees, how many were detained a week ago? The answer is found at C, again, 42%.
3. Rather than inquiring about present detainees, we might wish to ask about incarcerated defendants at previous time periods. How many people who were detained a week ago are still in jail today? If we imagine that time point "Now" was a week ago, we find that by reading up from point "+1" to A, we can derive the desired figure. Forty-two percent (42%) of last week's detainees are incarcerated today.

Rates of release can be read from the slopes of the curves. Additionally, week to week percentage differences can be determined at any point in time.

Other possibilities:

In Figure A the detention population is subdivided by charge severity. It could equally well be divided by charge, per se, by previous convictions, race, ROR status or any other categorization for which data is available.

To be useful as a regularly usable tool additional work is needed along the following lines.

1. The cross-sectional method assumes, reasonably, that the detention/release by time curve is fairly stable from month to month. This needs testing.