



PRETRIAL JUSTICE IN AMERICA:

A SURVEY OF COUNTY PRETRIAL RELEASE
POLICIES, PRACTICES AND OUTCOMES



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INTRODUCTION

The pretrial stage of the criminal case process involves a series of policies and practices that govern the decisions made early in the life of a case. During this stage, law enforcement leadership may provide police officers with options such as “cite and release” for minor offenses, or Crisis Intervention Teams that can divert those with mental illness who come into contact with the police to appropriate facilities rather than the jail. Prosecutors may screen cases early, often before the initial appearance in court, to weed out weaker cases, identify others that may be suitable for diversion opportunities, such as drug court, and file appropriate charges on those where prosecution will go forward. Determinations are made regarding whether the defendant will be provided with an attorney by the government or will have to hire an attorney him or herself.

Another important event in the early life of a criminal case is the pretrial release decision. In many jurisdictions, pretrial services program staff are available to interview and investigate the backgrounds of defendants and offer objective assessments of risk to the judicial officer making the pretrial release decisions. These staff also supervise conditions of release in the community. In 2009, a national survey of pretrial services programs was conducted and the results published.¹ By focusing on pretrial services programming, that document provided useful data about the operations of these programs, but did not address the broader pretrial release decision making process. In addition, that survey focused only on those jurisdictions where pretrial programs are functioning.

Historically, the sole purpose of bail was to assure the appearance of the accused in court. The

practices for assuring court appearance began to undergo major changes in the 1960s during what became known as the Bail Reform Movement. Up until that time there had been an almost exclusive reliance on money bail to determine who would be released during the pretrial period and who would remain in jail. After one project in New York City demonstrated that defendants with strong community ties released on their promise to come back to court were appearing in court at the same rate as those who posted a money bail, similar projects were started in numerous jurisdictions. In 1964, the Attorney General called for a National Conference on Bail and Criminal Justice to discuss ways to expand the use of non-financial pretrial release. Within a short period, federal and state bail laws were re-written to establish a presumption of release on the least restrictive conditions necessary to reasonably assure appearance in court, with non-financial release options defined as least restrictive.

Beginning in the 1970s, a second consideration, in addition to assuring court appearance, was added for the pretrial release decision – to reasonably assure the safety of the community. Along with the statutory changes requiring consideration of danger to the community in the pretrial release decision came provisions allowing for the detention without bail of those found, after a due process hearing, to pose significant risks to public safety.

The American Bar Association (ABA) and the National Association of Pretrial Services Agencies (NAPSA) have issued standards addressing appropriate policies and practices in the pretrial release decision making process. Those standards have been revised several times to reflect

¹ 2009 Survey of Pretrial Services Programs, Washington, D.C., Pretrial Justice Institute.

changes in laws and as more information regarding best practices in pretrial release decision making have become available.²

Notwithstanding these standards and the laws they are based upon there are indications that the pretrial release decision making process continues to be heavily reliant upon money to sort out those who are released during the pretrial period and those who are detained. Furthermore, that reliance is growing. Between 1990 and 2004, the percent of cases where courts were requiring felony defendants to post a money bail to be released from jail rose from 54 percent to 69 percent.³

As the nation approaches the 50th anniversary of the Bail Reform Movement this report looks at the policies and practices that are in place in jurisdictions around the country that define the pretrial release decision making process, and the outcomes that have resulted.

This report focuses on bail setting policies, practices, and outcomes in the nation's most populous counties. Two data sets are used. The first contains the results of a survey of pretrial release decision making practices in the nation's most populous counties. During the summer and fall of 2009, officials in each of the 150 most populous counties in the country were contacted

and asked to participate in a survey.⁴ These 150 counties represent about 60 percent of all felony case filings nationally.⁵ Of the 150 counties, 112 participated, for a response rate of 75 percent.

The second data set is derived from the 2004 Bureau of Justice Statistics' State Court Processing Statistics (SCPS) series. The SCPS series collects key information on felony cases as they are processed through the criminal courts, and includes data about the pretrial release/detention decision. The sampling framework of this series selects 40 of the nation's 75 most populous counties. The data are reported by the Bureau of Justice Statistics as aggregated across all the participating counties. These data have been disaggregated here to allow a look at the range of pretrial release decisions and outcomes in the individual counties.

The first section of this report highlights the results of the survey of pretrial release decision making policies and practices. The second section highlights the variation found among the counties when disaggregating the SCPS data set. The final section discusses the implications for future examinations, training opportunities, and data collection. Appendix A contains a list of the 150 counties asked to participate in the survey and identifies those that did. Appendix B includes the survey questionnaire.

² American Bar Association, *ABA Standards for Criminal Justice – Pretrial Release: Third Edition*. Washington, D.C., 2007; National Association of Pretrial Services Agencies, *Standards and Goals for Pretrial Release: Third Edition*. 2004.

³ Thomas H. Cohen and Brian A. Reaves, *Pretrial Release of Felony Defendants in State Courts: State Court Processing Statistics, 1990-2004*. Washington, D.C., U.S. Department of Justice, Bureau of Justice Statistics.

⁴ Several sources were used to identify individuals who could assist with gathering the necessary information about each county, including the mailing lists of the Pretrial Justice Institute (PJI), several state pretrial associations, and individuals who participated as data collectors in previous PJI surveys.

⁵ The US Census Rankings ranking of counties by population size for 2007 was used for this scan. Indications of coverage for felony cases in those 150 most populous counties was provided by Rob Santos, Senior Institute Methodologist in the Statistical Methods Group of the Executive Office Research Center at The Urban Institute. There are no national statistics on misdemeanor filings.

PRETRIAL RELEASE DECISION MAKING POLICIES AND PRACTICES

This section presents findings relating to the 112 counties that participated in the survey. It covers the general characteristics of the participating counties, characteristics relating to the initial appearance in court for a pretrial release decision, the pretrial release options and conditions that are available, how release conditions are monitored, what is done to return defendants to court after a failure to appear, how victims are involved, and what data are available on county jail populations.

CHARACTERISTICS OF THE COUNTIES

As Table 1 shows, the majority of the counties that participated in the survey have a general population in the range of 500,001 and 1 million. Twenty-seven percent have populations over 1 million, and 16 percent between 100,000 and 500,000. None of the counties had populations under 100,000.

Table 1: Population of the County

Population	(N = 111) %
Between 500,001 and 1,000,000	56
Over 1,000,000	27
Between 100,000 and 500,000	16

Forty-seven percent of the participating counties described themselves as a mix of urban, suburban and rural. Thirty percent reported being primarily urban and 19 percent primarily suburban. Just four percent reported being primarily rural (Table 2).

⁶ ABA Pretrial Release Standard 10-4.1 (b). The Commentary to this standard recognizes that the 24 hour period between arrest and appearance before a judicial officer is shorter than the 48 hour period the U.S. Supreme Court established as the time between arrest and a judicial finding of probable cause in *County of Riverside v. McLaughlin* (500 U.S. 44 (1991)). The standard takes the position, however, that “sufficient means exist” to assure the availability of judicial resources. See also NAPSA Pretrial Release Standard 2.1.

Table 2: Nature of the County

Nature of the County	(N = 112) %
Mixture	47
Primarily urban	30
Primarily suburban	19
Primarily rural	4

CHARACTERISTICS OF THE INITIAL PRETRIAL RELEASE HEARING

The frequency at which initial pretrial release decision making sessions are held impacts the length of time new arrestees must wait in custody until being brought before a judicial officer. When hearings are held only during regular business hours, typically between 8:30 am and 5 pm, those arrested late in the afternoon or in the evening will usually have to wait until the following morning. Those arrested on a Friday afternoon may have to wait until Monday morning when there is no weekend initial court session.

The ABA standards recommend that persons arrested and taken into custody “should be taken before a judicial officer without unnecessary delay. The defendant should be presented at the next judicial session within six hours after arrest. In jurisdictions where this is not possible, the defendant should in no instance be held by police longer than 24 hours without appearing before a judicial officer. Judicial officers should be readily available to conduct first appearances within the time limits established by this Standard.”⁶

As Table 3 shows, counties differ in the frequency at which these sessions are held. Fifteen percent reported that initial pretrial release determination hearings are held only during business hours, Monday through Friday. An additional five percent said that the work day is extended into the evening, but hearings are still only held Monday through Friday. Others reported that the hearings are held six or seven days – in many counties extending into the evening. Forty-seven percent state that these hearings can be held 24 hours a day, seven days a week.

Table 3: Hours of Operation of Initial Pretrial Release Determination Hearing

Hours of Operation	(N = 112) %
24 hours a day, seven days a week	47
Business hours five days a week	15
Business hours seven days a week	11
Extended hours seven days a week	13
Extended hours five days a week	5
Business hours six days a week	5
Extended hours six days a week	3

The ABA Standards acknowledge that rural counties in particular may find it difficult to schedule pretrial release sessions within six hours of arrest. As Table 4 shows, rural counties are much more likely to have pretrial release hearings available only during business hours and during the business work week, but there are only four counties in this category, so this may not be representative. In the other categories, the nature of the county seems to have no bearing on the frequency at which bail hearings can be held – with between 45 and 52 percent providing hearings 24 hours a day, seven days a week.

A number of different officials can be vested with the authority to make pretrial release decisions. Aside from trial level judges, magistrates, commissioners, and justices of the peace may also be empowered to make these decisions. These types of judicial officers typically have limited judicial authority (i.e., to hear traffic and ordinance cases in addition to pretrial release decision making in criminal cases). In some jurisdictions these officials need not be attorneys. In some jurisdictions, non-judicial officers, such as pretrial or jail staff, or officials from the court clerk's office

Table 4: Hours of Bail Setting by Nature of the County

Hours of Operation	Primarily Urban (N = 31) %	Primarily Suburban (N = 21) %	Primarily Rural (N = 4) %	Mixture (N = 53) %
Business hours five days a week	23	10	75	8
Extended hours five days a week	3	10	0	4
Business hours six days a week	3	5	0	6
Extended hours six days a week	6	5	0	0
Business hours seven days a	13	5	0	13
Extended hours seven days a week	6	14	0	19
24 hours a day seven days a week	45	52	25	51

can be delegated pretrial release decision making authority, although that authority is usually limited to minor cases.

Survey participants were asked which official was primarily responsible for the initial pretrial release decision in their jurisdictions. As Table 5 shows, a magistrate is the primary decision maker at the initial pretrial release hearing in 38 percent of the counties, followed by a trial-level judge in 35 percent of the counties, and a commissioner in 14 percent. Pretrial services or jail staff have been delegated the authority, at least in some cases, to make initial pretrial release decisions in nine percent of the counties.

Table 5: Primary Initial Pretrial Release Decision Maker

Decision Maker	(N = 112) %
Magistrate	38
Judge	35
Commissioner	14
Pretrial or jail staff	9
Justice of the peace	3
Court Clerk	1

Both the ABA and NAPSA recommend that every jurisdiction should have a pretrial services program or similar entity that investigates the background of all defendants in custody awaiting a pretrial release hearing, screens the defendants for risks of danger to the community and failure to appear in court, and presents that information to the court at the initial appearance.⁷ As Table 6 shows, 85 percent of the counties reporting having such a presence that provides these services.

⁷ ABA Pretrial Release Standard 10.1-10, and NAPSA Pretrial Release Standard 1.3.

⁸ Supra, note 1.

In considering this finding, it is important to keep in mind results from the 2009 survey of pretrial services programs. That survey found that 76 percent of pretrial programs had at least one category of defendants who were excluded from the screening process, either because of the nature of the current charge or the existence of other matters, i.e., probation status.⁸ Thus, the finding that some screening is available in 85 percent of the counties in the survey does not imply that all defendants in these counties are screened.

Table 6: Availability of Entity to Screen Defendants Before Initial Appearance

Have Risk Screening Entity	(N = 112) %
Yes	85
No	15

Bail schedules are instruments that fix a specific bail amount to specific charges. For example, a charge of Burglary 2 may carry a bail of \$5,000. These schedules have usually been composed and authorized by judicial officers in a particular jurisdiction. They are designed to afford persons arrested without a warrant their constitutional right to have bail set during the period between a person's arrest and his or her initial appearance before a judicial officer for the pretrial release hearing. If able to post the scheduled amount, the defendant can be released from the police lock up or jail before seeing a judicial officer. When used for this purpose, there is no discretion by the arresting agency or the jail to set or accept a bail of a different amount than that which is set forth in the bail schedule.

Bail schedules are also designed to guide judicial officers in fixing a bail amount when signing an arrest warrant, although the actual bail amount set lies within the discretion of the judicial officer.

These two uses of a bail schedule recognize that the only information known about the defendant at the time may be the charge. Other information that pretrial release statutes specify must be considered in the pretrial release decision, such as residence status, ties to the community, length of time in the area, employment, prior criminal history and prior record of appearance in court, are not available. As a result, the charge itself is the only factor that can be considered until more information is gathered.

A long-running criticism of bail schedules is that they are used by many jurisdictions beyond these two uses – to serve as a guide to the judiciary in setting bail even after more information is known about the defendant.⁹ Many courts have language that establishes the amount set in the bail schedule as the presumptive bail, with the court needing to find cause to overcome the presumption to set bail differently. For example, the bail schedule of the Santa Clara County, California Superior Court contains the following language:

The Bail Schedule is the presumptive bail for many, but not all statutory offenses. A Judicial officer

may review bail in any individual case and exercise discretion in setting appropriate bail different from the schedule. In doing this the judicial officer will consider protection of the public, the seriousness of the offense charged, the previous criminal record of the defendant and the probability the defendant will appear at trial or at the next hearing.¹⁰

To the extent that judicial officers rely upon bail schedules to determine a bail amount would seem to be at odds with the U.S. Supreme Court ruling in *Stack v. Boyle*.¹¹ In that case, the court held that the setting of the same bail amount for several co-defendants was improper since the pretrial release decision should have been individualized to the risks posed by each defendant.

The ABA addresses the use of bail schedules and their incompatibility with individualized decisions in its Pretrial Release Standards. According to those standards, “[f]inancial conditions should be the result of an individualized decision taking into account the special circumstances of each defendant, the defendant’s ability to meet the financial conditions and the defendant’s flight risk, and should never be set by reference to a predetermined schedule of amounts fixed according to the nature of the charge.”¹² In explaining this position, the ABA “flatly rejects the practice of setting bail amounts according to a fixed schedule based on charge. Bail schedules

⁹ See, for example, Wayne H. Thomas, *Bail Reform in America*. University of California Press, Berkley, CA, 1976. As Thomas wrote: “The use of a bail schedule *prior* to court appearance must be distinguished sharply from the use of a bail schedule after the defendant is already in court and before the judge. As long as the defendant has not yet appeared, the schedule helps by making it possible to know immediately what bail is required and to secure release if he can afford the cost. Once the defendant appears in court, there is much less justification for determining the bail amount solely by the offense charged. The defendant is present, and the court can make an individual determination. Hence, the in-court application of pre-set schedules has been criticized as highly inconsistent with the best judicial practice.” (Page 212.)

¹⁰ www.sccsuperiorcourt.org/bail/index.htm.

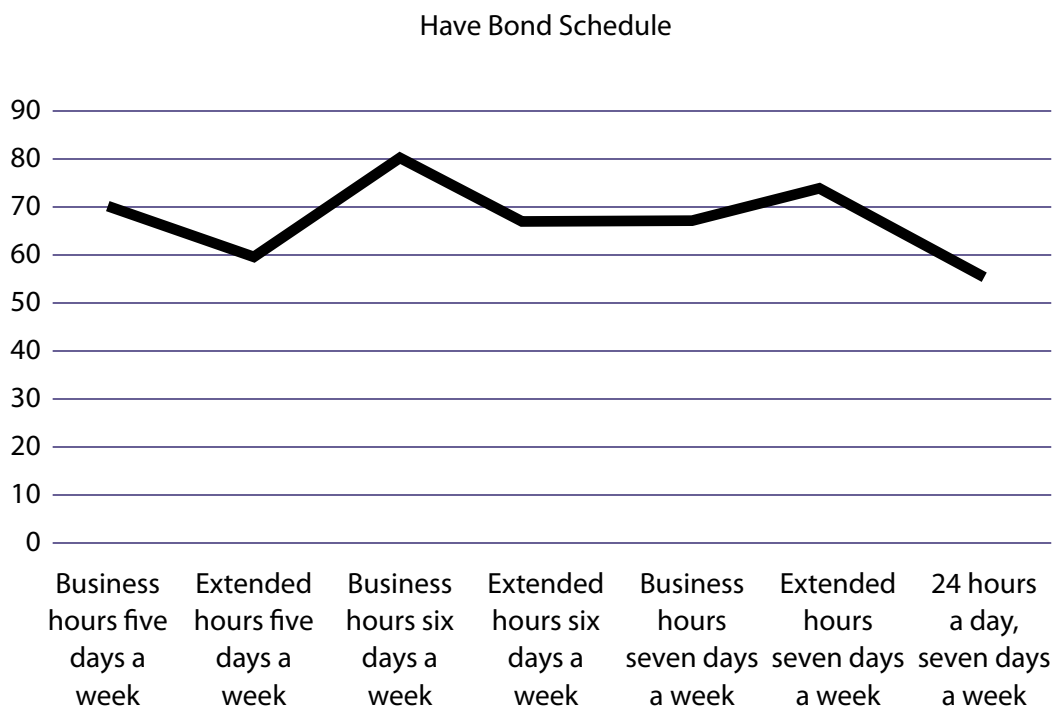
¹¹ 342 U.S. 1 (1951).

¹² ABA Pretrial Release Standard 10-5.3 (e).

are arbitrary and inflexible: they exclude consideration of factors other than the charge that may be far more relevant to the likelihood that the defendant will appear for court dates. The practice of using bail schedules leads inevitably to the detention of some persons who would be good risks but are simply too poor to post the amount of bail required by the bail schedule. They also enable the unsupervised release of more affluent defendants who may present real risks of flight or dangerousness, who may be able to post the required amount easily and for whom the posting of bail may be simply a cost of doing 'business as usual.'¹³

Sixty-four percent of the counties participating in the survey stated that a bail schedule is used in their jurisdiction. Since bail schedules were designed to provide arrestees with the opportunity for release while awaiting the initial appearance in court, Figure 1 looks at the use of bail schedules by the schedule of pretrial release hearings. It might be expected that jurisdictions that schedule pretrial release hearings 24 hours a day, seven days a week would have little need for a bail schedule. But as the figure shows, over half of the jurisdictions that operate pretrial release hearings every day around the clock do still use bail schedules.

Figure 1: Use of Bail Schedule by Hours of Bail Setting Hearing



¹³ Commentary to ABA Standard 10-5.3 (e).

As Table 7 shows, in 51 percent of the jurisdictions the bail schedule is used both before and at the initial appearance, and seven percent more use the schedule only at initial appearance.

Table 7: Use of Bail Schedules

When Bail Schedule Used	(N = 68) %
Both before and at initial appearance	51
Before initial appearance only	41
At initial appearance only	7

As the U.S. Supreme Court held in *Rothgery v. Gillespe County*,¹⁴ “a criminal defendant’s initial appearance before a judicial officer, where he learns the charge against him and his liberty is subject to restriction, marks the start of the adversary judicial proceedings that trigger the attachment of the Sixth Amendment right to counsel.” Despite the fact that the adversarial process begins, according to the Supreme Court, at the initial appearance, the survey finds that a prosecutor and defense attorney are not present at this hearing in many jurisdictions.

As Table 8 shows, a representative from the prosecutor’s office is present in court in 66 percent of the counties, and a public defender or court appointed counsel is present in 63 percent. A staff person from the pretrial services program is present in 71 percent of the counties. In 11 percent, there are no representatives from the prosecution, defense, or pretrial services (Table 8).

Table 8: Parties Present at Initial Pretrial Release Hearing

Parties Present	(N = 112) %
Pretrial services/similar entity present	71
Prosecutor present	66
Public defender/court appointed counsel present	63
No prosecution, defense, or pretrial services present	11

PRETRIAL RELEASE CONDITIONS AND SUPERVISION

The pretrial release statute or court rules of a jurisdiction dictate the pretrial release options that are available to the court. Most of those statutes and court rules provide for a wide range of options, ranging from release on recognizance to setting of money bail. Most also establish a presumption for release on the least restrictive conditions necessary to reasonably assure safety of the community and appearance in court.

As Table 9 shows all of the counties reported that non-financial release options are available to the court, including release on recognizance – which is the defendant’s promise to return to court – and release with non-financial conditions.

Sixty percent of the responding counties state that 10 percent deposit bail is an option. This type of bail involves the defendant depositing with the court 10 percent of the face value of the money bail that was set by the court. If the defendant appears as scheduled for all court dates, the deposit is returned, usually minus a small administrative fee.

¹⁴ 554 U.S. ____ (2008).

Sixty-two percent of jurisdictions state that property bail is an option. Under this type of bail the title for a house, car, or similar property is signed over to the court. If the defendant appears the title is returned to its owner. If the defendant fails to appear the property can be seized by the court.

A full cash bail is an option in 96 percent of the responding counties. This type of bail requires the posting with the court of the full face value of the bail, with the money returned if the defendant appears as required.

Eighty percent of the counties state that commercial surety bail is an available option. Defendants released under commercial surety bail must pay a non-refundable premium to a bail bonding company. The premium is usually ten percent of the face value of the bail amount that had been set by the court. Many bail bonding companies will also require the defendant to post collateral with the bonding company that would cover the full bond amount. If the defendant fails to appear in court the bonding company can be required to forfeit the full bail amount or a portion of it. The bonding company can then retain the collateral presented by the defendant.

An unsecured bail is an option in 46 percent of the counties. With an unsecured bail, the court will set a bail amount, but the defendant need not post the amount or any portion of it to be released. Instead, the defendant is liable to the court for paying the full face value of the bail if the defendant fails to appear in court.

Table 9: Pretrial Release Options

Available Options	(N = 112) %
Non-financial release	100
Full cash bail	96
Commercial surety bail	80
Property bail	62
Unsecured bail	46

The ABA recommends that pretrial services programs or some similar entity be available to “develop and provide appropriate and effective supervision for all persons released pending adjudication who are assigned supervision as a condition of release.”¹⁵ As Table 10 shows, 86 percent of jurisdictions in the survey reported that monitoring of pretrial release conditions is provided by or through a pretrial services program or other public agency, such as probation. In four percent the only monitoring that does occur is whatever is provided by individual bail bonding companies. Ten percent stated that there is no monitoring of pretrial release conditions.

Table 10: Monitoring Conditions of Pretrial Release

Condition Monitoring	(N = 112) %
Monitoring by or through a government agency	86
No monitoring available	10
Monitoring only through bail bonding companies	4

¹⁵ ABA Standard 10-1.10 (b) (iii).

Traditional tools for monitoring defendants on pretrial release have included having the defendant report on a regular basis to a pretrial services program or similar entity either by telephone or in person, and referral of defendants to drug, alcohol or mental health services. Survey respondents were asked about what other tools, beyond these basic ones, are available in their jurisdictions. Seventy-seven percent stated that drug testing is available as a tool to monitor defendants on pretrial release. House arrest, checked through the use of electronic monitoring is available in 62 percent of the jurisdictions, and monitoring movements in the community by GPS is available in 58 percent. Lesser numbers of jurisdictions use alcohol testing, Day Reporting Centers, and halfway houses (Table 11).

Table 11: Tools Available for Monitoring Pretrial Release Conditions

Tool	(N = 112) %
Drug testing	77
House arrest with electronic monitoring	62
Movement in the community through GPS	58
Alcohol testing	27
Day Reporting Center	24
Halfway house	13

FAILURE TO APPEAR IN COURT

When defendants fail to appear in court, 69 percent of counties report that staff of a pretrial services program or similar entity make an effort to contact defendants and urge them to return to court voluntarily. As Table 12 shows, 68 percent make telephone calls, 36 percent send letters, and 16 percent make visits to the defendant's home.

Table 12: Failure to Appear Follow Up Efforts

Follow Up	(N = 77) %
Make telephone call to defendant	68
Send letter to defendant	36
Make home visit to defendant	16

When defendants who have been released through a commercial bail bonding company fail to appear, the bonding company is liable to forfeiture of the full bail amount. Many states have laws or court rules that provide a grace period for bonding companies to return defendants to court before bail forfeiture proceedings can begin.

Forty-nine percent of counties state that there is a grace period after a failure to appear warrant is issued during which the commercial surety bail company can return the defendants without being subject to forfeiture of the bail. Table 13 shows the lengths of the grace periods.

Table 13: Length of Grace Period

Time	(N = 50) %
More than 90 days	40
0-30 days	34
31 to 60 days	13
61 to 90 days	13

NOTICE TO VICTIMS

Currently 37 states have passed Victims' Rights Amendments, which provide victims with various rights in a criminal case, including the right to be notified of court hearings involving defendants and the release of defendants and offenders un-

der certain circumstances.¹⁶ As Table 14 shows, 51 percent of counties in the survey noted that the victim is notified of the initial pretrial release hearing in certain circumstances, and an additional 31 percent notify victims in all cases.

Table 14: Notice to Victim of Date and Time of the Initial Pretrial Release Hearing

Notice Given	(N = 108) %
Yes, but only in certain circumstances	51
Yes, in all cases	31
No	18

In 78 percent of the counties, the victim is notified of the pretrial release of the defendant in certain circumstances, and in 14 percent others in all cases (Table 15.)

Table 15: Notice to Victim of the Pretrial Release of the Defendant

Notice Given	(N = 108) %
Yes, but only in certain circumstances	78
Yes, in all cases	14
No	8

JAIL POPULATION

Thirty-nine percent of the counties report that the average daily population of their jail during 2008 exceeded the jail's capacity for that year, and 11 percent report that the population was at capacity. The remaining 50 percent say that the average population for the year was under the capacity (Table 16).

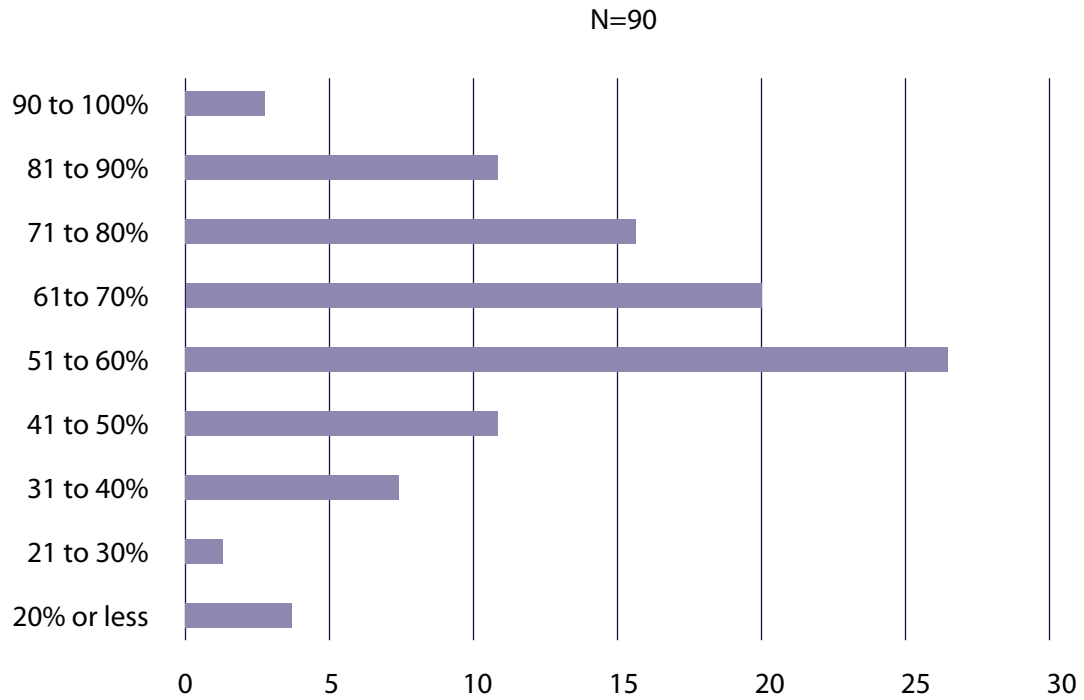
Table 16: Jail Populations in Relation to Capacity

Jail Population	(N = 104) %
Under capacity	50
Above capacity	39
At capacity	11

Figure 2 shows the breakdown of pretrial inmates of the jail populations from the responding to the survey. The most common composition of pretrial inmates was in the 51 to 60 percent range, followed by 61 to 70 percent.

¹⁶ See www.nvcap.org.

Figure 2: Percent of Jail Population Comprised of Pretrial Inmates



PRETRIAL RELEASE DECISION-MAKING OUTCOMES

Three pieces of outcome data are crucial for understanding the pretrial release decision making process in a jurisdiction – rate of pretrial release, rate at which released defendants remain arrest-free while their cases are pending, and rate at which defendants make all their court appearances. Ideally, these data would be broken down by type of release; i.e., non-financial, commercial surety bail, cash bail, cash deposit bail.

While many jurisdictions attempt to collect some of these data, few collect all of it, and those that do follow no standard data collection methodology. For example, one jurisdiction may use a defendant-based measure of calculating the rate of appearance in court, which counts how many defendants made all their court appearances. Another jurisdiction may use an appearance-based measure, which counts all scheduled court hearings where the defendant appeared. Even in jurisdictions that use the same measure, there may be differences in the population included in the calculation. One jurisdiction might calculate an appearance rate only for those under the supervision of a pretrial services program, another might include all defendants released without having to post a money bail (i.e., personal recognizance, supervised release), and another might include all defendants who are released, regardless of release type.

Fortunately, there is one data set available that uses a standardized data collection methodol-

ogy, but it is limited to felony cases only and to a select group of the most populous counties in the country. Since 1988, the Bureau of Justice Statistics (BJS) of the U.S. Department of Justice has been tracking pretrial release decision making in felony cases through the State Court Processing Statistics (SCPS) Project. This project looked at the processing of felony cases on a sample of cases drawn from the month of May in every even year through 2006 in up to 40 of the nation's 75 most populous jurisdictions.¹⁷

Data gathered as part of SCPS includes:

- most serious charges
- number of charges
- number of prior convictions
- number of prior failures to appear in court
- pretrial release status
- type of pretrial release or reason for detention
- failure to appear and rearrest
- adjudication, and
- sentencing.

The same inquiries are made of cases in each of the participating counties. For example, by inquiring in each case whether the defendant missed any court appearances, SCPS establishes a defendant-based measure. It also asks about court appearance for all defendants in the sample, regardless of type of pretrial release. As a result SCPS has been able to provide data on national trends in pretrial release decision making practices.

¹⁷ Data collected through this series is made available to the public through the ISPR at the University of Michigan. Until the Bureau of Justice Statistics provides the data to the ISPR, secondary analysis or disaggregation is not permissible. Thus, the most recent data available for the purposes of this publication was the 2004 data set, archived at ISPR in 2007. The 2006 data set is scheduled to be available in late 2010 or early 2011 and PJI intends to conduct a similar analysis at that time.

Figure 3 shows trends in the pretrial release rate, court appearance rate and arrest-free rate for felony defendants from 1990 through 2004. As the Figure shows, over the 14-year period the pretrial release rate declined from about 66 percent to

about 58 percent. During the same period, the court appearance rate rose from 75 percent to 79 percent, and the arrest-free rate fell from a high of 86 percent to 79 percent in 2004.

Figure 3: Pretrial Release, Court Appearance and Arrest-Free Rates – 1990 Through 2004

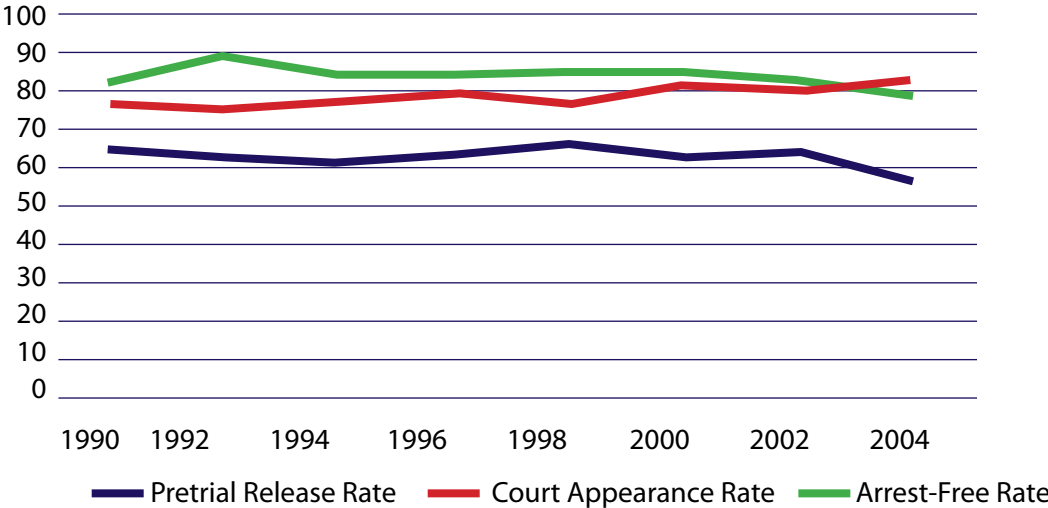
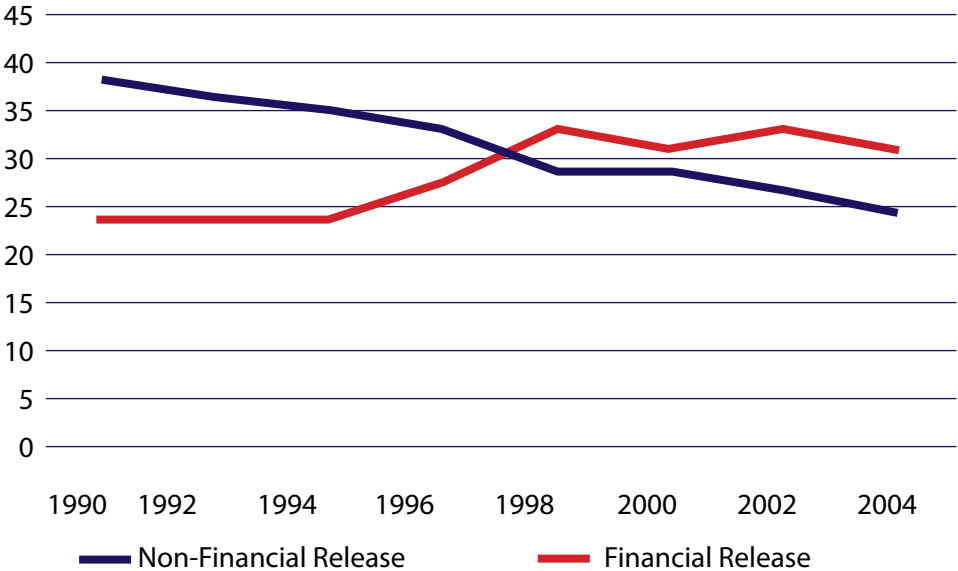


Figure 4: Type of Pretrial Release – 1990 Through 2004



SCPS data also show trends in the type of pretrial release being used in felony cases in large jurisdictions. Figure 4 shows the breakdown of release by non-financial (i.e., personal recognizance, pretrial supervision) and financial (i.e., commercial surety bail, full cash bail, ten percent deposit bail, property bail) means. As the figure shows, non-financial releases fell during the period, while financial releases rose.

In reporting the findings from SCPS, BJS aggregates the data from all the counties participating in the project. As useful as the findings have been in painting a broad picture of what is going on nationally with pretrial release practices and outcomes, they mask what is occurring in the individual counties. Since this document looks at the range of pretrial decision making practices in individual jurisdictions, the SCPS data from the 2004 series – the last year for which data are available – are disaggregated into the 39 different counties that participated in SCPS that year.

A note of caution is necessary before presenting the disaggregated data from SCPS. SCPS is not designed to answer questions relating to the effectiveness of pretrial release decision-making practices occurring within jurisdictions. While it does provide quantitative descriptions of what is occurring in pretrial release decision-making, it has no means to address qualitative issues that have significant bearing on how pretrial release decisions are made in individual cases, and on the outcomes of those decisions. In addition, the number of cases examined in many of the individual counties is small. As a result,

any conclusions about the effectiveness of one jurisdiction over another or one type of release within a jurisdiction over another by examining SCPS disaggregated data cannot be supported by SCPS.

The disaggregation of SCPS data can, however, provide a view of the range of pretrial release decision making practices and outcomes that exists among jurisdictions. It is for the sole purpose of exploring those ranges that the disaggregated SCPS data are presented here.

Most state bail statutes create a presumption for release on the least restrictive conditions necessary to reasonably assure the appearance of the accused in court, and, in most states, reasonably assure the protection of the community. The restrictiveness of conditions are defined in a continuum with personal recognizance as the least restrictive, followed by supervision of non-financial conditions of release, and ending with the various types of financial bail.

While SCPS is not designed to make any assessment of whether local jurisdictions are using the least restrictive conditions in pretrial release decision making, it is clear that there is a large variance in the use of the most restrictive pretrial release mechanism – money bail. As Table 17 shows, the range of the use of money bail spanned from 21 percent of all felony cases in Maricopa County, Arizona to 98 percent in Dallas County, Texas. The average of all counties was 64 percent.

Table 17: Cases Where a Money Bail Was Set – 2004

County	N	%
Jefferson, AL	136	60
Maricopa, AZ	116	21
Pima, AZ	253	49
Alameda, CA	277	78
Contra Costa, CA	198	77
Los Angeles, CA	1,012	80
Orange, CA	457	72
Riverside, CA	488	77
San Bernardino, CA	394	71
San Diego, CA	144	41
San Mateo, CA	116	61
Santa Clara, CA	219	60
Broward, FL	102	79
Dade, FL	447	62
Palm Beach, FL	197	58
Pinellas, FL	275	73
Fulton, GA	105	42
Honolulu, HI	71	71
Cook, IL	562	74
Marion, IN	192	45
Baltimore, MD	205	62
Montgomery, MD	88	48
Wayne, MI	159	64
Essex, NJ	222	39
Bronx, NY	175	46
Kings, NY	132	41
Nassau, NY	131	73
Queens, NY	312	56
Franklin, OH	173	74
Montgomery, PA	67	63
Philadelphia, PA	540	82
Shelby, TN	238	87
Dallas, TX	264	98
El Paso, TX	243	79
Harris, TX	417	79
Tarrant, TX	305	80
Travis, TX	151	73
Salt Lake, UT	92	36
Fairfax, VA	94	57
Average of the Counties	250	64

Table 18: Defendants Held in Jail in Lieu of Bail – 2004

County	N	%
Jefferson, AL	39	17
Maricopa, AZ	45	8
Pima, AZ	180	35
Alameda, CA	175	49
Contra Costa, CA	146	57
Los Angeles, CA	795	63
Orange, CA	349	55
Riverside, CA	329	52
San Bernardino, CA	298	54
San Diego, CA	105	33
San Mateo, CA	63	28
Santa Clara, CA	102	16
Broward, FL	19	15
Dade, FL	198	28
Palm Beach, FL	75	22
Pinellas, FL	123	33
Fulton, GA	49	19
Honolulu, HI	41	41
Cook, IL	405	54
Marion, IN	104	25
Baltimore, MD	45	14
Montgomery, MD	39	21
Wayne, MI	102	41
Essex, NJ	80	14
Bronx, NY	88	23
Kings, NY	53	17
Nassau, NY	64	36
Queens, NY	129	22
Franklin, OH	49	28
Montgomery, PA	26	25
Philadelphia, PA	136	21
Shelby, TN	109	40
Dallas, TX	108	40
El Paso, TX	65	21
Harris, TX	182	35
Tarrant, TX	81	21
Travis, TX	107	51
Salt Lake, UT	43	17
Fairfax, VA	8	5
Average of the Counties	132	31

Money bail is a condition of release, but it often does not result in release because the defendant is unable to raise the bail money. As Table 18 shows, the percentage of defendants who remained detained throughout the pretrial period solely due to the inability to post bail ranged from a high of 63 percent in Los Angeles County, California to a low of five percent in Fairfax County, Virginia. The average of the counties was 31 percent.

Table 19 looks at the release rates in each jurisdiction – first the overall release rates and then broken down by non-financial and financial releases – as well as arrest-free, court appearance and overall pretrial good conduct rates (i.e., was not rearrested on a new charge while on pretrial release and made all court appearances). As the table makes clear, there was a large range of pre-

trial release rates within the individual counties, from 90 percent in Fairfax County, Virginia to 31 percent in Los Angeles County, California. Non-financial release rates ranged from 57 percent in King County, New York to less than one percent in Harris County, Texas. The percent released on money bail spanned a range from 64 percent in Broward County, Florida to 12 percent in Maricopa County, Arizona.

Pretrial arrest-free rates also showed wide ranges going from 98 percent in Cook County, Illinois to 44 percent in Pinellas County, Florida. Court appearance rates ranged from 92 percent in El Paso, Texas to 57 percent in Salt Lake County, Utah. The rate at which no misconduct occurred ranged from 89 percent in Dallas County, Texas to 36 percent in Pinellas County, Florida.

Table 19: Rates of Pretrial Release and Pretrial Good Conduct – 2004

County	Overall Pretrial Release Rate %	Percent Released Non-Financially %	Percent Released on Money Bail %	Overall Arrest-Free Rate %	Overall Court Appearance Rate %	Overall Rate of Good Conduct %
Jefferson, AL	82	36	42	70	71	49
Maricopa, AZ	62	39	12	60	79	49
Pima, AZ	64	45	14	74	86	68
Alameda, CA	40	11	29	82	80	71
Contra Costa, CA	37	16	20	67	83	60
Los Angeles, CA	31	13	17	90	77	73
Orange, CA	33	15	17	73	83	66
Riverside, CA	34	9	25	80	69	61
San Bernardino, CA	43	26	17	82	64	59
San Diego, CA	41	16	25	87	81	74
San Mateo, CA	34	6	28	85	78	68
Santa Clara, CA	49	16	32	78	69	59
Broward, FL	76	10	64	70	83	65
Dade, FL	65	30	34	61	83	50
Palm Beach, FL	67	29	36	63	80	41
Pinellas, FL	61	21	40	44	83	36

County	Overall Pretrial Release Rate %	Percent Released Non-Financially %	Percent Released on Money Bail %	Overall Arrest-Free Rate %	Overall Court Appearance Rate %	Overall Rate of Good Conduct %
Fulton, GA	57	33	22	69	75	55
Honolulu, HI	57	27	30	79	86	63
Cook, IL	45	24	21	98	81	80
Marion, IN	73	50	21	70	67	53
Baltimore, MD	75	27	49	81	85	71
Montgomery, MD	66	40	27	89	84	76
Wayne, MI	57	35	23	98	79	78
Essex, NJ	83	55	25	80	79	65
Bronx, NY	72	49	23	78	81	68
Kings, NY	81	57	24	80	81	67
Nassau, NY	62	16	37	83	87	75
Queens, NY	73	43	31	89	90	81
Franklin, OH	71	17	47	73	89	68
Montgomery, PA	75	37	39	82	70	61
Philadelphia, PA	78	16	61	88	66	60
Shelby, TN	59	12	47	80	86	70
Dallas, TX	59	1	58	97	90	89
El Paso, TX	68	10	58	86	92	81
Harris, TX	46	0.2	37	93	90	84
Tarrant, TX	62	2	58	95	88	83
Travis, TX	41	20	21	83	84	71
Salt Lake, UT	67	48	19	78	57	49
Fairfax, VA	90	34	52	77	88	70
Average of the Counties	58	25	33	79	80	66

The table also makes clear that a high pretrial release rate does not necessarily equate with low rates of remaining arrest-free while on pretrial release and appearing in court for all scheduled court dates. Likewise, low pretrial release rates do not provide assurance of high pretrial good conduct rates. See, for example, Fairfax County, Virginia and Riverside County, California. Fairfax County had a pretrial release rate of 90 percent,

compared to 34 percent in Riverside County. The court appearance rate was nearly 20 percentage points higher in Fairfax County – 88 percent compared to 69 percent in Riverside County. The arrest-free rate in the two counties was comparable – 77 percent in Fairfax County and 80 percent in Riverside County.

CONCLUSIONS

This report has described the many different approaches to delivering pretrial justice in America. These differences include the timing of pretrial release decisions, the identity of the decision makers, the information and options that are available to the decision makers, and the pretrial release decisions themselves. In short, the findings make clear that the standards of the ABA and NAPSA have not yet led to standardized practices.

This lack of standardized practices should not, by itself, be viewed with great concern. After all, pretrial release decision makers must operate under their own pretrial release statutes, must deal with the risks and needs of the populations coming before them, and must operate within the constraints imposed by whatever resources are available to them.

More important than that practices be standardized is that they achieve the best possible outcomes. It has been suggested that outcomes of pretrial release practices and decisions be measured according to three criteria – effectiveness, efficiency, and equal treatment of similarly-situated defendants.¹⁸

Measuring effectiveness requires a balancing between maximizing pretrial release while at the same time maximizing community safety and appearance in court.¹⁹ As the outcomes presented in the previous section show, some jurisdictions have

higher than average release rates but also lower than average rates of no rearrest and court appearance. Others have much lower than average pretrial release rates with higher than average arrest-free and court appearance rates. Still others have below average release rates coupled with below average rates of good conduct while on pretrial release. The ability to assess these differences and balance the contrasts has the potential for identifying the path toward better pretrial justice.

Efficiency comes into play when attempting to balance maximizing release and maximizing the outcomes of the release, i.e., return to court and good behavior during the period of release. High release rates that result in an unacceptable number of disrupted court proceedings and/or an unacceptable number of rearrests are undesirable, but so are very low release rates that result in very high rates of compliance.²⁰ Efficiency is also implicated in the time it takes to release defendants that are ultimately released. When a defendant sits in jail over the weekend because initial appearance sessions are only held during weekdays but then released on Monday morning, the use of the jail resources should be weighed against the resources that would be required to hold initial appearances more frequently.

The equal treatment of similarly-situated defendants is called into question when the only factor that decides which defendants will be released

¹⁸ John S. Goldkamp, Michael Gottfredson, Peter R. Jones, and Doris Weiland, *Personal Liberty and Community Safety: Pretrial Release in the Criminal Court*. New York: Plenum Press, 1995.

¹⁹ Ibid.

²⁰ Ibid.

and which will stay in custody is the defendants' access to money to post a bail.²¹ As the data presented in the previous section shows, there are many counties that have an almost exclusive reliance on money bail as the pretrial release mechanism, and others that use money bail much less sparingly.

The challenge is to identify which policies and practices are associated with the best outcomes. This report should aid in that effort by documenting the range of existing policies and practices, along with the identification of the alternative methods of an intelligent balancing of those policies and practices to achieve the best possible outcomes.

²¹ Ibid.

APPENDIX A: COUNTIES PARTICIPATING IN THE SURVEY

The following table, organized alphabetically by state and city name, shows the list of the 150 most populous counties in the country, along with their 2007 US Census ranking. The table also shows whether the county was one of the

112 that participated in this survey, whether the county has a pretrial services program that participated in the 2009 survey of such program, and whether the county was part of the SCPS 2004 data series.

The 150 Most Populous Counties

County	Census Ranking	Participated in this Survey	Has a Pretrial Program Included in 2009 Survey	Participated in 2004 SCPS Series
Jefferson, AL	90	X	X	X
Maricopa, AZ	4	X	X	X
Pima, AZ	42	X	X	X
Alameda, CA	22	X		X
Contra Costa, CA	36	X		X
Fresno, CA	51	X		
Kern, CA	64	X		
Los Angeles, CA	1		X	X
Orange, CA	5	X	X	X
Riverside, CA	11	X		X
Sacramento, CA	25	X		
San Bernardino, CA	12	X		X
San Diego, CA	6	X	X	X
San Joaquin, CA	88	X		
San Mateo, CA	82	X		X
Santa Clara, CA	17		X	X
Ventura, CA	63	X		
Arapahoe, CO	109	X		
Denver, CO	102	X	X	
El Paso, CO	104	X	X	
Jefferson, CO	114	X	X	
Fairfield, CT	53	X		
Hartford, CT	54	X		
New Haven, CT	58	X		
District of Columbia	103	X	X	
Brevard, FL	113	X		
Broward, FL	16	X	X	X
Dade, FL	8	X	X	X
Duval, FL	57	X		
Hillsborough, FL	32	X		
Lee, FL	101	X	X	

County	Census Ranking	Participated in this Survey	Has a Pretrial Program Included in 2009 Survey	Participated in 2004 SCPS Series
Orange, FL	35	X	X	
Palm Beach, FL	29		X	X
Pinellas, FL	47			X
Volusia, FL	124	X	X	
Cobb, GA	85	X		
Fulton, GA	40	X	X	X
Honolulu, HI	50	X	X	X
Cook, IL	2			X
Lake, IL	80	X	X	
Lake, IN	129	X	X	
Marion, IN	55	X		X
Johnson, KS	116	X		
Jefferson, KY	81	X	X	
East Baton Rouge, LA	147	X		
Anne Arundel, MD	120	X	X	
Baltimore, MD	65	X		X
Baltimore City, MD	93	X	X	
Montgomery, MD	45	X	X	X
Bristol, MA	111	X		
Essex, MA	75	X		
Hampden, MA	140	X		
Middlesex, MA	21	X		
Norfolk, MA	91	X		
Plymouth, MA	130	X		
Suffolk, MA	78	X		
Worcester, MA	67	X		
Genesee, MI	146	X		
Kent, MI	99	X	X	
Macomb, MI	61	X	X	
Oakland, MI	31	X	X	
Wayne, MI	13	X	X	X
Hennepin, MN	33	X		
St. Louis, MO	39	X		
Clark, NV	15	X	X	
Essex, NJ	70	X		X
Middlesex, NJ	66	X		
Monmouth, NJ	92	X		
Morris, NJ	131	X		
Bernalillo, NM	95	X		
Bronx, NY	26	X	X	X
Kings, NY	7	X	X	X
Monroe, NY	77	X	X	

County	Census Ranking	Participated in this Survey	Has a Pretrial Program Included in 2009 Survey	Participated in 2004 SCPS Series
Nassau, NY	27	X	X	X
Queens, NY	10	X	X	X
Richmond, NY	134	X		
Suffolk, NY	23	X		
Westchester, NY	43	X	X	
Guilford, NC	137	X	X	
Mecklenburg, NC	56	X	X	
Wake, NC	60	X		
Cuyahoga, OH	28	X	X	
Franklin, OH	34	X	X	X
Hamilton, OH	59	X	X	
Summit, OH	110	X	X	
Tulsa, OK	105	X	X	
Multnomah, OR	83	X	X	
Allegheny, PA	30	X	X	
Bucks, PA	96	X		
Chester, PA	132	X	X	
Delaware, PA	108	X	X	
Montgomery, PA	69	X		X
Philadelphia, PA	24		X	X
Greenville, SC	148	X		
Davidson, TN	97	X		
Shelby, TN	49	X	X	X
Bexar, TX	20	X		
Collin, TX	76	X	X	
Dallas, TX	9	X		X
Denton, TX	98	X		
El Paso, TX	74	X		X
Fort Bend, TX	122	X		
Harris, TX	3	X	X	X
Hidalgo, TX	79	X		
Tarrant, TX	18	X	X	X
Travis, TX	41	X	X	X
Salt Lake, UT	38	X	X	X
Utah, UT	133	X		
Fairfax, VA	37	X	X	X
Virginia Beach, VA	145	X	X	
King, WA	14	X		
Pierce, WA	71	X		
Snohomish, WA	86	X		
Spokane, WA	141	X	X	
Milwaukee, WI	44	X	X	

APPENDIX B: SURVEY INSTRUMENT

Scan of Practice

1. National Scan of Pretrial Practice

We are working on a Department of Justice project, collecting data on the pretrial justice processes across the country. The goal of the project is to add to the understanding of pretrial release and detention practices in America. We have done a pretrial program survey for 30 years and a court processing statistics program for 25 years, both for Department of Justice. So this third survey will fill in the gaps of those two surveys.

There are less than 40 questions. ALL QUESTIONS REFERRING TO 2008 DATA ARE FOR YOUR FISCAL YEAR 2008. There may be items on the survey where you do not know the answer or do not have easy access to the information required to complete a question. Please do not let that discourage you from continuing on and completing all that you can. You can return to this survey at a later time and continue.

We can't thank you enough for assisting with this project. Your IP address is being stored so we can contact you for follow up.

2. Contact Information

1. County web address:

2. Please enter your contact information.

Name:	<input type="text"/>
Title:	<input type="text"/>
Address:	<input type="text"/>
Address 2:	<input type="text"/>
City/Town:	<input type="text"/>
State:	<input type="text"/>
ZIP/Postal Code:	<input type="text"/>
County:	<input type="text"/>
Email Address:	<input type="text"/>
Phone Number:	<input type="text"/>

Scan of Practice

3. Please enter your contact information.

Name:

Title:

Address:

Address 2:

City/Town:

State:

ZIP/Postal Code:

County:

Email Address:

Phone Number:

4. Please enter your contact information.

Name:

Title:

Address:

Address 2:

City/Town:

State:

ZIP/Postal Code:

County:

Email Address:

Phone Number:

5. Please enter your contact information.

Name:

Title:

Address:

Address 2:

City/Town:

State:

ZIP/Postal Code:

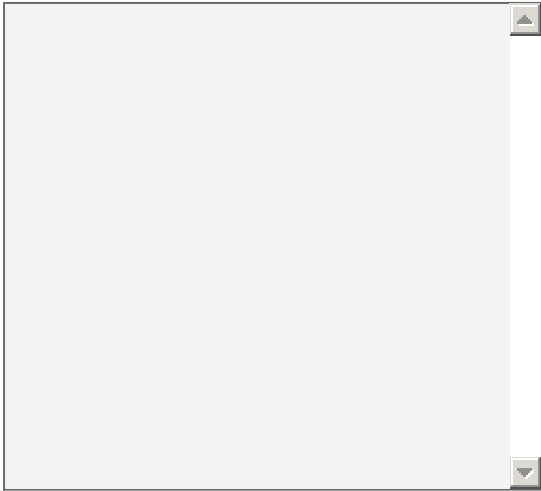
County:

Email Address:

Phone Number:

Scan of Practice

6. Notes (only if necessary)



3. About the Jurisdiction

1. What is the approximate population of the county? (Please select one)

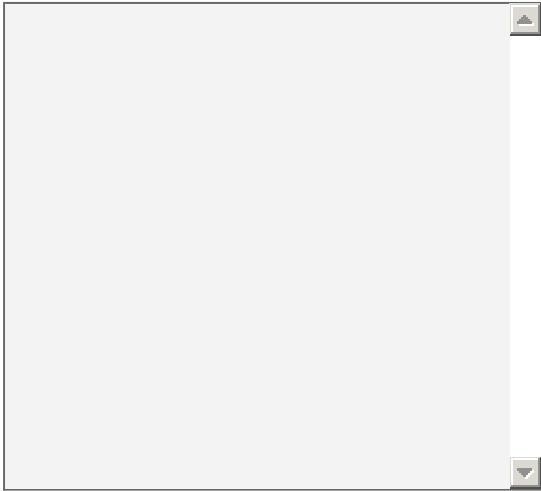
- Fewer than 50,000
- Between 50,000 and 100,000
- Between 100,001 and 500,000
- Between 500,001 and 1,000,000
- More than 1,000,000

2. Describe the nature of the county: (Please select one)

- Primarily urban
- Primarily suburban
- Primarily rural
- Mixture

Scan of Practice

3. Notes



4. Criminal Case Processing

This section provides a snapshot of the jurisdiction's criminal case processing: from arrest to adjudication only.

1. What days of the week is someone available to make pretrial release decisions, including setting bail: (Check all that apply; this does not include emergency release)

- Sunday
- Monday
- Tuesday
- Wednesday
- Thursday
- Friday
- Saturday

2. What are the hours of these decision makers?

- Normal business hours
- Normal business + evening hours
- 24 hours a day
- Unknown

Scan of Practice

3. Who is that person? (Check all that apply)

- Judge
- Magistrate
- Justice of the Peace
- Bail Commissioner
- Other (please specify)

4. For what charge(s) does this person(s) have the authority to release defendants? (Check all that apply)

- For moving traffic violations ("major traffic" cases)
- For all infractions or ordinance violations (less serious than criminal misdemeanors)
- For all misdemeanors
- For some misdemeanors
- For some felonies (please specify)

5. Does anyone other than the person you just answered questions about have the authority to release defendants at any point during the case?

- Yes
- No
- Unknown

6. If yes, who?

- Sheriff
- Jail Administrator
- Special Master
- Other (please specify)

Scan of Practice

7. For what charge(s) does this person(s) have the authority to release defendants? (Check all that apply)

- For moving traffic violations ("major traffic" cases)
- For all infractions or ordinance violations (less serious than criminal misdemeanors)
- For all misdemeanors
- For some misdemeanors
- Not applicable
- For some felonies (please specify)

8. Are defendants screened to determine risk of failure to appear or rearrest? (If No or Unknown, skip to question 10.)

- Yes, risk of flight
- Yes, risk of rearrest
- Yes, both risk of flight and rearrest
- No
- Unknown

9. If yes, who does the screening? Check all that apply.

- Judge
- Magistrate
- Justice of the Peace
- Bail Commissioner
- Probation staff
- Jail staff
- Pretrial Services
- Court administration staff
- Not applicable
- Other (please specify)

Scan of Practice

10. Which of the following are collected during the screening?

- Local address
- Length of time resident in local community
- Length of time at present address
- Length of time at prior address
- Ownership of property in community
- Possession of a telephone
- Living arrangements (e.g., whether married or living with relatives)
- Parental status and/or support of children
- Employment and/or educational or training status
- Income level or public assistance status (means of support)
- Physical and/or mental impairment
- Use of drugs and/or alcohol
- Age
- Comments from arresting officer/Arrest report
- Comments from victim
- Prior court appearance history
- Prior arrests
- Prior convictions
- Compliance with probation, parole, or pending case
- Whether currently on probation or parole or has another open case
- Whether someone is expected to accompany the defendant to court at first appearance
- Identification of references who could verify and assist defendant in complying with conditions
- Other (please specify)

11. Does your county utilize a bond schedule?

- Yes
- No
- Unknown

Scan of Practice

12. Is the bond schedule used prior to court (by law enforcement, sheriffs or jail staff) or in court (judge only)?

- Prior to court
- In court
- Both
- Unknown

13. Who is typically present at the pretrial release decision? (Check all that apply)

- Prosecutor
- Public Defender/Court Appointed Defender
- Private Defense Attorney
- Pretrial services staff
- Other (please specify)

14. Notes

5. Jail Data and Demographics

For the purpose of answering the questions in this section, data should be reported for your Fiscal Year 2008. If any questions are unknown, please leave the field blank. Add together any jail data if multiple jails in county. Keep notes as to specific jail data.

Scan of Practice

1. Does the county publish a detailed report on the jail population? [This does not include a detailed budget report, strategic plan, or anything else that they might publish. We are looking for a report delineating jail population by type that includes length of stay averages.]

- Yes
- No

2. If yes, at what intervals?

- Weekly
- Monthly
- Quarterly
- Annual
- Non-applicable
- Other (please specify)

3. What was the jail capacity ("design capacity") in 2008?

4. What was the average daily jail population in 2008?

5. Of the average daily population in 2008, what percentage were pretrial defendants?

Percentage

6. How many new admissions to the jail in 2008, for each of the following?

Felony

Misdemeanor

Unknown

Scan of Practice

7. How many defendants were released, by type, during 2008?

Personal Recognizance	<input type="text"/>
Other non-financial release (without conditions)	<input type="text"/>
Non-financial conditions/supervision	<input type="text"/>
Financial bond	<input type="text"/>
Financial bond + conditions/supervision	<input type="text"/>
Total (if don't track separate)	<input type="text"/>
Unknown	<input type="text"/>

8. Are new jail beds scheduled to open within the next 12 months?

- Yes
- No

If yes, please indicate how many

9. Notes

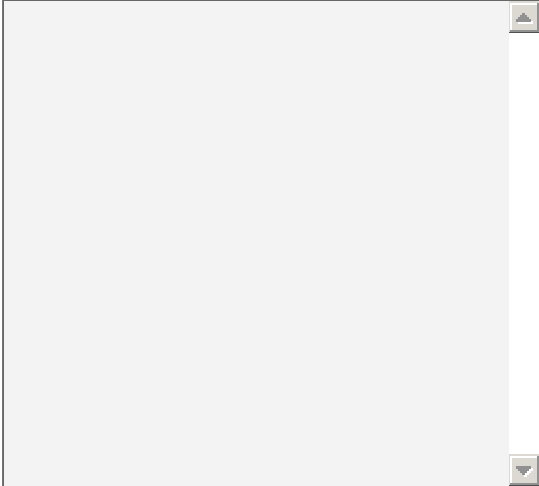
6. FTA and Rearrest

Scan of Practice

1. For which of the following does the county keep statistics?

- Failure to appear
- Rearrest while on pretrial release
- Neither
- Unknown

2. Notes



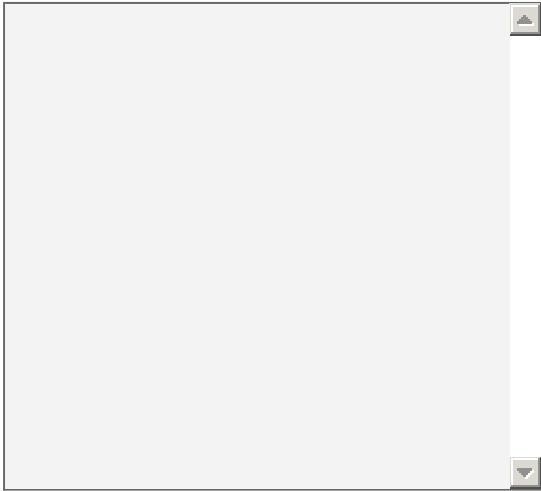
7. Release by the Court

1. How can defendants be released by the court? Check all that apply.

- 10% deposit bond
- Property bond
- Full cash bond
- Surety bond
- Unsecured bond
- Other non financial release (without conditions)
- Non-financial conditions
- Own recognizance
- To a non-custodial third party (such as the Salvation Army, or a volunteer and/or faith-based group)
- Other (please specify)

Scan of Practice

2. Notes



8. Monitoring of Pretrial Releasees

For this section, please respond based on the full array of released defendants, regardless of release type.

1. Is monitoring of defendants released pretrial provided in the county? (Please select one.)

- Yes
- No
- Unknown

Scan of Practice

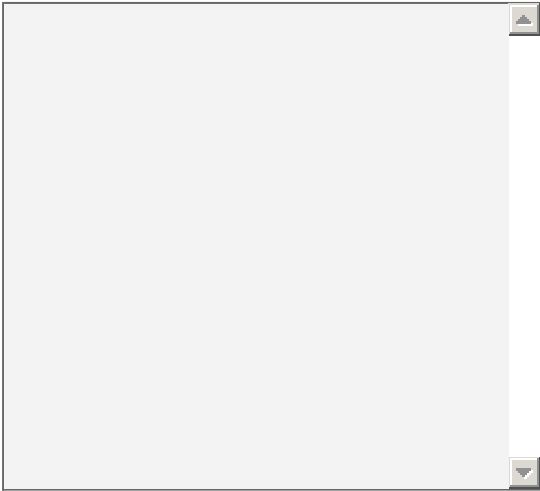
2. Who is responsible for the monitoring of released defendants? (Check all that apply.)

- Law Enforcement
- Sheriff or Jail staff
- Probation
- Third-party (non profit, contracted supervision services)
- Public Defender's Office
- Prosecutor's Office
- Bail bondsmen who posted bond
- No one
- Unknown
- Other (please specify)

3. How are defendants monitored? (Check all that apply.)

- Reporting to a county office in person or by telephone
- Drug testing
- Alcohol testing
- Home confinement by electronic monitoring--programmed contact (i.e., periodic calls initiated to defendant's home to ensure defendant is there)
- Electronic monitoring of defendant movement in the community through Global Positioning System (GPS) technology
- Day reporting center
- Halfway house
- Other (please specify)

4. Notes



9. Appearance in Court

1. How are released defendants told of upcoming court appearances? (Check all that apply)

- Notice is given during court, at first appearance or bail setting
- By Pretrial
- Defendants are required to call-in
- Defendants receive a message from the court via telephone
- Defendants receive a letter or postcards
- Defendants receive an E-mail notification/text message
- Other (please specify)

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2. Who is responsible for notifying defendants of upcoming court dates? (Check all that apply.)

- Pretrial
- Defender
- Court Administration/Clerk
- Non-custodial third party (such as Salvation Army, or volunteer and/or faith-based group)
- Technology vendor
- Bondsmen
- Other (please specify)

3. When defendants fail to appear in court, are any of the following done? (Check all that apply)

- Assist police in locating defendant
- Letter sent urging voluntary return to court
- Phone calls made urging voluntary return to court
- Home visit made urging voluntary return to court
- None
- Other (please specify)

4. Who does the follow-up when defendant fails to appear?

- Pretrial
- Defender
- Court Administration/Clerk
- Non-custodial third-party
- Technology Vendor
- Bondsmen
- No one - bench warrant/law enforcement arrest
- Other (please specify)

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5. Does the state or county have a statute or court rule providing a minimum grace period for bondsmen before a bail forfeiture is enforced?

- Yes
- No
- Unknown

6. If statute or rule providing grace period, what is that grace period (in days)?

- 0-30 days
- 31-60 days
- 61-90 days
- more than 90 days
- Not Applicable

7. What is that grace period, typically, for felonies (in days)?

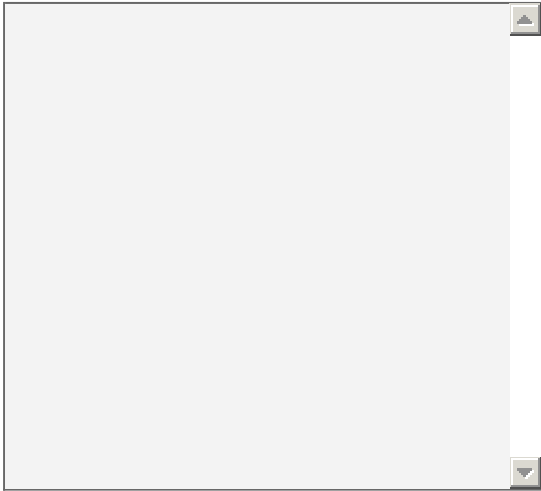
- 0-14 days
- 15-30 days
- 31-60 days
- 61-90 days
- more than 90 days

8. What is that grace period, typically, for misdemeanors (in days)?

- 0-14 days
- 15-30 days
- 31-60 days
- 61-90 days
- more than 90 days
- Not Applicable

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9. Notes



10. Victim Notification

These questions are about related activities during the pretrial stage of a case.

1. Does someone notify victims of crime of the time and location of the initial court appearance?

- Yes
- No
- Yes, in selected cases (please specify)

2. Does someone notify victims of crime when defendants are released pending trial?

- Yes, in all cases
- No
- Yes, in selected cases (please specify)

Scan of Practice

3. Notes



11. Survey Conclusion

Thank you for participating in this survey. We appreciate your time. If you have any questions in the future about this survey or pretrial justice, please contact us at pji@pretrial.org or 202-638-3080.