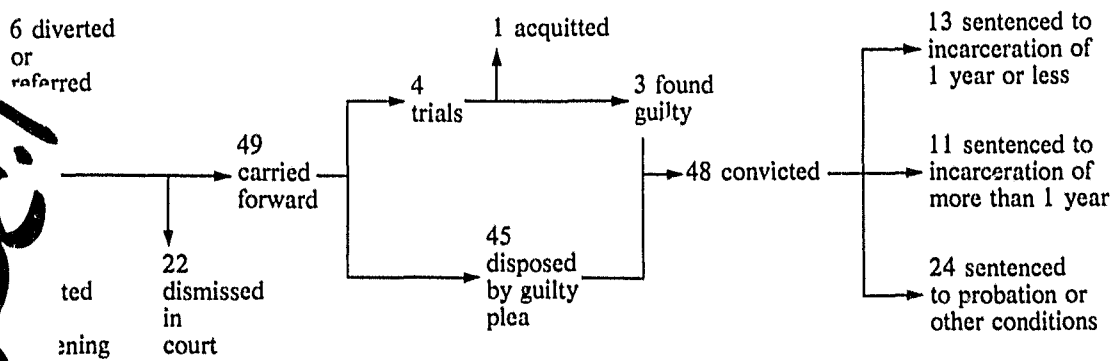


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# The Prosecution of Felony Arrests, 1981

Typical outcome of 100 felony arrests  
brought by the police for prosecution



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# The Prosecution of Felony Arrests, 1981

By  
Barbara Boland  
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# Introduction

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The Prosecution of Felony Arrests, 1981, is the fourth report in a statistical series describing the prosecution of adult felony arrests in urban prosecutors' offices. The first report in the series looked at prosecution in 13 jurisdictions in 1977. This report includes 37 jurisdictions and focuses primarily on cases processed in 1981. For jurisdictions for which 1981 data were unavailable, data from other years, most often 1982, were substituted.<sup>1</sup>

The series provides statistics on what happens to criminal cases between arrest and incarceration and explains the role of the prosecutor in the felony disposition process.

<sup>1</sup>See table 7 for a list of data years and data sources for each jurisdiction. The previous editions of the series are: Kathleen Brosi, A Cross-City Comparison of Felony Case Processing (Washington, D.C.: USGPO, 1979); Barbara Boland et al., The Prosecution of Felony Arrests, 1979 (Washington, D.C.: USGPO, 1983), and Barbara Boland and Elizabeth Brady, The Prosecution of Felony Arrests, 1980 (Washington, D.C.: USGPO, 1985).

The Prosecution of Felony Arrests series was initiated by the Bureau of Justice Statistics in the mid-1970's to fill the gap in criminal justice information on how prosecutors and courts handle serious crimes. The FBI's Uniform Crime Reports record the number of serious crimes reported to the police and the number of serious crimes for which an arrest is made. The National Prisoner Statistics series provides data on defendants sentenced to prison. Until recently, however, no national statistical series has addressed the question of what happens between arrest and sentencing.

In the chapters that follow, statistics are presented on—

- rejections by the prosecutor,
- dismissals in court,
- convictions by guilty plea or trial,
- acquittals at trial,
- sentences to incarceration, and
- elapsed time from arrest to disposition.

Appendix A provides case-processing statistics by crime type. Appendix B provides descriptions of the felony disposition process in each of the 37 participating jurisdictions.

# Overview

In 1981 the FBI reported that the police arrested close to 1.6 million adults for serious crimes.<sup>1</sup> According to National Prisoner Statistics on new imprisonments, in 1981 judges sentenced 160,272 adults to State and Federal prisons.<sup>2</sup> Very few serious arrests--it appears 10 out of every 100--result in a defendant's being sent to prison.

What happens to the other 90 defendants after arrest, or more precisely to all adults arrested for felony crimes, is the subject of the Prosecution of Felony Arrest series.

### What happens to felony arrests?

The data collected for this report indicate that for every 100 adults arrested for a felony crime, 52 will not be convicted (figure 1). Of those not convicted--

- 6 will be referred to diversion programs or to other courts for prosecution,
- 23 will have their cases rejected for prosecution at screening, before court charges are filed,
- 22 will have their cases dismissed in court, and
- 1 will be acquitted at trial.

Of every 100 adults arrested for a felony 48 will be convicted of either a felony or a misdemeanor. Of those 48--

- 45 will plead guilty, and
- 3 will be found guilty at trial.

Of the 48 defendants who are convicted 24 will receive a sentence of incarceration--

- 13 will be sentenced for a period of 1 year or less, and
- 11 will be sentenced for a term of more than 1 year.

<sup>1</sup> Crime in the United States 1981, Federal Bureau of Investigation, U.S. Department of Justice (Washington, D.C.: USGPO, 1981).

<sup>2</sup> Prisoners in State and Federal Institutions on December 31, 1981, National Prisoner Statistics series, Bureau of Justice Statistics, U.S. Department of Justice (Washington, D.C.: USGPO, 1981).

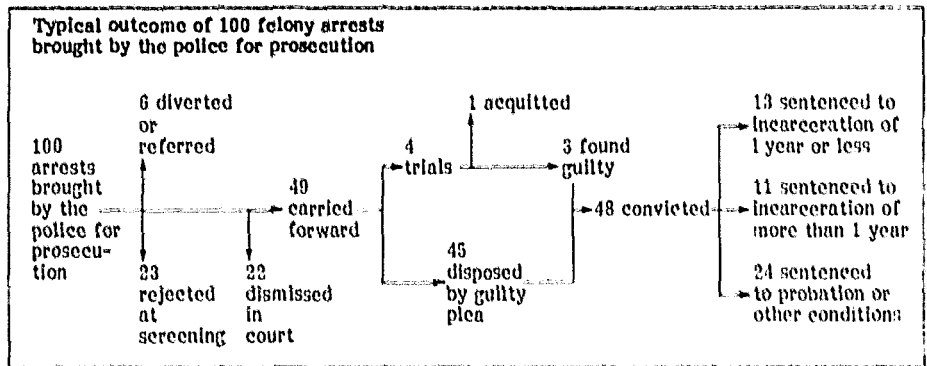


Figure 1

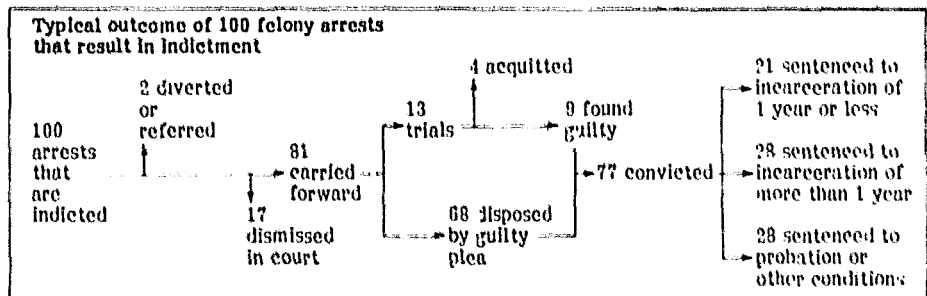


Figure 2

Typically, the majority of felony arrests are disposed before they reach the felony court

In some jurisdictions as many as three-quarters of all felony arrests are disposed prior to indictment or bindover to the felony court. These preindictment or pre-bindover dispositions include rejections at screening, before any court charges have been filed, and dispositions in the lower (or misdemeanor) court either by a dismissal or a misdemeanor conviction.

Of the arrests that are carried forward to the felony court relatively few end in a dismissal; most end in a guilty plea or trial. Moreover, the majority of defendants convicted in the felony court are sentenced to incarceration.

For every 100 felony arrests disposed in the felony court, 17 are dismissed, 2 are diverted or referred, 68 result in a guilty plea, and 13 go to trial (figure 2). Nine of the 13 trials end in conviction. Of the 77 convictions close to two-thirds end in a sentence of incarceration--

- 21 result in a sentence of 1 year or less, and
- 28 in a sentence of more than 1 year.

These findings are based on data provided by 37 urban prosecutors

The 37 prosecutors' offices included in this report are not representative of all prosecutors' offices; they represent urban areas, where most crimes are committed. In most of the participating jurisdictions one or two cities account for the majority of cases presented for prosecution although the legal jurisdiction typically covers an entire county (table 1).

In the 37 jurisdictions felony arrest outcomes are reported for three measures:

All felony arrests, which includes arrests declined for prosecution as well as arrests filed with the court and disposed in either the felony court or the lower (misdemeanor) court.

**Table 1. Participating jurisdictions**

Major city in jurisdiction	Legal jurisdiction	1980 population of legal jurisdiction
<b>Large cities</b>		
Los Angeles, California	Los Angeles County	7,477,657
Chicago, Illinois	Cook County	5,253,190
Detroit, Michigan	Wayne County	2,337,240
San Diego, California	San Diego County	1,861,846
Philadelphia, Pennsylvania	Philadelphia County	1,688,210
Miami, Florida	11th Judicial Circuit	1,625,979
Dallas, Texas	Dallas County	1,556,549
Manhattan, New York	New York County	1,427,533
Seattle, Washington	King County	1,269,749
Buffalo, New York	Eric County	1,015,472
Rhode Island (Providence)	Rhode Island	947,154
Minneapolis, Minnesota	Hennepin County	941,411
Indianapolis, Indiana	Marion County	765,333
Louisville, Kentucky	Jefferson County	684,793
Boston, Massachusetts	Suffolk County	650,142
Washington, D.C.	Washington, D.C.	637,651
Kansas City, Missouri	Jackson County	629,180
Salt Lake City, Utah	Salt Lake County	619,966
Portland, Oregon	Multnomah County	562,640
New Orleans, Louisiana	Orleans Parish	557,482
Denver, Colorado	2nd Judicial District	491,396
St. Louis, Missouri	St. Louis City	453,085
<b>Suburban areas</b>		
Dedham, Massachusetts (Boston)	Norfolk County	606,587
Montgomery County, Maryland (Washington, D.C.)	Montgomery County	579,953
Golden, Colorado (Denver)	1st Judicial District	374,182
Cobb County, Georgia (Atlanta)	Cobb County	297,694
Geneva, Illinois (Chicago)	Kane County	278,405
Brighton, Colorado (Denver)	17th Judicial District	245,944
<b>Medium-sized cities</b>		
Colorado Springs, Colorado	4th Judicial District	317,458
Des Moines, Iowa	Polk County	303,170
Lansing, Michigan	Higham County	272,437
Davenport, Iowa	Scott County	160,022
Pueblo, Colorado	10th Judicial District	125,972
<b>Small cities</b>		
Kalamazoo, Michigan	Kalamazoo County	212,378
Tallahassee, Florida*	2nd Judicial Circuit	223,731
Fort Collins, Colorado	8th Judicial District	151,047
Greeley, Colorado	19th Judicial District	123,438

\* Data available from Leon County only. Source: Population figures are from The World

Almanac and Book of Facts 1983 (New York: Newspaper Enterprise Association, 1983).

**The sample of urban prosecutors**

The 37-jurisdiction sample includes urban areas from each of the four urban population groups that account for the vast majority of all reported crimes. Rural jurisdictions, which account for a small fraction of total crime, are not represented.

According to crime data collected by the FBI 85% of all crime occurs in four types of urban areas:

- large cities, population of 250,000 or more;
- medium-sized cities, population of 100,000 to 250,000;
- small cities, population of 50,000 to 100,000; and
- suburban areas outside the core cities of metropolitan areas.

Further, 74% of all urban crime occurs in major cities and suburban areas and 26% in medium-sized and small cities.\*\* Twenty-eight, or 76%, of the 37 jurisdictions represent either major cities or suburban areas; 9, or 24% of the jurisdictions, represent medium-sized and small cities. Overall these jurisdictions include 17% of the total U.S. population and 23% of the population in urban areas.

\*\*Crime in the United States 1980, Federal Bureau of Investigation, U.S. Department of Justice (Washington, D.C.: USGPO, 1980).

**Cases filed**, which includes felony arrests for which an initial court charge is filed, usually with the lower court, and disposed in the felony or the lower court. Cases filed includes felony arrests filed as misdemeanors as well as those filed as felonies.

**Cases indicted**, which includes felony arrests indicted or bound over to the felony trial court for disposition.

**These three measures capture arrest dispositions at the three primary stages of felony prosecution: Screening, initial processing in the lower court, and disposition in the felony court**

Typically, prosecutors screen felony arrests before they are filed in court to determine if court charges should be filed and what the proper charges should be. Filed cases are then processed through a two-tiered court system. Initial proceedings in felony cases, such as arraignments, bail/

bond hearings, and preliminary hearings to determine that probable cause exists to proceed on a felony charge, are handled by the lower court of the jurisdiction. The lower court also disposes of felony arrests that are reduced to misdemeanors and original misdemeanor arrests.

The felony court assumes responsibility for felony cases after a "bindover" decision at the lower court preliminary hearing or after a grand jury indictment on the felony charge.

**At screening the prosecutor may decide to decline a felony arrest for prosecution, file misdemeanor charges, or file the arrest as a felony**

A declination usually means that the screening attorney has determined that the evidence is not sufficient to obtain a conviction and therefore does not warrant filing a court charge. The case is, in other words, rejected for prosecution and no further official action is taken against the defendant. With some declinations, however, the case is referred to another court for prosecution or the defendant is referred to a diversion program. In such cases further action against the defendant is possible at a later date.

If the decision at screening is to file a court charge the prosecutor must determine whether to file the case as a felony or to reduce the police charges and file the case as a misdemeanor.

Whether a felony arrest is filed as a felony or a misdemeanor the initial court filing and initial court proceedings typically take place in the lower court.

**In the lower court felony arrests may be dismissed, disposed as misdemeanors, or bound over to the felony court**

The Constitution requires that arrested defendants be brought to court within a matter of hours after arrest for a bail/bond hearing or be released. In many jurisdictions this is also the time at which the defendant is informed of the formal charges filed by the prosecutor against him.

If the defendant is charged with a misdemeanor the case will be disposed and sentenced in the lower court. If the defendant is charged with a felony the next step is either a preliminary hearing in the lower court or presentation of the case to the grand jury. In all but a few States all felony defendants have a right to at least one of these two "due process" proceedings before a

prosecutor can proceed with a case to the felony court for a possible felony trial.

A preliminary hearing is an open court proceeding presided over by a judge. The defendant is present and both the prosecutor and defense counsel may present evidence and question witnesses. The final decision on whether the case should be "bound over" to the felony trial court is made by the judge.

Grand jury proceedings are secret, and the defendant and defense counsel are not present. Only the prosecutor's view of the crime is presented to a jury of lay persons, who then vote on whether the case should proceed to the felony trial court on the felony charge.

In some jurisdictions both a preliminary hearing and a grand jury indictment are required before a case can be transferred to the felony court. In a few jurisdictions the prosecutor can proceed directly from arrest to the felony court by filing a bill of information with the court clerk. The defendant, however, will usually still appear in the lower court for the initial bail/bond hearing.

It is uncommon for large numbers of cases to be dismissed by judges at the preliminary hearing or to be "not true billed" by grand juries. Bind-over and indictment rates are usually 90% or more of the cases presented. It is quite common, however, for felony arrests to be disposed in the lower court before a preliminary hearing or grand jury presentment takes place.

In the period between the initial court filing and the preliminary hearing or the grand jury presentment (typically 2 weeks to 1 month), the prosecutor may dismiss a number of felony cases or reduce the charges to misdemeanors. Dismissals primarily represent cases with evidence problems. Reductions to misdemeanors may represent a unilateral decision on the part of the prosecutor to reduce charges based on either evidentiary or policy con-

siderations (treatment of first offenders, for example). Reductions to misdemeanors may also be the result of active plea negotiations undertaken to settle cases outside the felony court.

**Once cases reach the felony court relatively few are dismissed: Most end in a guilty plea or trial**

By the time cases reach the felony court, the evidence has been carefully screened and the majority of cases that are not likely to end in conviction have been dropped either at screening or in the lower court.

Felony court cases involve defendants the prosecutor has judged to be legally as well as factually guilty. They are, in short, the cases prosecutors think are most likely to end in a conviction. To prosecutors, a felony case most often means a case that has been indicted or bound over to the felony court for disposition.

**Prosecutors differ in how they handle felony arrests at the three stages of felony prosecution**

Data from this and previous reports in the series indicate that in most jurisdictions approximately half of all felony arrests are dropped at some point in the disposition process and about half will result in conviction. At what point cases are dropped and where convictions are obtained, however, varies considerably.

In some jurisdictions the vast majority of cases that do not result in a conviction are rejected for prosecution before court charges are filed. Very few cases are then dropped after filing; post-filing dismissal rates may be as low as 10 to 15%. In other jurisdictions nearly all arrests result in initial charges being filed with the court. In these jurisdictions rates of post-filing dismissals may be as high as 50% or more, although most of the dismissals occur in the lower court.

Prosecutors' offices also differ greatly in the extent to which felony arrests are convicted in the felony

**Table 2. Disposition of all felony arrests presented for prosecution**

Jurisdiction	Number of arrests	Percent of felony arrests resulting in:						Percent of trials resulting in:	
		Diversion or referral <sup>a</sup>	Rejection or dismissal			Guilty plea	Trial	Conviction	Acquittal
			Rejection	Dismissal	Total				
Cobb County <sup>a</sup>	4,427	10%	0%	50%	50%	38%	2%	81%	19%
Dallas <sup>a</sup>	18,450		23	15	38	55	6	77	23
Denver	8,074	0	46	12	58	32	2	..	..
Golden	2,279	8	19	23	42	47	3	80	20
Grecoley	865	11	26	14	40	48	1	-	-
Lansing	2,403	4	39	13	52	39	5	69	31
Los Angeles <sup>b</sup>	78,265		37	12	49	52	..	..	..
Manhattan	31,805	1	3	32	35	61	4	76	24
Miami	32,468	2	32	18	50	46	2	..	..
Minneapolis <sup>c</sup>	3,609	6	34	12	46	44	4	76	24
New Orleans	7,773	6	47	5	52	34	7	60	40
Rhode Island <sup>a</sup>	5,485		0	41	41	55	4	57	43
Salt Lake City	3,718	10	21	20	41	45	4	77	23
San Diego	16,474	5	27	13	40	51	3	76	24
Tallahassee	3,108	6	7	37	44	47	4	75	25
Washington, D.C.	9,977	4	15	33	48	39	0	70	30
Jurisdiction mean		6%	23%	22%	45%	45%	4%	73%	27%

Note: In jurisdictions in which diversions and referrals are not reported as such, cases diverted or referred are included with rejections and dismissals.  
 .. Data not available.  
 - Insufficient data to calculate.

<sup>a</sup>In Cobb County and Rhode Island pre-filing rejections do not occur because of police filing. In Dallas, rejections are grand jury no true bills.  
<sup>b</sup>Trial convictions are included with guilty pleas and acquittals are included with dismissals. OBTS data; see table 7.  
<sup>c</sup>Rejections in Minneapolis include some arrests referred to the city prosecutor for misdemeanor prosecution.

court on felony charges or reduced to misdemeanors and convicted in the misdemeanor court. Some jurisdictions obtain virtually all convictions resulting from a felony arrest in the felony court and to felony charges. Others routinely reduce felony cases to misdemeanors; as many as two-thirds of felony arrest convictions may be disposed in the misdemeanor court.

Data from individual jurisdictions on felony arrest dispositions, as measured from police arrest, initial court filing, and indictment or bindover to the felony court, illustrate the differences and similarities among jurisdictions in the handling of felony arrests (tables 2, 3, and 4).

**In all jurisdictions many arrests are either rejected for prosecution or dismissed in court**

Of all felony arrests presented by the police for prosecution, on average, 45% are either rejected for prosecution at screening or are later dismissed (table 2). While there are differences among jurisdictions in the fraction of arrests that are dropped, in the 16 jurisdictions for which data are available this fraction is 35% or more. In all but two of the jurisdictions rejections and dismissals account for 40% or more of all arrest dispositions.

These data do not control for differences among jurisdictions in such factors as prior police screening or State definitions of felony crimes, which might account for some of the observed variation in the fraction of cases dropped. Still the variation among jurisdictions is relatively small. Eleven of the 16 jurisdictions reject or dismiss between 40 and 50% of all felony arrests brought by the police.

## Overview

Jurisdictions, however, vary in whether they drop felony arrests before or after court charges are filed

A high rate of rejections at screening is the result of a conscious policy on the part of the prosecutor to weed out weak cases before they enter the court system.

Among the 16 jurisdictions there is a great deal of variation in the fraction of arrests rejected at screening. In Cobb County and Rhode Island the police automatically file all felony arrests with the lower court before the prosecutor has an opportunity to screen, so pre-filing rejections cannot occur. But even after excluding Cobb County and Rhode Island, the fraction rejected varies from 3% in Manhattan to 47% in New Orleans.

In general, pre-filing screening arrangements are a critical factor in determining post-filing dismissal rates for cases filed with the court.

The dispositions of cases filed show a wide range of dismissal rates (table 3). In New Orleans 11% of all cases filed are dismissed. At the other extreme, in Cobb County 50% of cases filed result in a dismissal. These dismissal rates are a direct result of the screening arrangements in the two jurisdictions. In Cobb County, automatic police filing precludes pre-filing rejections. In New Orleans the prosecutor's office has a rigorous policy of dropping nonconvictable cases before court charges are filed.

In general, the jurisdictions with post-filing dismissal rates of 20% or less have rigorous screening and rejection policies, while those with post-filing dismissal rates of 40% or more drop few if any arrests prior to the initial filing of a court charge.

Table 3. Disposition of felony arrests filed in court as misdemeanors or felonies

Jurisdiction	Number of cases filed	Percent of cases filed resulting in:				Percent of trials resulting in:	
		Diversion or referral	Dismissal	Guilty plea	Trial	Conviction	Acquittal
Brighton	1,142	9%	30%	57%	4%	..	..
Chicago	35,528		45	41	14	60%	40%
Cobb County <sup>a</sup>	4,427	10	50	38	2	81	19
Colorado Springs	1,484	14	32	50	4	63	37
Dallas	14,784		20	72	8	77	23
Davenport	1,312		32	60	8	..	..
Denver	3,772		25	68	6	..	..
Des Moines	1,401		21	64	14	76	24
Fort Collins	776	14	19	63	3	60	40
Geneva	1,263		37	58	5	75	25
Golden	1,838	10	29	58	3	80	20
Greeley	630	14	19	66	2	-	-
Lansing	1,358	0	23	68	9	69	31
Los Angeles <sup>b</sup>	49,483		18	82	..	..	..
Manhattan	30,810	-	33	63	4	76	24
Miami	21,413	-	27	70	3	..	..
Minneapolis	2,364	9	18	66	6	76	24
New Orleans	3,659	1	11	73	16	60	40
Philadelphia	13,796	4	33	26	37	70	30
Portland	3,892	5	19	62	15	88	12
Pueblo <sup>c</sup>	339	9	34	56	1	-	-
Rhode Island <sup>a</sup>	5,485		41	55	4	57	43
St. Louis	3,649	1	30	63	7	70	30
Salt Lake City	2,745	6	27	61	6	77	23
San Diego	11,534	4	19	73	4	76	24
Seattle	3,126		13	68	19	75	25
Tallahassee	2,879	6	40	50	4	75	25
Washington, D.C.	8,442	4	40	47	10	70	30
Jurisdiction mean		6%	28%	60%	8%	72%	28%

Note: In jurisdictions in which diversions and referrals are not reported as such, cases diverted or referred are included with dismissals.

<sup>a</sup>Because the police automatically file all felony arrests with the court, cases filed and all arrests are the same.

<sup>b</sup>Trial convictions are included with guilty pleas and acquittals with dismissals. OBTS data; see table 7.

<sup>c</sup>Partial counts; see chapter II.

.. Data not available.  
- Insufficient data to calculate.



Post-indictment dismissal rates in almost all jurisdictions are relatively low. Even though jurisdictions vary in the extent to which they drop felony arrests before any court charges are filed, very few carry forward to the felony court large numbers of cases that are not likely to result in a conviction. In other words if nonconvictable cases are not rejected at screening they will most likely be dropped later in the lower court. As a consequence the fraction of cases dropped in the felony court is typically low.

There are exceptions to this pattern. Tallahassee, for example, dismisses 40% of the cases carried forward to the felony court. Case processing in Tallahassee, however, differs from the typical, three-stage pattern in that felony arrests are not processed through the lower court but are filed directly in the felony court after screening.

Among the 30 jurisdictions reporting on the disposition of indicted cases over half have felony court dismissal rates of 16% or less (table 4). Only 3 of the 30 jurisdictions have felony court dismissal rates of more than 25%.

**Jurisdictions also vary in the extent to which they use the felony courts for the conviction of felony arrests**

The data also illustrate the differences among jurisdictions in the fraction of all felony arrests that are carried forward to the felony court (table 5). In Tallahassee, Dallas, and Rhode Island, for example, two-thirds or more of all arrests are disposed in the felony court. In Manhattan and Los Angeles only about a quarter go on to the felony court.

Because between 40 and 50% of all felony arrests result in a conviction, in jurisdictions that indict only 25 or 30% of all felony arrests a number of felony arrests end up being convicted in the lower court on a misdemeanor charge. In Los Angeles and Manhattan, for example, 60% and 66%, respectively, of all convictions

**Table 4. Disposition of felony arrests that result in felony indictment**

Jurisdiction	Number of cases indicted	Percent of cases indicted resulting in:				Percent of trials resulting in:	
		Diversions or referral	Dismissal	Guilty plea	Trial	Conviction	Acquittal
Boston	1,298	0%	14%	64%	22%	67%	23%
Brighton	562	11	24	57	8	..	..
Buffalo	1,227		16	67	17	69	31
Chicago	23,287		16	63	21	60	40
Cobb County	2,077	0	15	82	3	81	19
Dallas <sup>a</sup>	14,784		20	72	8	77	23
Dedham	172	0	16	74	10	82	18
Des Moines	1,222		10	74	16	76	24
Detroit	10,439		18	65	17	57	43
Golden	866	13	21	61	5	85	15
Indianapolis	3,373	-	19	67	14	85	15
Kalamazoo	933		15	78	7	61	39
Kansas City	1,649	3	23	63	10	69	31
Lansing	676	0	9	79	12	69	31
Los Angeles	18,752	1	11	77	11	72	28
Louisville	1,494	3	15	64	17	69	31
Manhattan	8,173	-	14	75	11	78	22
Miami	16,898	-	27	69	4	..	..
Montgomery County	1,079		21	63	16	80	20
New Orleans <sup>a</sup>	3,659	1	11	73	16	60	40
Philadelphia	9,784	2	14	35	49	71	29
Portland	3,641	5	19	61	15	88	12
Pueblo <sup>b</sup>	173	9	31	58	2	-	-
Rhode Island	3,804		15	80	5	57	43
St. Louis	2,770	-	12	80	8	70	30
Salt Lake City	1,546	1	19	70	10	77	23
San Diego	4,734	-	7	86	7	84	16
Seattle <sup>a</sup>	3,126		13	68	19	75	25
Tallahassee <sup>a</sup>	2,879	6	40	50	4	75	25
Washington, D.C.	3,217	-	15	66	19	72	28
Jurisdiction mean		2%	17%	68%	13%	73%	27%

Note: In jurisdictions in which diversions and referrals are not reported as such, cases diverted or referred are included with dismissals.  
 .. Data not available.

- Insufficient data to calculate.  
<sup>a</sup>Cases filed and cases indicted are the same.  
<sup>b</sup>Partial counts; see chapter II.

resulting from a felony arrest are to misdemeanors in the lower court. In contrast, in Dallas, Rhode Island, and Tallahassee all convictions resulting from a felony arrest occur in the felony court.

**Table 5. Fraction of all felony arrests indicted**

Jurisdiction	Percent indicted	Number of felony arrests
Tallahassee	93%	3,108
Dallas	81	18,285
Rhode Island	69	5,485
Miami	52	32,468
Cobb County	47	4,427
New Orleans	47	7,773
Salt Lake City	42	3,718
Golden	38	2,279
Washington, D.C.	32	9,977
Lansing	30	2,403
San Diego	29	16,474
Manhattan	26	31,805
Los Angeles	23	78,265
Jurisdiction mean	47%	

**Where cases are convicted has important implications for the severity of sentences**

The data in table 6 measure incarceration sentences in two ways. For cases filed, incarceration sentences are measured as a fraction of all convictions resulting from a felony arrest. These convictions and sentences may occur in either the lower court or the felony court. For cases indicted, incarceration rates refer to convictions and sentences in the felony court only.

Of all convictions resulting from a felony arrest 50% lead to a sentence of incarceration and 22% to incarceration of more than 1 year. Incarceration rates in the felony court alone are higher; 64% of those convicted are sentenced to incarceration, and 36% are sentenced to terms of more than 1 year.

The more severe sentences in the felony court follow from the fact that some jurisdictions utilize the felony trial courts for the disposition of only the most serious felony crimes. Less serious felonies are disposed in the lower court, as misdemeanors.

In interpreting sentencing statistics across jurisdictions one must take into account the differing use of the felony trial courts. The data suggest, for example, that both Los Angeles and Manhattan sentence a higher fraction of convicted defendants to terms of more than 1 year than does New Orleans. In Los Angeles 38% and in Manhattan 50% of defendants convicted in felony court receive sentences of more than 1 year. In New Orleans only 28% receive such long-term sentences in felony court.

These differences are somewhat surprising given the traditionally high rates of imprisonment in Southern States. The differences, however, are explained by the fact that felony court convictions in New Orleans include all convictions resulting from a felony arrest, but in Los Angeles and Manhattan they represent a

**Table 6. Incarceration rates for cases that result in conviction**

Jurisdiction	Number of convictions <sup>a</sup>	Percent of convictions resulting in incarceration:		
		Any incarceration	More than 1 year	Exactly 1 year
<b>Cases filed and convicted in felony or misdemeanor court</b>				
Brighton	451	43%	22%	..
Colorado Springs	569	39	23	..
Denver <sup>b,c</sup>	2,716	45	24	5%
Fort Collins	351	31	18	..
Golden	735	68	26	..
Los Angeles <sup>d</sup>	40,408	..	15	..
Manhattan	18,899	56	17	6
New Orleans <sup>e</sup>	2,670	53	28	7
Portland	2,607	34	26	2
Pueblo <sup>f</sup>	131	44	23	..
Rhode Island <sup>g</sup>	2,547	34	16	6
St. Louis	2,334	62	29	6
Salt Lake City	1,436	41	18	13
San Diego	7,680	77	17	7
Seattle <sup>h</sup>	2,245	73	23	..
Jurisdiction mean		50%	22%	7%
<b>Cases indicted and convicted in felony court</b>				
Brighton	321	51%	31%	..
Golden	465	83	46	..
Indianapolis	2,595	51	40	6%
Los Angeles	15,509	83	38	15
Louisville	1,078	62	50	10
Manhattan	6,292	71	50	11
Miami <sup>b</sup>	12,167	80	56	9
New Orleans <sup>e</sup>	2,670	53	28	7
Pueblo <sup>f</sup>	84	58	39	..
Rhode Island <sup>g</sup>	2,547	34	16	6
St. Louis	3,223	62	29	6
Salt Lake City	1,126	42	20	14
San Diego	3,739	91	33	12
Seattle <sup>h</sup>	2,245	73	23	..
Jurisdiction mean		64%	36%	10%

.. Data not available.  
<sup>a</sup>Number of convictions for which sentence data were available.  
<sup>b</sup>Number of convictions and sentences based on sample estimates.  
<sup>c</sup>Excludes a small number of jail sentences on misdemeanor convictions.  
<sup>d</sup>OBTS data; see table 7.  
<sup>e</sup>Cases filed and cases indicted are the same in New Orleans and Seattle. In Rhode Island for both cases filed and cases indicted all convictions occur in the felony court.  
<sup>f</sup>Partial counts; see chapter II.

serious subset of felony arrest convictions.

When comparisons among the three jurisdictions are made on the basis of all convictions a different picture emerges. Los Angeles and Manhattan sentence 15% and 17%, respectively, of all convicted defendants to a year or more of incarceration, compared with 28% in New Orleans.

Among the jurisdictions reporting, long-term rates of incarceration are between 15 and 29% of all convictions but between 16 and 56% of all indicted cases that end in conviction.

**Definition of incarceration sentences**

In most States sentences of more than 1 year are served in prison, and sentences of a year or less are served in local jails. The distinction between prison and jail sentences, however, varies across States and among jurisdictions. In this report sentences of more than 1 year are used as a measure of long-term incarceration, regardless of the type of institution in which the sentence is served. Also, where possible, sentences of exactly 1 year are tabulated separately.

## Data sources, limitations, and definitions

The primary data source for this report and those that preceded it is a computer-based management information system called PROMIS (Prosecutor's Management Information System) developed by the Institute for Law and Social Research (INSLAW) in the early 1970's with funding from the Law Enforcement Assistance Administration. PROMIS is a generalized tracking and management information system used by prosecutors and other justice agencies to monitor the movement of cases and defendants through intricate legal and administrative processes.

As the series has been expanded to include a greater number of jurisdictions, primarily those serving large cities, the requirement that participants have an operating PROMIS system has been relaxed. Thus this edition includes a number of jurisdictions that provided data from a variety of other sources,

### Data sources in the 37 jurisdictions

Seventeen of the participating jurisdictions provided data tapes containing PROMIS data files, which were processed at INSLAW. In 15 of the 17 jurisdictions the cases analyzed are those initiated in calendar or fiscal year 1981 and closed at the time the data tapes were prepared by the jurisdictions. In two jurisdictions, New Orleans and Rhode Island, the cases analyzed were initiated in 1980. All tapes were prepared at least 2 years after the case initiation date. In all but one jurisdiction 90% or more of all cases initiated were closed by the date the computer tape was prepared. In Pueblo, because of data entry problems close to 40% of the cases initiated had no disposition information. Those cases were excluded from the analysis.

In two jurisdictions, Buffalo and Cobb County, the prosecutor provided computer printouts from the PROMIS system. In both of these jurisdictions the data refer to cases disposed. In Buffalo the data are for 1983 and in Cobb County for 1981.

In the jurisdictions that provided data from their PROMIS systems each arrest or case represents a separate arrest for an individual defendant. A crime involving three defendants, for example, would be counted as three arrests or cases. Similarly, three arrests involving one defendant but three separate criminal incidents would be counted separately. In addition, where data are presented by crime type, the most serious charge ever associated with the case is used to characterize the crime. Because the seriousness of the charges associated with criminal cases frequently declines from arrest to disposition, the crime types more accurately reflect charges at arrest or initial court filing than at plea, dismissal, or trial.

In addition to the jurisdictions that provided PROMIS data, 18 jurisdictions participated in the study by providing aggregate statistics from the prosecutor's or court's records. In some of these jurisdictions the data were from manual recordkeeping systems and in others, from computerized systems. In 17 of the jurisdictions the recordkeeping systems provided statistics on a "cases disposed" basis; in one, Denver, the statistics refer to cases initiated.

In Lansing and Miami disposition data reported separately on case outcomes at screening, in the lower court, and in the felony court were used to derive outcomes for all felony arrests and for cases filed; in Miami the number of cases indicted was also derived. Similarly, in Philadelphia data reported separately on case outcomes in the lower court and in the felony court were used to derive the outcomes of cases filed. The number of pleas and trials was also derived for each of these three jurisdictions.

In Minneapolis data on the declination rate at screening and actual counts of case dispositions for cases filed were used to derive the number of felony arrests presented and the dispositions of all felony arrests. The declination rate at screening was based on counts of felony and

gross misdemeanor arrests; cases declined include cases referred to the city prosecutor for misdemeanor prosecution. Both of these factors may result in an overestimate of the rejection rate in Minneapolis relative to that in other jurisdictions.

In Denver the recordkeeping system tracked only the number of felony arrests presented, the number rejected at screening, and the number initially filed. The dispositions of cases filed and the number of pleas and trials were estimated from a small, hand-collected data sample. The sample size in Denver was 81 defendants' cases.

In seven jurisdictions recordkeeping systems tracked cases rather than individual defendants and therefore may undercount the number of defendants' dispositions. The seven jurisdictions are Dallas, Davenport, Des Moines, Kalamazoo, Kansas City, Lansing, and Minneapolis. Among the 18 jurisdictions data years covered were primarily 1981 or 1982. In two jurisdictions the data year was 1983.

Data sources and data years for all jurisdictions are listed in table 7. The table also provides caseload definitions and the caseload size for each jurisdiction. In several jurisdictions certain anomalies occur in caseload definitions because of the unique administrative systems devised for processing cases. In Rhode Island and Cobb County the police automatically file all felony arrests in the lower court; thus all arrests and cases filed are the same. In Dallas, New Orleans, Seattle, and Tallahassee the prosecutor either rejects a felony arrest or files it directly in the felony court. Thus in these four jurisdictions cases filed and cases indicted are the same. In instances in which one set of data fits the procedural definition of two separate data sets, the data are presented twice to assist users in assembling procedurally similar data sets across jurisdictions.

The statistics for each jurisdiction presented in the text and in appen-

## Data sources, limitations, and definitions

dix A summarize the outcomes for defendants processed in each jurisdiction and thus reflect the average outcome among defendants within that jurisdiction. The "jurisdiction averages" presented in the text, however, indicate how the average jurisdiction disposes of cases and not how "on average" arrestees in urban areas are handled.

### Limitations

A major goal of this report was to increase the number of large cities in the sample and to improve the regional representation of the large cities. The number of large cities was increased from 13 (1980 report) to 22. Among the large cities the South may be underrepresented. Twenty-three percent of the jurisdictions are located in the South, whereas Southern areas account for 31% of serious crimes reported to the police, as measured by the FBI's Uniform Crime Reports.

The principal problem in deriving comparable cross-jurisdictional statistics is the differing definitions of "felony cases" that arise because of the differing statutory and administrative systems jurisdictions have devised for processing felony arrests. These differing definitions are reflected in their manual and automated case tracking systems.

In some jurisdictions it is possible to track the disposition of all felony arrests, including those rejected or filed as misdemeanors; in others, only those felony arrests that result in an initial court filing are tracked; and in still others, dispositions are tracked only for those arrests ultimately indicted or bound over to the felony court. Thus in some jurisdictions the definition of felony cases is all arrests; in others, cases filed; and in still others, cases indicted. In addition, even when it is possible to identify procedurally comparable sets of felony cases across jurisdictions (such as cases filed and cases indicted), one cannot assume that the resulting data are analytically comparable for the purpose of making statistical com-

Jurisdiction	Data year	Felony case definition and caseload size			Data source(s)
		All arrests	Cases filed	Cases indicted	
Boston	1982			1,298	Prosecutor records
Brighton <sup>a</sup>	1981		1,142	562	PROMIS tape
Buffalo	1983			1,227	PROMIS
Chicago	1982		35,528	23,287	Court records
Cobb County <sup>b</sup>	1981	4,427	4,427	2,077	PROMIS
Colorado Springs <sup>a</sup>	1981		1,484		PROMIS tape
Dallas <sup>c</sup>	1982	18,285	14,784	14,784	Prosecutor and court records
Davenport <sup>a</sup>	1982		1,312		Court records
Dodham	1982			172	Prosecutor records
Denver	1982	8,074	3,772		Prosecutor records
Des Moines	1981		1,401	1,222	Prosecutor records
Detroit	1982			10,439	Prosecutor and court records
Fort Collins <sup>a</sup>	1981		776		PROMIS tape
Geneva	1982		1,263		Court records
Golden <sup>a</sup>	1981	2,279	1,838	866	PROMIS tape
Greeley	1981	865	630		PROMIS tape
Indianapolis	1981			3,373	PROMIS tape
Kalamazoo	1981			933	Prosecutor records
Kansas City	1982			1,649	Prosecutor and court records
Lansing	1981	2,403	1,358	676	Prosecutor records
Los Angeles <sup>d</sup>	1981	78,265	49,483	18,752	PROMIS tape and OBTS
Louisville	1981			1,494	PROMIS tape
Manhattan	1981	31,805	30,810	8,173	PROMIS tape
Miami	1982	32,468	21,413	16,898	Prosecutor and court records
Minneapolis	1982	3,609	2,364		Prosecutor and court records
Montgomery County	1983			1,079	Prosecutor records
New Orleans <sup>c</sup>	1980	7,773	3,659	3,659	PROMIS tape
Philadelphia	1982		13,796	9,784	Prosecutor and court records
Portland	1981		3,892	3,641	PROMIS tape
Pueblo <sup>c</sup>	1981		339	173	PROMIS tape
Rhode Island <sup>b</sup>	1980	5,485	5,485	3,804	PROMIS tape
St. Louis	1981		3,649	2,770	PROMIS tape
Salt Lake City	1981	3,718	2,745	1,546	PROMIS tape
San Diego	1981	16,474	11,534	4,734	PROMIS tape
Seattle <sup>c</sup>	1982		3,126	3,126	Prosecutor records
Tallahassee <sup>e,f</sup>	1982	3,108	2,879	2,879	Court records
Washington, D.C.	1981	9,977	8,442	3,217	PROMIS tape

<sup>a</sup>Fiscal year data.

<sup>b</sup>Arrests and cases filed are the same.

<sup>c</sup>Cases filed and cases indicted are the same.

<sup>d</sup>PROMIS data were supplemented by California Offender Based Transaction Statistics (OBTS). Because the jurisdiction of the district attorney is limited to the felony court, felony arrests disposed as misdemeanors are not tracked by the district attorney's PROMIS system. All arrests and, in most tables, cases filed, are OBTS statistics. Cases indicted are from PROMIS. In appendix A and chapter VI,

cases filed are from PROMIS but they include only felony arrests filed on a felony charge. Cases tracked by the OBTS system represent approximately 70% of the actual cases disposed. See State of California, Department of Justice, *Criminal Justice Profile 1981, Los Angeles County*.

<sup>e</sup>Partial counts.

<sup>f</sup>The legal jurisdiction of the prosecutor is the 2nd Judicial Circuit, but the data reported are for Leon County only.

parisons across jurisdictions. Because of differing administrative arrangements for charging and weeding out cases prior to court filing, jurisdictions vary considerably in the fraction of felony arrests filed. Thus dispositions measured from the point of filing vary a great deal. This variation is primarily a reflection of

the differing pre-filing screening and charging arrangements in the jurisdictions.

Jurisdictions also vary in the extent to which they utilize the felony courts for the disposition of felony arrests: among the jurisdictions in this report the fraction of felony

arrests disposed in the felony court ranged from approximately 90% to 20% of all arrests. Felony courts, therefore, can represent a widely differing mix of case types and case dispositions. The effect of these arrangements on statistical measures is discussed throughout the text. A major goal of this series is to define procedurally comparable sets of felony cases across jurisdictions and from those data sets identify analytically comparable statistics that can be used for comparative study of the felony disposition process both across jurisdictions and over time.

#### Definition of key terms

To assist the reader in understanding the administrative procedures necessary to process felony arrests, key terms are defined below.<sup>1</sup>

**declination and rejection for prosecution**—In this report the term **declination** is used to refer to all arrests for which the prosecutor does not file a court charge. Declinations include arrests on which no further official action will be taken, as well as arrests referred to diversion programs or to other courts for prosecution. Official action against the defendant may still be taken for cases diverted and those referred for other prosecution. The term **rejection** is used to refer to those declinations on which no further official action of any kind will be taken. Rejections, in other words, represent a final termination of an arrest by the prosecutor.

**lower court**—Lower courts are those having no felony trial jurisdiction or trial jurisdiction that is limited to less than all felonies. In many jurisdictions the lower court is also called the misdemeanor court, but in addition to jurisdiction over misdemeanors these courts handle initial proceedings in felony cases, such as arraignments, bail/bond hearings, and preliminary hearings.

<sup>1</sup>The definitions were derived from the *Dictionary of Criminal Justice Data Terminology*, 2nd ed., Bureau of Justice Statistics (Washington, D.C.: U.S. Department of Justice, 1981).

**felony court**—Felony courts are those with trial jurisdiction over all felonies. Typically, they receive felony cases after indictment by a grand jury or a bind-over decision by the lower court at a preliminary hearing. The felony court is often referred to as the upper or trial court.

**filing**—A criminal case is initiated in a court by formal submission to the court of a charging document alleging that one or more named persons have committed one or more specified criminal offenses. In this report case filing is used to indicate the initiation of a case in the lower court, the first court filing, as distinguished from the filing of the case in the felony court after indictment or bindover.

**arraignment**—Arraignments are hearings (before the court having jurisdiction in a criminal case) at which the identity of the defendant is established and the defendant is informed of the charges and of his or her rights. The usage of the term varies considerably among jurisdictions. There are two kinds of arraignment:

**initial appearance**—In this report the term arraignment is used to indicate the initial appearance or first appearance of a defendant in the first court having jurisdiction over his or her case.

**arraignment on the indictment or information**—The terms arraignment on the indictment and arraignment on the information refer to the first appearance in the felony court subsequent to an indictment by a grand jury or a bind-over decision by the lower court.

**preliminary hearing**—This is a proceeding before a judicial officer in which three matters must be decided: whether a crime was committed; whether the crime occurred within the territorial jurisdiction of the court; and whether there are reasonable grounds (probable cause) to believe that the defendant committed the crime. In a number of

States the preliminary hearing, usually held in the lower court, is the point at which it is determined whether proceedings will continue in felony cases. If the court finds probable cause the defendant will be bound over or "held to answer" in the felony court.

**grand jury**—A body of lay persons who have been selected according to law and sworn to hear evidence against accused persons and determine whether there is sufficient evidence to bring those persons to trial. In some States all felony charges must be considered by a grand jury before they are filed in the felony trial court. The grand jury decides whether to indict or not indict.

**bindover**—The decision by the lower court that a person charged with a felony must appear for trial on that charge in the felony court as the result of a finding of probable cause at a preliminary hearing.

**information**—The charging document filed by the prosecutor to initiate the trial stage of a felony case subsequent to a bind-over decision in the lower court. In a few States an information may be filed without a preliminary hearing or bind-over decision.

**indictment**—The formal charging document that initiates the trial stage of a felony case after grand jury consideration. In this report the terms bindover and indictment are used interchangeably to refer to cases carried forward to the felony court.

**court trials**—These are trials in which there is no jury and the issue of guilt or innocence is determined by the judge. Court trials are also called bench trials.

## Case attrition

Close to half of all felony arrests do not result in a conviction. The most common disposition for a felony arrest that does not lead to a conviction is a rejection by the prosecutor or a dismissal in the court. In most jurisdictions the majority of court dismissals occur in the lower court; relatively few arrests are dismissed in the felony court.

Because cases that are not likely to result in conviction tend to be weeded out in the early stages of case processing, attrition rates decrease as cases advance through the court system. The data in this report illustrate how the rate of attrition decreases as case processing progresses—

- 45% of all felony arrests are either rejected or dismissed;
- 28% of all cases that are filed in court are later dismissed; and
- 17% of cases that are indicted or bound over to the felony court are dismissed.

#### Attrition rates from arrest are high both across cities and over time

The findings of past studies of felony arrest attrition are remarkably consistent. From 40 to 60% of cases initially charged by the police as felonies are dropped at some point after arrest.

A 1971 study of 75,000 adult felony arrests made by the police in New York City found that 44% resulted in all police charges being dropped.<sup>1</sup> A more recent study of Jacksonville, Florida, and San Diego, California, in 1978 and 1979 reported that in San Diego 48% and in Jacksonville 42% of robberies, burglaries, and felony assault cases initiated by the police did not lead to a conviction.<sup>2</sup> And the California Criminal Justice Profile series, which in recent years has reported statewide disposition statistics on adult felony arrests,

<sup>1</sup> Felony Arrests: Their Prosecution and Disposition in N.Y. City's Courts (New York: Vera Institute of Justice, 1977).

<sup>2</sup> Derived from tables 10-1 and 10-2 in Floyd Feeney, Forrest Hill, and Adrienne Weir, Arrests Without Conviction: How Often and Why, Center on Administration of Criminal Justice (Davis: University of California, 1982).

**Table 8. Fraction of felony arrests rejected or dismissed**

Jurisdiction	Percent of arrests rejected or dismissed	Number of arrests
Denver	58%	8,074
Lansing	52	2,403
New Orleans	52	7,773
Cobb County	50	4,427
Miami	50	32,468
Los Angeles*	49	78,265
Washington, D.C.	48	9,977
Minneapolis	46	3,609
Tallahassee	44	3,108
Golden	42	2,279
Rhode Island	41	5,485
Salt Lake City	41	3,718
Greeley	40	865
San Diego	40	16,474
Dallas	38	18,285
Manhattan	35	31,805
Jurisdiction mean	45%	

\* Dismissals include acquittals at trial. OBTS data; see table 7.

reported annual attrition rates between 1978 and 1982 that ranged from 43 to 45% of all arrests.<sup>3</sup>

These recent rates of case attrition do not differ markedly from those reported by studies of court dispositions performed by the crime commissions of the 1920's. Those studies indicated that the fraction of arrests rejected or dismissed was 58% in St. Louis (1923-24), 57% in New York City (1925), and 52% in Cleveland (1919).<sup>4</sup>

The average rate of total attrition among the jurisdictions in this report is 45% (table 8). Similarly, in the last two reports in this series total rates of attrition were 48% (1979) and 49% (1980).<sup>5</sup>

Rates of attrition, when consistently measured from arrest, appear to be relatively stable both across cities

<sup>3</sup> Criminal Justice Profile-1982 (State of California: Department of Justice).

<sup>4</sup> Wickersham Commission, Report on Criminal Statistics (1931, reprint ed., Montclair, N.J.: Patterson Smith, 1968).

<sup>5</sup> Barbara Boland et al., The Prosecution of Felony Arrests, 1979 (Washington, D.C.: USGPO, 1983); and Barbara Boland and Elizabeth Brady, The Prosecution of Felony Arrests, 1980 (Washington, D.C.: USGPO, 1985).

#### Definition of attrition

Case studies of attrition typically measure attrition from the point of felony arrest and define attrition to include arrests the police do not present for prosecution, arrests declined for prosecution by the prosecutor, and arrests filed in court but later dismissed or acquitted at trial. Once cases are filed in court, all charges associated with a case must result in a dismissal or acquittal for a case to be counted as dropped. Conversely, felony arrests that lead to a conviction on the original felony charge or to a reduced felony or misdemeanor charge are counted as convictions.

This report uses a modified version of this definition of attrition. Arrests referred to other courts or jurisdictions for prosecution or to diversion programs are not counted as dropped cases. Diversion programs represent a significant intrusion into defendants' lives and in some jurisdictions eligibility requires an informal or formal admission of guilt. Cases referred to other courts for prosecution may still result in a conviction.

Also, acquittals at trial are not counted as dropped cases. Studies of attrition often conclude or imply that some dropped cases could result in a conviction if only prosecutors or the police worked harder and did a better job. This view seems inappropriate for those cases the prosecutor pursues to trial.

and over time. And, rates of total attrition are high. The finding that large numbers of arrests do not lead to a conviction is a phenomenon common to all urban courts and prosecutors.

#### Most cases that do not result in a conviction are dropped at screening or in the lower court, before they reach the felony court

Prosecutors and the courts often report that as many as 85 to 90% of the cases they handle result in a conviction. The discrepancy between this rate and those reported in case attrition studies is a matter of perspective. In contrast to studies that measure case attrition from the point of police arrest, prosecutors and courts rarely measure their performance on the basis of all arrests the police present for prosecution.

Police authority to arrest is based on the legal concept that "probable cause" exists to believe a crime has been committed and that the suspect committed the crime. The prosecutor's responsibility to convict rests on the much more stringent legal standard of "proof of guilt beyond a reasonable doubt."

The prosecutor is supposed to "enforce the law" but must also protect the rights of the legally as well as the factually innocent. Obtaining a conviction on all arrests the police present, from a legal perspective, could be (and has been) viewed as an abrogation of duty.

Thus not surprisingly prosecutors traditionally do not measure conviction rates from arrest. The most common measure for felony cases is from the point of indictment or bindover to the felony court. Indictment or bindover is a far more serious action against an individual than an arrest, and the decision reflects a much more careful assessment of the evidence than is possible by the police on the street.

Although the formal legal standard is still probable cause, virtually all prosecutors apply a higher standard of proof before they carry cases forward to the felony court. Most do not carry forward cases for which they do not think the evidence is sufficient to support a conviction. Calculation of case attrition rates (or conversely conviction rates) from this point, however, means that cases that are dropped between arrest and indictment are not included in the calculation.

**Attrition rates from court filing and indictment are lower than from arrest**

The attrition rates in table 9 measure attrition from the point of initial court filing (typically in the lower court). The rates in table 10 measure attrition after indictment by a grand jury or bindover to the felony court as a result of a preliminary hearing.

**Table 9. Fraction of filed cases dismissed in misdemeanor or felony court**

Jurisdiction	Percent of filed cases dismissed	Number of cases filed
Cobb County <sup>a</sup>	50%	4,427
Chicago	45	35,528
Rhode Island <sup>a</sup>	41	5,485
Tallahassee	40	2,879
Washington, D.C.	40	8,442
Geneva	37	1,263
Pueblo <sup>b</sup>	34	339
Manhattan	33	30,810
Philadelphia	33	13,796
Colorado Springs	32	1,484
Davenport	32	1,312
Brighton	30	1,142
St. Louis	30	3,649
Golden	29	1,838
Miami	27	21,413
Salt Lake City	27	2,745
Denver	25	3,772
Lansing	23	1,358
Des Moines	21	1,401
Dallas	20	14,784
Fort Collins	19	776
Greeley	19	630
Portland	19	3,892
San Diego	19	11,534
Los Angeles <sup>c</sup>	18	49,483
Minneapolis	18	2,364
Seattle	13	3,126
New Orleans	11	3,650
Jurisdiction mean	28%	

<sup>a</sup>Arrests and cases filed are the same.  
<sup>b</sup>Partial counts; see chapter II.  
<sup>c</sup>Dismissals include acquittals at trial. OBTS data; see table 7.

After the initial case filing the average rate of attrition among the jurisdictions is 28%; and after bindover or indictment, 17% (tables 9 and 10, respectively). This decline in attrition as cases advance through the various stages of the court reflects a continual process of identifying and eliminating weak and unprovable cases. By the time cases advance to the felony court stage, the question of guilt for the majority of defendants has to a large extent already been answered. Thus the fraction of total attrition that occurs after indictment or bindover is typically low. In all but 1 of the 12 jurisdictions reporting, the majority of arrests are dropped before cases are formally charged in the felony court (table 11). In six jurisdictions the fraction of total attrition occurring after the indictment or bindover

**Table 10. Fraction of indicted cases dismissed in felony court**

Jurisdiction	Percent of indicted cases dismissed	Number of cases indicted
Tallahassee <sup>a</sup>	40%	2,879
Pueblo <sup>b</sup>	31	173
Miami	27	16,898
Brighton	24	562
Kansas City	23	1,649
Golden	21	866
Montgomery County	21	1,079
Dallas <sup>a</sup>	20	14,784
Indianapolis	19	3,373
Portland	19	3,641
Salt Lake City	19	1,546
Detroit	18	10,439
Buffalo	16	1,227
Chicago	16	23,287
Dedham	16	172
Cobb County	15	2,077
Kalamazoo	15	933
Louisville	15	1,494
Rhode Island	15	3,804
Washington, D.C.	15	3,217
Boston	14	1,298
Manhattan	14	8,173
Philadelphia	14	9,784
Seattle <sup>a</sup>	13	3,126
St. Louis	12	2,770
Los Angeles	11	18,752
New Orleans <sup>a</sup>	11	3,659
Des Moines	10	1,222
Lansing	9	676
San Diego	7	4,734
Jurisdiction mean	17%	

<sup>a</sup>Cases filed and cases indicted are the same.  
<sup>b</sup>Partial counts; see chapter II.

**Table 11. Fraction of total attrition that occurs before and after indictment**

Jurisdiction	Percent of total attrition occurring:	
	Before indictment	After indictment
Lansing	95%	5%
Los Angeles	95	5
San Diego	95	5
New Orleans	90	10
Washington, D.C.	90	10
Manhattan	90	10
Golden	81	19
Salt Lake City	81	19
Rhode Island	75	25
Miami	72	28
Dallas	61	39
Tallahassee	16	84

stage is equal to or less than 10% of all cases dropped; in only 3 jurisdictions does it exceed 25%.



**Screening arrangements are the most important determinant of post-filing dismissal rates**

Some jurisdictions weed out large numbers of cases immediately after arrest, at the time of screening, before any court charges are filed. Others dismiss most of their non-convictable cases after the court process has begun in the lower court (but before indictment or bindover), and some use both screening and the lower court preliminary proceedings to weed out weak cases.

These differences in the handling of cases account for the large variation in attrition rates, as measured from initial case filing. The data appear to suggest that jurisdictions vary greatly in their ability to prevent case attrition after filing (attrition rates vary from a low of 11% to a high of 50%). In fact, however, the data largely reflect differences in screening and charging arrangements among jurisdictions. These differences include—

- institutional arrangements, such as who files initial charges—the police or the prosecutor, and
- prosecutors' screening and charging policies.

**Typically, the first task of the prosecutor is to screen arrests and make a charging decision**

The prosecutor has several options at screening. He or she may decide that—

- the police arrest charge is the proper charge and make no change from the initial police decision,
- the police charge is inappropriate but a lesser felony or misdemeanor charge is warranted,
- a more serious charge can be filed (this is rare), or
- no charge at all is warranted and the case should be dropped.

Typically, after a defendant is arrested by the police either the patrol officer who made the arrest or a detective who did followup work on the case prepares the papers needed to present the case to the prosecutor. The attorney who

screens the case reviews the written materials, usually interviews the police officer, and may also talk to victims and witnesses either in person or by telephone. Before filing a court charge against a defendant the prosecutor must determine, at a minimum, that all the elements of a crime are present and that sufficient evidence exists to link the defendant to the crime.

In addition to the facts of the immediate offense, the prior record of the defendant may influence the charging decision. A number of prosecutors have special programs for handling cases involving "career" criminals, and in some jurisdictions formal legislative provisions exist for "enhanced charging" of career criminals. Also, some prosecutors have initiated diversion programs for less serious categories of offenders, such as first-time shoplifters.

Studies of prosecutors' behavior, however, have found that the strength of the evidence and seriousness of the crime tend to be much more important to the prosecutor's charging decision than a defendant's prior record.<sup>6</sup> The decisions made at screening are obviously of enormous importance to the defendant. If the case is rejected or dropped the defendant may be free shortly after being taken into custody by the police. If the defendant is charged with a misdemeanor his or her potential sentence in most States cannot exceed a term of 1 year in a local jail. But if charged and convicted of a felony the defendant could spend a year or more in a State penitentiary.

**The institutional arrangements for screening and charging, however, can vary considerably**

In all jurisdictions included in this report prosecutors screen cases and make a substantive charging decision roughly along the lines described

above. But there are important differences among the jurisdictions in the technical arrangements for processing cases at this stage in the disposition process. The most important differences are—

- the fraction of all felony arrests presented to the prosecutor for screening (in some jurisdictions the police prescreen and drop charges),
- the point in the disposition process at which screening occurs (in some jurisdictions screening occurs after the initial court filing), and
- the time periods allowed between arrest, screening, and court charging.

The most common screening/charging arrangement among the 37 sample jurisdictions is for all police arrests to be brought to the prosecutor for a charging decision within a matter of hours after an arrest and before charges are formally filed with the court. In Boston, Chicago, Kansas City, Manhattan, St. Louis, and Washington, D.C., for example, all adult felony arrests are brought to the prosecutor for screening, and the prosecutor's charges are filed with the court within 24 hours.

In Kansas City and St. Louis, Missouri, State law specifies that felony arrests must be reviewed and charged within 20 hours of the time of arrest. In Manhattan and Washington, D.C., the laws are vague as to how quickly the prosecutor must screen arrests and make a charging decision; the laws indicate only that charges must be filed "with no unnecessary delay." As a matter of policy or local custom, however, both jurisdictions try to screen and file formal charges within a day of arrest.

The most important deviation from this typical pattern is for the initial court filing of charges in the lower court to be initiated not by the prosecutor but by the police, before the prosecutor has an opportunity to screen the case. In Cobb County, for example, police present arrests to a locally elected justice of the peace, who virtually always approves the arrest by issuing a formal arrest warrant. The warrant charges are

<sup>6</sup>Joan Jacoby, *Prosecutorial Decision-making: A National Study* (Washington, D.C.: National Institute of Justice, 1981); Brian Forst and Kathleen Brosi, "A Theoretical and Empirical Analysis of the Prosecutor," *Journal of Legal Studies* 6 (1977).



then automatically filed the next day in the State court (the lower court in Cobb County), and an arraignment and bond hearing are conducted by a court magistrate within 72 hours of arrest. Although the district attorney receives the warrant file shortly after an arrest, the case is not formally screened until the arresting officer sends the district attorney's office (usually within a week) a detailed written account of the crime.

Among the 37 jurisdictions included in this report, only 6 (Buffalo, Cobb County, Dedham, Louisville, Montgomery County, and Rhode Island) have a system whereby cases are officially filed with the court before the prosecutor has an opportunity to screen and make a charging decision. Nationwide, however, this type of processing is more common than this sample of jurisdictions suggests. A 1981 survey of police and prosecution agencies by the Georgetown University Law Center found that in only half of the surveyed jurisdictions with populations over 100,000 was the prosecutor solely responsible for screening and initial charging. Where charges were not filed by the prosecutor, charging was typically performed by the police.

In jurisdictions in which the police do file court charges, rejection of cases by the prosecutor is technically not possible; cases on which the prosecutor does not wish to proceed are typically dismissed in court. These jurisdictions, of course, have "screening policies," but the statistical results of those policies are masked by the institutional system of having police file arrests with the court. An especially significant aspect of such a system is the lessened time pressure on the prosecutor to screen and make a charging decision. In Cobb County, for example, the only time constraint on the district attorney's charging decision is the statute of limitations. This contrasts markedly with the due process requirements in

other jurisdictions in which, by law or local custom, the prosecutor's charges must be filed within a few days of arrest.

One way prosecutors can deal with time pressures is to share the screening function with the police, which represents yet another variation from the typical screening/charging pattern. In California, where the prosecutor must file charges within 48 to 72 hours of arrest, the authority of the police to prescreen certain types of arrests (generally the less serious property offenses) is formalized by California law.

In Los Angeles the district attorney's office has prepared, within the constraints of the California statutes, guidelines for the police to use in prescreening felony arrests. As a result, of the approximately 100,000 adult felony arrests made by police agencies in Los Angeles County about 17% are dropped by the police and another 31% are referred by the police directly to city prosecutors for misdemeanor prosecution. The number of felony arrests the district attorney's office must screen is thus cut by almost half. In San Diego police prescreening is somewhat less extensive, but police screening nevertheless reduces the number of cases the district attorney must screen by about a quarter.

**Prosecutors' screening policies also vary and are an important factor in explaining how jurisdictions handle attrition**

In jurisdictions where the police either prescreen arrests or file court charges on their own before presenting cases to the prosecutor, measures of pre- and post-filing attrition obviously do not accurately reflect policy decisions of the prosecutor on how to handle cases. It is clear from the data, however, that even when these differing institutional arrangements are taken into account, jurisdictions still vary greatly in the extent to which they eliminate (or reject) cases at screening or defer the decision to drop cases until the post-filing stage of court processing.

**Table 12. Fraction of felony arrests rejected in jurisdictions that screen before filing of court charges**

Jurisdiction	Percent of arrests rejected	Number of arrests
New Orleans	47%	7,773
Denver	46	8,074
Lansing	39	2,403
Los Angeles <sup>a</sup>	37	78,265
Minneapolis <sup>b</sup>	34	3,609
Miami	32	32,468
San Diego	27	16,474
Greeley	26	865
Dallas <sup>c</sup>	23	18,285
Salt Lake City	21	3,718
Golden	19	2,279
Washington, D.C.	15	9,977
Tallahassee	7	3,108
Manhattan	3	31,805
Jurisdiction mean	27%	

<sup>a</sup>Includes police releases made according to written guidelines of the district attorney. OBTS data; see table 7.

<sup>b</sup>Rejections in Minneapolis include some arrests referred to the city prosecutor for misdemeanor prosecution.

<sup>c</sup>Rejections are no true bills by the grand jury.

In jurisdictions in which the police do not file charges and police screening is either minimal or unmeasured the average rejection rate is 27% (table 12). The rates for individual jurisdictions, however, vary from a low of 3% to a high of 47%. When the screening practices of jurisdictions with exceptionally low or high rejection rates are examined in greater detail, the differences in rejection rates appear to reflect substantive differences in screening and charging policies (implicit or explicit) among jurisdictions.

In Manhattan, for example, where the rejection rate is 3%, attorneys question police officers, who are routinely present at the time of screening, about the facts and nature of the crime, including the background of victims and the relationship between victims and defendants. As in other jurisdictions attorneys attempt to identify those case types that are known to fall apart frequently because of witness problems (for example, crimes involving domestic disputes, barroom fights, or out-of-town victims). Such cases, however, are not typically rejected; they are filed in the lower

<sup>7</sup>William F. McDonald et al., *Police-Prosecutor Relations in the United States*, Institute of Law and Criminal Procedure (Washington, D.C.: Georgetown University Law Center, 1981).

court, where many are ultimately dismissed. As a result 81% of all felony arrest attrition in Manhattan occurs in the lower court after formal court charges are filed (9% occurs at screening and another 10% after indictment).

In New Orleans, which has a high rejection rate at screening, a decision to file charges in a case is not made until witnesses have been contacted either by telephone or in person and the screening attorney is convinced that the victim and other witnesses are willing to proceed with the prosecution. In New Orleans the filing charge is also the prosecutor's plea position in a case, so the work of the screening unit is especially thorough. Eleven of the approximately 60 assistant district attorneys work full time in the screening unit. They are also the most senior attorneys in the office. As a result, in New Orleans 90% of felony case attrition occurs before arrested defendants are formally charged.

The New Orleans system of screening is aided considerably by the fact that due process in Louisiana does not require immediate filing of court charges. The local court standard and the district attorney's policy are to screen and file charges in 10 days.

There are, however, other jurisdictions that both reject a high fraction of cases at screening and must make a charging decision within a matter of hours. In St. Louis, for example, where cases must be screened and charged within 20 hours, at least 30 to 40% of felony arrests are rejected.<sup>8</sup> To aid the early identification of problem-witness cases under such tight time constraints, the circuit attorney has a strict policy of not reviewing police arrests unless the victims and witnesses are brought by the police to the circuit attorney's screening room. There, victims and

<sup>8</sup>The PROMIS data for St. Louis do not include cases rejected. The circuit attorney's office estimates that at least 30 to 40% of all arrests are declined prosecution. That St. Louis has a high rejection rate was confirmed by an independent check with the St. Louis police department on the number of arrests presented for prosecution.

**Table 13. Fraction of total attrition that occurs at screening and after court charges are filed**

Jurisdiction	Percent of total attrition occurring:	
	At screening	After filing
New Orleans	90%	10%
Denver	79	21
Los Angeles	76	24
Lansing	75	25
Minneapolis	74	26
San Diego	68	32
Greeley	65	35
Miami	64	36
Dallas*	61	39
Salt Lake City	51	49
Golden	45	55
Washington, D.C.	31	69
Tallahassee	16	84
Manhattan	9	91

\* Attrition after filing and after indictment are the same because there is no case processing in the lower court; see table 11.

witnesses are carefully interviewed and the consequences of filing court charges thoroughly explained. This provides witnesses with an opportunity to indicate whether they are willing to proceed with prosecution before formal court charges are filed.

Jurisdictions vary greatly in the extent to which nonconvictable cases are identified and dropped at the time of screening (table 13). In Denver, Lansing, Los Angeles, Minneapolis, New Orleans, and San Diego two-thirds or more of all case attrition occurs at screening; in Manhattan and Tallahassee, only 9% and 16%, respectively, of attrition occurs at this point.

**The most common reasons for case attrition are evidence and witness problems**

As documented by the screening prosecutors in seven jurisdictions, witness problems and evidence-related deficiencies account for half or more of the rejections at screening (table 14). Witness problems are typically more common for crimes against persons than for crimes against property. This is even true for robberies, which are more likely to involve defendants and victims

who are strangers than are assaults. Crimes involving theft of property, such as burglary and larceny, are more likely to involve problems of evidence (appendix A).

Patterns of dismissal reasons are somewhat more varied and more reflective of specific jurisdictional practices than are reasons for rejections (table 15). A common reason for a dismissal (38% or more) in five of the jurisdictions is a plea on another case. Such actions represent dismissals of cases for defendants with more than one active case. Typically, one case is dismissed but a plea of guilty is obtained in another. In this situation a case is dismissed but the defendant is still convicted.

Still, witness and evidence problems remain a common reason for a dismissal.

**Explanations of evidence and witness problems: The findings of in-depth studies**

In-depth studies of attrition basically support the prosecutors' view that evidence and witness problems constitute the principal reasons for case attrition. However, in seeking to identify the underlying causes of such problems the studies present varying explanations. The explanations generally emphasize three causes of evidence and witness problems: factors associated with victims and defendants, police practices, and the procedures and policies of the prosecutor.

**Characteristics of victims and defendants.** In its study of New York City felony arrests in 1971 the Vera Institute of Justice reported that prior relationships between victims and defendants (such as those involving the victim and his or her spouse, neighbor, lover, customer) commonly led to dismissals. The most frequently mentioned reason for such dismissals was lack of cooperation by the victim, and the explanation offered most often for noncooperation was reconciliation between victim and defendant.<sup>9</sup>

<sup>9</sup>See *Felony Arrests*, note 1 above.

Jurisdiction	Number of declined cases*	Percent of declinations due to:							
		Insufficient evidence	Witness problems	Due process problems	Interest of Justice	Plea on another case	Referral to diversion	Referral for other prosecution	Other
Golden	41	59%	27%	2%	5%	2%	2%	2%	0%
Greeley	235	52	7	0	38	0	1	2	0
Manhattan	995	61	23	5	4	0	-	3	4
New Orleans	4,114	38	30	12	8	0	7	1	-
Salt Lake City	973	58	12	1	8	1	2	19	-
San Diego	4,940	54	15	6	9	1	0	9	7
Washington, D.C.	1,535	30	24	-	13	0	-	3	29

Note: Declined cases include diversions and cases referred for other prosecution. These cases are excluded from counts of rejected cases in other text tables. - Insufficient data to calculate. \* Excludes cases for which reasons are unknown.

Jurisdiction	Number of dismissed cases*	Percent of dismissals due to:							
		Insufficient evidence	Witness problems	Due process problems	Interest of Justice	Plea on another case	Referral to diversion	Referral for other prosecution	Other
Brighton	443	16%	7%	1%	10%	43%	21%	2%	0%
Colorado Springs	675	13	11	2	3	40	16	14	0
Fort Collins	257	4	5	1	5	41	27	15	0
Golden	709	14	14	1	7	38	17	9	0
Greeley	207	12	25	1	4	18	20	20	0
Indianapolis	639	27	15	1	33	21	-	1	1
Los Angeles	8,351	29	16	2	17	2	10	10	14
Louisville	272	11	10	3	28	5	15	3	24
Manhattan	10,233	26	24	1	17	4	0	1	26
New Orleans	429	22	16	20	15	6	7	1	14
Portland	906	15	22	-	6	23	7	13	13
Pueblo	146	16	11	2	7	43	14	6	0
St. Louis	1,097	22	20	9	4	10	-	1	32
Salt Lake	917	16	17	1	2	27	9	9	19
San Diego	2,630	25	11	3	7	18	10	6	20
Washington, D.C.	3,656	21	16	1	4	9	7	1	41

Note: Dismissed cases in this table include diversions and cases referred for other prosecution. These cases are excluded from counts of dismissed cases in other text tables. - Insufficient data to calculate. \* Excludes cases for which reasons are unknown.

The Vera study also found that cases in which the victim and defendant were known to each other constituted 83% of rape arrests, 36% of robbery arrests, and 39% of burglary arrests. Overall, 56% and 35%, respectively, of the violent crimes and property crimes analyzed involved a prior relationship between the victim and defendant.

Analyzing all cases of violent crime brought by police to the District of Columbia prosecutor during 1973, an INSLAW study also documented the high proportion of serious arrests that involve a prior relationship between the victim and defendant. Of 3,826 arrests for violent crime, 13% involved family members; 44%, friends or acquaintances; and 43%,

strangers. A prior relationship between victim and witness was particularly frequent in homicides (75%), assaults (75%), and sexual assaults (61%). Overall, 57% of the violent crime cases involved witnesses and arrestees who knew one another.<sup>10</sup>

Another INSLAW study, in seven large jurisdictions, found markedly lower rates of conviction when a prior relationship existed between the victim and the defendant. In New Orleans, for example, 19% of the offenses involving family members and 30% of those involving a friend or acquaintance ended in con-

viction. In contrast, 48% of the offenses involving victims and defendants who were strangers resulted in conviction (table 16).<sup>11</sup>

In addition to a prior relationship with defendants, victims may possess certain negative traits or have engaged in certain activities that contribute to case attrition. A study by the Center on Administration of Criminal Justice at the University of California (Davis) analyzed the attrition of arrests for robbery, burglary, and felonious assault during 1978 and 1979 in Jacksonville, Florida, and San Diego, California. The study noted, consistent with the

<sup>10</sup>Kristen M. Williams, *The Role of the Victim in the Prosecution of Violent Crimes* (Washington, D.C.: INSLAW, 1978).

<sup>11</sup>Brian Forst et al., *Arrest Convictability as a Measure of Police Performance* (Washington, D.C.: INSLAW, 1981).

findings of the other studies, that cases with victim-witness problems had substantially lower conviction rates than those that did not have such problems. In Jacksonville 59% of the robbery defendants in cases without victim-witness problems were convicted, while only 21% of defendants in cases with such problems were convicted. The corresponding figures for burglary defendants were 76% and 23%.<sup>12</sup>

The most frequent type of victim-witness problem in Jacksonville and San Diego was the existence of one or more characteristics that reflected adversely on the credibility or reliability of the victim-witness. For example, in robbery cases some victims and witnesses were alcoholics, had been drinking, were seeking sex or drugs, possessed a criminal record, were afflicted with a physical disability, or had a language problem.

The same study also noted that victims or witnesses themselves were sometimes engaged in criminal acts or at least questionable activity that made them culpable. Not only does culpability cast doubt on the credibility of witnesses but also may ultimately discourage a witness-victim--fearing incrimination--from continuing to cooperate with prosecutors.

<sup>12</sup>See *Arrests Without Conviction*, note 2 above.

**Table 16. Conviction rate by victim-defendant relationship and crime group in New Orleans, 1977-78**

Crime group	Percent of defendants convicted when victims were:		
	Family	Friends/acquaintances	Strangers
All	19%	30%	48%
Violent	16	19	35
Property	19	37	53
Other	14	35	50

Source: Brian Forst et al., *Arrest Convictability as a Measure of Police Performance* (Washington, D.C.: INSLAW, 1981).

**Police practices and evidence and witness problems.** Most reported crimes are solved, that is, an arrest is made because a witness calls the police and is able to provide them with sufficient information to identify a suspect soon after the crime has occurred.<sup>13</sup> Also, the best evidence for prosecuting a case is that gathered at the crime scene rather than as the result of investigative work.<sup>14</sup> Thus the strength of a prosecutor's case is highly dependent on the police--on the evidence gathered and the witnesses identified by police at the scene of the crime.

In examining the police contribution to successful prosecution, an INSLAW study identified three factors that significantly enhanced the chance of obtaining a conviction--

- having at least two witnesses,
- recovering physical evidence, and
- making an arrest within 30 minutes of the offense.

The authors inferred that a speedy arrest influenced convictions by increasing the probability of recovering evidence and identifying witnesses.<sup>15</sup>

The most interesting finding of the study was that in the jurisdictions analyzed a small fraction of the arresting officers--from 8 to 19%--accounted for 50% of the arrests that ended in a conviction. This central finding, that a few officers appear to be better at producing convictable arrests, was confirmed even after such factors as officer assignment and the inherent convictability of the arrest type were held constant.

Interviews with samples of high and low conviction rate officers revealed that high conviction rate officers indicated they took more steps to locate additional witnesses. They

<sup>13</sup>Albert J. Reiss, *The Police and the Public* (New Haven, Conn.: Yale University Press, 1971).

<sup>14</sup>Peter Greenwood, Jan M. Chabken, and Joan Peteruh, *The Criminal Investigation Process* (Lexington, Mass.: D.C. Heath, 1977).

<sup>15</sup>See *Arrest Convictability*, note 11 above.

were also able to specify more techniques for gathering evidence.

**Prosecutor policies and evidence and witness problems.** There are a number of actions the police can take to prevent unnecessary case attrition, but it would be misleading to conclude that attrition is primarily a police problem. Researchers emphasize that case attrition often results from the generally weak link between police and prosecutor. Convictions require more evidence than do arrests, and although the police are responsible for collecting evidence, police organizations are geared to rewarding officers for making arrests not obtaining convictions. Prosecutors frequently complain that the police provide them with too little information, but they rarely make a systematic effort to inform the police about case dispositions or about the specifics they need.

A study of police-prosecutor relations by the Georgetown University Law Center used a decision-simulation technique to determine the extent to which police and prosecutors differ in their perceptions of the amount of evidence needed to make prosecutory decisions.<sup>16</sup> In the simulation senior police officers were told to imagine they were being asked by junior officers about what charging decision to recommend to a prosecutor in a robbery case. In advising the junior officer the senior officer could select from a folder containing 44 index cards as many items of information as needed to make a recommendation. The same simulation was conducted with senior prosecutors, who were asked to advise hypothetical junior prosecutors. Analysis of the simulation results revealed that prosecutors required 40% more items of information than did police before a charging decision could be made.

According to the study conducted by the Center on Administration of Criminal Justice, police and prosecutors both agreed that 80% or more

<sup>16</sup>See *Police-Prosecutor Relations*, note 7 above.

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of the suspects whose cases were dropped were guilty. The police, however, were more likely than prosecutors to indicate that some of the cases could be salvaged.

The study also concluded that cases could be salvaged through more risk-taking by prosecutors. For example, the authors stated that prosecutors generally believe that they cannot successfully prosecute a robbery case if they cannot produce the victim—even if they have other good witnesses. However, the few prosecutors who have tried such cases report a reasonably good success rate. Noting that a high conviction rate could indicate that the prosecutor's office is "creaming" or "skimming" the solid cases, the authors suggested that an annual audit of a sample of cases not filed would help to determine whether conviction opportunities are being missed.

The center's study also suggested that, in many instances, both police and prosecutors appeared to have merely assumed that cooperation would not be forthcoming from certain victim-witnesses. This observation was also made in a study of witness cooperation in the District of Columbia. The study concluded that

...prosecutors were apparently unable to cut through to the true intentions of 23 percent or more of those they regarded as uncooperative, and, therefore, recorded the existence of witness problems when this was a premature judgment at best and an incorrect decision at worst.<sup>17</sup>

Two reasons were advanced for this apparent mislabeling by prosecutors of witnesses' true intentions. First, prosecutors indicated noncooperativeness not on the basis of perceived noncooperation in the case but in anticipation of it:

The assumption was occasionally made that witnesses would not persevere in the prosecution of a friend or relative no matter how cooperative the witness initially seemed to be. Although this prediction may have proved true in some cases, it most likely was erroneous in others....<sup>18</sup>

Failure to communicate effectively with the witness was the second reason advanced to explain why prosecutors often misgauged witnesses' true intentions. "Failure to communicate" means not only failure by prosecutors to make contact with witnesses either orally or by mail but also all those impediments that prevent witnesses, once contacted, from clearly understanding the communication or easily responding to what is communicated. As a result the study found that a number of witnesses who were willing to cooperate were, unknown to themselves, classified by prosecutors as noncooperators.

<sup>18</sup>*Ibid.*:Appendix A, 50.

<sup>17</sup>Frank J. Cannavale, Jr. and William D. Falcon (ed.), *Witness Cooperation* (Lexington, Mass.: Lexington Books and Institute for Law and Social Research, 1976):Appendix A, 36.

## Guilty pleas and trials

The statistics presented in the chapter on case attrition show that close to half of all felony arrests are either rejected by the prosecutor at screening or dismissed by the prosecutor or judge after filing. This chapter focuses on arrests that are carried forward for prosecution and result in guilty pleas or trials.

In some jurisdictions all convictions resulting from a felony arrest occur in the felony court; in others, many felony arrests are convicted in the lower court, on misdemeanor charges. Thus this chapter looks at guilty pleas and trials for all felony arrests filed with the court as well as for those arrests that are subsequently indicted or bound over to the felony court for disposition.

### The most common disposition of a felony arrest not rejected or dismissed is a plea of guilty

The fraction of all felony arrests disposed by a guilty plea to a felony or misdemeanor charge among the jurisdictions reporting is 45% (table 17). Together, guilty pleas and dropped cases account for 90% of all felony arrest dispositions among these jurisdictions. The remaining cases are primarily taken to trial, referred to diversion programs, or referred to other agencies for prosecution.

A more common way to look at the prevalence of guilty pleas is to calculate the percentage of all plea and trial adjudications that are guilty pleas. This calculation makes it clear that the routine method for obtaining convictions is through a guilty plea. In most jurisdictions over 80% of all plea and trial adjudications are the result of a guilty plea (tables 18 and 19).

Recognition of this fact—that the vast majority of convictions are the result of a guilty plea rather than a guilty verdict—has since the mid-1960's fostered a vigorous national debate over the nature and propriety of guilty pleas. At the center of this debate is the role the prosecutor plays in obtaining guilty pleas through plea bargaining.

Table 17. Fraction of felony arrests that result in rejection, dismissal, or guilty plea

Jurisdiction	Percent of felony arrests resulting in:			Number of felony arrests disposed
	Rejection or dismissal	Guilty plea	Rejection, dismissal or guilty plea	
Cobb County	50%	38%	88%	4,427
Dallas	38	55	93	18,285
Denver	58	32	90	8,074
Golden	42	17	89	2,279
Greeley	40	48	88	865
Lansing	52	39	91	2,403
Manhattan	35	61	96	31,805
Miami	50	46	96	32,468
Minneapolis	46	44	90	3,609
New Orleans	52	34	86	7,773
Rhode Island	41	55	96	5,485
Salt Lake City	41	45	86	3,718
San Diego	40	51	91	16,474
Tallahassee	44	47	91	3,108
Washington, D.C.	48	39	87	9,977
Jurisdiction mean	45%	45%	90%	

The conventional view of plea bargaining holds that to avoid going to trial in the majority of cases prosecutors are willing to reduce the seriousness of charges against a defendant in exchange for a plea of guilty. The characteristics of the guilty plea process in the jurisdictions included in this report indicate that the process of obtaining convictions through pleas rather than trials is more varied and more complex than this view suggests.

### The guilty plea process: The unilateral reduction of charges in the lower court

Many pleas to reduced charges are not the result of negotiations between the prosecutor and defense attorney, but rather of a unilateral decision on the part of the prosecutor that the appropriate conviction charge should be less serious than the initial arrest or court charges. Often such unilateral decisions are made at screening or in the early stages of felony case processing, before bindover and before the prosecutor has had an opportunity to talk with the defense attorney.

The reduction of a felony charge to a misdemeanor, for example, frequently reflects the prosecutor's unilateral decision not to carry certain types of cases forward to the felony court.

Table 18. Guilty pleas as a percent of guilty pleas and trials, cases filed

Jurisdiction	Percent of guilty pleas and trials that are pleas	Number of pleas and trials <sup>a</sup>
Greeley	98%	423
Pueblo <sup>b</sup>	98	193
Cobb County	96	1,771
Miami <sup>c</sup>	96	15,585
Fort Collins	95	519
Golden	95	1,129
Manhattan	95	20,577
San Diego	95	8,904
Brighton	94	699
Denver <sup>c</sup>	94	2,745
Rhode Island	94	3,241
Geneva	93	792
Colorado Springs	92	809
Minneapolis	92	1,711
Tallahassee	92	4,786
St. Louis	91	2,552
Salt Lake City	91	1,828
Dallas	90	11,771
Lansing <sup>c</sup>	89	1,057
Davenport	88	390
Des Moines	82	1,100
New Orleans	82	3,230
Washington, D.C.	82	4,786
Portland	81	2,386
Seattle	78	2,707
Chicago	75	19,625
Philadelphia <sup>c</sup>	41	8,691
Jurisdiction mean	88%	

<sup>a</sup>Trials include court and jury trials.

<sup>b</sup>Partial counts; see chapter II.

<sup>c</sup>Estimated; see chapter II.

That these unilateral decisions can affect the conviction outcomes of a

**Table 19. Guilty pleas as percent of guilty pleas and trials, cases indicted**

Jurisdiction	Percent of guilty pleas and trials that are pleas	Number of pleas and trials <sup>a</sup>
Pueblo <sup>b</sup>	97%	104
Cobb County <sup>c</sup>	96	1,771
Miami <sup>d</sup>	95	12,336
Rhode Island <sup>c</sup>	94	3,241
San Diego	93	4,404
Golden	92	528
Kalamazoo	92	792
Tallahassee <sup>e</sup>	92	1,529
Dallas <sup>c</sup>	90	11,771
St. Louis	90	2,435
Brighton	98	363
Dedham	98	144
Los Angeles	88	16,501
Salt Lake City	88	1,235
Manhattan	87	7,035
Kansas City	86	1,216
Lansing	86	617
Indianapolis	83	2,734
Des Moines <sup>c</sup>	82	1,100
New Orleans <sup>e</sup>	82	3,230
Buffalo	80	1,035
Portland	80	2,784
Detroit	79	8,552
Montgomery County	79	856
Louisville	78	1,222
Seattle <sup>e</sup>	78	2,707
Washington, D.C.	78	2,736
Chicago <sup>e</sup>	75	19,625
Boston	74	1,121
Philadelphia	42	8,214
Jurisdiction mean	84%	

<sup>a</sup>Trials include court and jury trials.  
<sup>b</sup>Partial counts; see chapter II.  
<sup>c</sup>For both cases filed and cases indicted, all pleas and trials occur in felony court.  
<sup>d</sup>Estimated; see chapter II.  
<sup>e</sup>Cases filed and cases indicted are the same.

substantial number of felony arrests is illustrated by data on the disposition of felony arrests by the court of final disposition in Golden, Manhattan, Salt Lake City, and Washington, D.C. (figure 3). In the four jurisdictions the fraction of all felony arrests carried forward to the felony court ranges from 42% in Salt Lake City to 26% in Manhattan. Although many of the arrests not carried forward are either rejected or dismissed, a substantial number are disposed as misdemeanor pleas in the misdemeanor court. In these four jurisdictions from 36 to 69% of all guilty pleas are to misdemeanor charges in the lower court (table 20).

**Felony arrest dispositions by court of final disposition (Golden, Manhattan, Salt Lake City, and Washington, D.C.)**

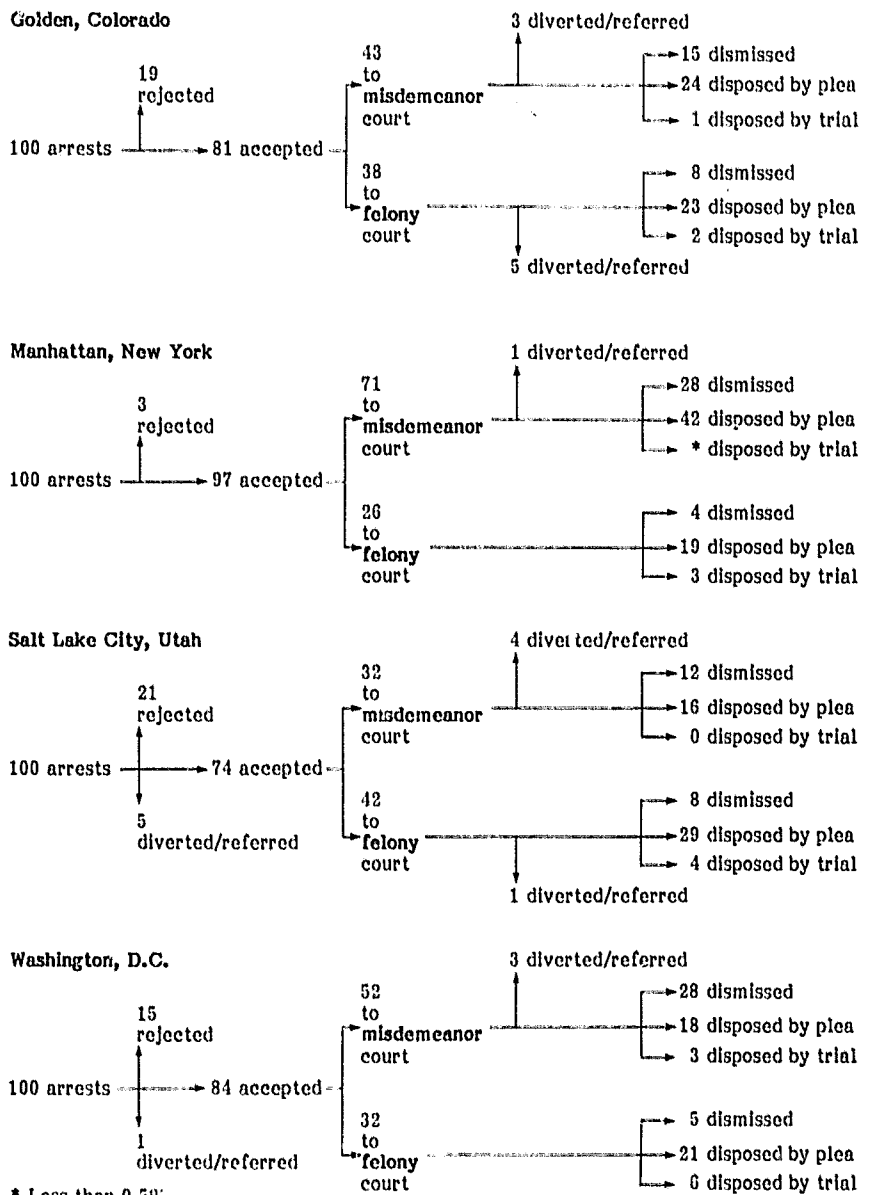


Figure 3

In Manhattan the key decision point for reducing felonies to misdemeanors is screening, before court charges have been filed and counsel appointed. In Washington, D.C., some felony arrests are reduced to misdemeanors in the complaint room, while others are reduced at the time attorneys review filed cases for presentation to the grand jury. It is at the latter stage that all the evidence is reviewed, witnesses are

**Table 20. Guilty pleas by level of court**

Jurisdiction	Percent of all guilty pleas occurring in:		Percent of all felony arrests ending in pleas
	Misdemeanor court	Felony court	
Manhattan	69%	31%	61%
Golden	51	49	47
Washington, D.C.	46	54	39
Salt Lake City	36	64	45



contacted, and evidentiary weaknesses not apparent in the complaint room are identified.

**The guilty plea process: Differing practices in the felony courts**

Most studies of plea bargaining have focused on the guilty plea process only in the felony court. These studies have found great variation among jurisdictions in terms of—

- who participates in plea negotiations,
- what is negotiated, and
- whether pleas are negotiated at all.

A survey of plea bargaining in 30 jurisdictions by the Georgetown University Law Center, for example, found that in some jurisdictions judges play a key role. In others, however, they rarely if ever participate in plea discussions, leaving plea agreements to be worked out entirely by the prosecutor and defense attorney.

The kinds of agreements reported in the survey were also varied, including charge reductions by the prosecutor, agreements by the prosecutor as to what sentence to recommend (or merely an agreement to remain silent at sentencing or to keep the victim away from the sentencing hearing), promises by judges to impose specific sentences, and even judicial promises to sentence to particular institutions. The variety of plea offers appears to be limited only by the "imagination of the participants" involved.<sup>1</sup>

It was also reported that not all jurisdictions engage in what has been termed "explicit" bargaining. Explicit plea bargaining in the Georgetown study was defined as "overt negotiations between two or three actors (prosecutor, defense attorney, and judge) followed by an agreement on the terms of the bargain." Implicit bargaining, on the other hand, was defined as "an understanding by

the defendant that a more severe sentence may be imposed for going to trial rather than pleading guilty."<sup>2</sup>

The results of the survey suggest that it is possible, at least in some courts, to obtain a large number of guilty pleas without negotiation. As one of the authors noted, in some courts "there is nothing negotiable about pleading guilty." The defendant or his attorney is informed of the charges and evidence against him by the prosecutor or judge. If the evidence cannot be refuted, the defendant's choice is simple: plead guilty or go to trial.

Data from several of the 37 jurisdictions in this report suggest that it is possible for prosecutors to obtain pleas in a high fraction of cases without charge reduction (table 21). In 10 of 16 jurisdictions 70% or more of guilty pleas in the felony court were pleas to the top charge. These statistics, however, mask many underlying differences. Consistent with the Georgetown study, the nature of plea negotiations in the 37 jurisdictions is varied.

**In some jurisdictions judges participate in plea discussions and the focus of negotiation is not always the charge**

In Manhattan and Rhode Island felony court judges routinely participate in plea discussions and are willing to indicate what sentence they will impose if the defendant pleads guilty. In Manhattan assistant prosecutors also routinely reduce the indictment charge by one count unless aggravating circumstances are present. Given the great latitude provided judges by New York's penal code, in many instances (particularly nonviolent thefts) the prosecutor's decision whether to insist on a plea to a top or reduced charge has little practical effect on the judge's sentencing discretion and therefore on the sentencing promise the judge can make.

Table 21. Fraction of guilty pleas to top charge in felony court

Jurisdiction	Percent of guilty pleas to:		Number of pleas <sup>b</sup>
	Top charge <sup>a</sup>	Reduced charge	
Indianapolis	87%	13%	2,249
Des Moines	84	16	899
Kalamazoo	84	16	730
New Orleans	83	17	2,653
Rhode Island	79	21	3,043
St. Louis	79	21	2,203
Kansas City	76	24	1,046
Louisville	76	24	954
Portland	75	25	2,236
Los Angeles	71	29	14,481
Washington, D.C.	58	42	2,125
Salt Lake City	44	56	1,081
Lansing	38	62	533
Manhattan	38	62	6,143
Detroit	36	64	5,949
Golden	26	74	460

<sup>a</sup>Includes pleas to equivalent charges.  
<sup>b</sup>Number of pleas for which data on plea to top charge were available.

In both Louisville and St. Louis plea offers concern the sentence recommendation the attorney will make to the judge. In Louisville individual attorneys are given the discretion to determine what this recommendation will be, and the recommendation itself may concern either the amount of time to be served or whether the sentence is to be incarceration or probation. Louisville judges vary in the extent to which they are willing to participate in plea discussions.

In St. Louis the plea offers trial attorneys can make are tightly controlled by supervisors. All initial offers are reviewed by either the trial chief or the first assistant before they are communicated to the defense attorney, and any change from the initial offer requires supervisory approval. For all cases the circuit attorney's office recommends some amount of incarceration time. Whether the defendant should go to prison or be sentenced to probation, however, is considered the decision of the judge. In Missouri judges are prohibited by law from participating in explicit plea discussions.

In Indianapolis, Detroit, and Lansing plea discussions are essentially between the prosecutor and defense

<sup>1</sup>Herbert S. Miller, William F. McDonald, and James A. Cramer, *Plea Bargaining in the United States*, National Institute of Law Enforcement and Criminal Justice (Washington, D.C.: U.S. Department of Justice, 1978).

<sup>2</sup>*Ibid.*, xliii-xiv.

<sup>3</sup>William F. McDonald, "From Plea Negotiation to Coercive Justice: Notes on the Respecification of a Concept," *Law and Society Review* 13, no. 2 (1979):385.



attorney (judges, in other words, do not routinely participate), and the focus of the discussions is on charges. In Indianapolis the prosecuting attorney's policy is to try to get a plea to the lead charge, but attorneys are allowed to dismiss other included charges. Because judges in Indianapolis rarely sentence consecutively, this type of bargaining, in practice, has little effect on a judge's sentencing discretion, and it is not clear that the defendant is "getting a break."

In both Detroit and Lansing, office policy permits the reduction of charges but not on all types of cases, and even reduced offers are controlled by supervisors. In Detroit, for example, only the five senior docket attorneys who supervise the work in the five felony trial sections of Detroit's recorder's court are authorized to make or change plea offers. Only charge reductions are permitted, and the offers are typically presented to the defense attorney on a take-it-or-leave-it basis.

#### **In some jurisdictions, plea offers are not negotiable**

What appears to distinguish jurisdictions in their approach to guilty pleas has less to do with an observed or expressed willingness to reduce charges than with managerial attempts to limit or control the amount of explicit "negotiation" that occurs by controlling the discretion that assistant prosecutors may exercise in obtaining guilty pleas. In St. Louis and Detroit, for example, the substance of plea discussions is very different—sentences in St. Louis and charge reductions in Detroit—but both jurisdictions give individual trial assistants only limited discretion to determine or change initial plea offers.

One of the most tightly controlled guilty plea systems among the jurisdictions in this report is that initiated by the district attorney in New Orleans. The office plea position on each case is determined at the time of screening by one of the screening assistants, the most exper-

enced attorneys in the office. Trial attorneys who handle cases after they are filed in court are not allowed to reduce charges or make sentence recommendations. If defendants do not plead to charges as filed, assistants are required to take the case to trial. Rigorous controls have been implemented to prevent reductions of charges after filing. Some defendants, of course, are allowed to plead to a reduced charge when new evidence indicates such a charge is warranted legally, but this is not common and requires a written explanation by the trial assistant. All reductions must also be approved by a trial chief.

Defense attorneys in New Orleans are aware of these office policies. Thus, the formal criminal court arraignment on the charges filed is typically the official communication of the district attorney's plea position. If defense attorneys wish to discuss the charge with the trial assistants they may ask to speak with them. Trial assistants are not allowed to initiate discussions about the plea. Although the district attorney's anti-plea-bargaining policy is circumvented by some judges, who actively negotiate with the defense over sentences, in many cases defendants plead without negotiation by the prosecutor or the judge.

#### **The debate on plea bargaining: Review of other studies**

The most strident critics of plea bargaining have tended to equate justice with the adversary nature of formal trials and have viewed the lack of trials in and of itself as evidence that defendants' constitutional rights are being denied.

Conviction without trial has further been viewed as a relatively recent aberration. In the past a better system was said to prevail in which defendants were routinely found guilty at public trials over which a judge presided and a jury determined guilt after hearing arguments as to the defendant's guilt or innocence.

The most common and popularly held explanation for the current predomi-

nance of guilty pleas stresses the pressure of the heavy caseloads that have accompanied the rise in urban crime over the past several decades.<sup>4</sup> Given the enormous volume of cases with which the court must contend, the only way to dispense any justice at all, it is argued, is to induce the mass of defendants to plead guilty in return for a promise of leniency. If most defendants were not induced to plead guilty but instead were to demand a trial the courts would be hopelessly jammed and the administration of justice would break down.

#### **The view that plea bargaining is a recent aberration caused by the pressure of heavy caseloads is increasingly being questioned**

A study using data on court dispositions in Connecticut over a 75-year period, beginning in 1880, has presented evidence that the ratio of trials to total convictions has not changed appreciably since the latter part of the 19th century.

The Connecticut study, by Milton Heumann of the University of Michigan, found that the percentage of convictions obtained by a trial from 1880 to 1910 was about 10%, about the same as that observed in the early 1950's.<sup>5</sup> The 1 to 10 ratio is

<sup>4</sup>A review of the caseload argument and its centrality to explanations of plea bargaining is contained in Milton Heumann, *Plea Bargaining* (University of Chicago Press, 1973)224-33. While the caseload argument is critical to most explanations of plea bargaining, a number of other factors have also been advanced as important. Sociologists and political scientists, in particular, have argued that the situation is a result of the "bureaucratic" or "organizational" concerns of key court participants. One theory posits that attorneys (both prosecutors and defense attorneys) prefer the certainty of a conviction by plea as opposed to the uncertainty of a trial and to avoid trial—an event they cannot control—are willing to cooperate and accommodate one another. See Abraham S. Blumberg, *Criminal Justice* (New York: New Viewpoints, 1979). A variant of this argument is that participants in courtroom processes have a limited capacity for conflict (in other words adversary proceedings and trials) and therefore develop cooperative routines for disposing of cases. See James Eisenstein and Herbert Jacobs, *Felony Justice* (Boston: Little, Brown and Company, 1977).

<sup>5</sup>Heumann, *Plea Bargaining*, note 4 above.

almost exactly the same as that frequently cited today and virtually the same as that calculated in this report.

Heumann also compared, for the same period, the ratio of trials to convictions in three high-volume courts with that of three low-volume courts. Again, he found that in both the high- and low-volume courts the trial ratio varied little from the overall mean of 1 trial for every 10 dispositions of guilt.

Other investigations by legal historians suggest that at least by the late 19th century guilty pleas were a common method of case disposition in many parts of the United States.<sup>6</sup> Although there was a time when most criminal matters were settled by trial, this appears to have been as long ago as the 18th century.

John H. Langbein, a professor of law at the University of Chicago who has studied the trials of this earlier era, suggests that they were vastly different from the trials of today. A jury trial of the early 18th century was a summary and not an adversary proceeding, and as many as 12 to 20 trials were completed per day in a single court. Ironically, Langbein believes it was the institution of adversary reforms—most importantly, the common law of evidence, the exclusionary rule, and the advent of counsel for the defense and State—that led to the decline of trials. In his view, trials gradually became such complex, protracted affairs that they "could no longer be used as the exclusive disposition proceeding for cases of serious crime."<sup>7</sup>

**The issue of concessions:  
Are defendants coerced  
into pleading guilty?**

Another work that questions conventional notions about plea bargaining is Malcolm Feeley's study of guilty

dispositions in New Haven, Connecticut. Feeley suggests that most pleas are not in fact true bargains, that is, that the major focus of plea discussions is not obtaining a concession for the defendant. Based on observations of plea discussions, the author typifies most so-called "negotiations" as informational discussions about the facts and circumstances surrounding the crime. Once the facts are "settled" (in other words, once an agreement on the crime committed is reached), the nature of the penalty is a foregone conclusion. Discussions regarding concessions in return for a plea are the exception rather than the rule. Feeley argues, in effect, that plea bargaining as it is conventionally defined is not a sufficient explanation for how cases are resolved by the court.<sup>8</sup>

The issue of concessions is particularly important, for it is this aspect of plea bargaining that has led many of its critics to characterize it as coercive. The National Advisory Commission on Criminal Justice Standards and Goals, for example, in calling for the abolition of plea bargaining to protect the constitutional rights of the defendant stated:

...negotiations between prosecutors and defendants—either personally or through their attorneys—concerning concessions to be made in return for guilty pleas should be prohibited.<sup>9</sup>

It is significant that the commission did not say that defendants should be prevented from entering pleas of guilty but that it objected to prosecutors' granting concessions in exchange for pleas.

Many members of the legal community have taken a pragmatic view of plea bargaining and the problem of

coercion. In specifying standards for attorneys to follow in negotiating guilty pleas, the American Bar Association (ABA) did not ignore the dangers of plea bargaining but did recognize that it is a fact of life in almost all courts today. The ABA attempted to spell out the roles of prosecutors and defense attorneys in an effort to regulate but not eliminate plea bargaining.<sup>10</sup>

Several years ago the Federal Rules of Criminal Procedure were amended to eliminate the prior prohibition on plea bargaining. The so-called Rule 11 pays special attention to the issue of coercion and, to ensure that pleas are voluntary, requires "addressing the defendant in open court, determining that the plea is voluntary and not the result of force or promises apart from a plea agreement."<sup>11</sup>

**Empirical evidence on the use  
of concessions and their role  
in court processing provides  
conflicting results**

Despite the controversy that has surrounded the issue of concessions and the confidence with which the various positions have been stated, there have been relatively few empirical analyses of how sentence or charge concessions relate to the ability of the court to process cases. There have also been relatively few attempts to measure the frequency and magnitude of the concessions extended to those who plead guilty. Moreover, the analyses that have been conducted provide conflicting results.

Alaska's ban on plea bargaining provided one opportunity to gather empirical information on the relationships among plea bargaining, concessions, and caseloads.<sup>12</sup> In

<sup>6</sup>Lawrence M. Friedman, "Plea Bargaining in Historical Perspective," *Law and Society Review* 13, no. 2 (1979).

<sup>7</sup>John H. Langbein, "Understanding the Short History of Plea Bargaining," *Law and Society Review* 13, no. 2 (1979):265.

<sup>8</sup>Malcolm M. Feeley, *The Process is the Punishment* (New York: Russell Sage Foundation, 1979). Feeley's study was of the lower or misdemeanor court in New Haven, but it is common in many jurisdictions for as many as 80 % of felony arrests to be disposed in the lower courts.

<sup>9</sup>National Advisory Commission on Criminal Justice Standards and Goals, *Courts* (Washington, D.C.: USGPO, 1973):42.

<sup>10</sup>American Bar Association, *Standards for Criminal Justice*, vol. 3 (Boston, Mass.: Little, Brown and Company, 1980):Ch. 14.

<sup>11</sup>Quoted in Conrad G. Brunk, "The Problem of Voluntariness and Coercion in the Negotiated Pleas," *Law and Society Review* 13, no. 2 (1979):523.

<sup>12</sup>Michael L. Rubenstein and Teresa J. White, "Alaska's Ban on Plea Bargaining," *Law and Society Review* 13, no. 2 (1979).

August 1975 Alaska's attorney general instructed all of the State's district attorneys to cease engaging in plea bargaining in handling felony and misdemeanor cases. Specifically, the State's prosecutors were given written guidelines prohibiting the reduction in charges, dismissal of counts in multiple-count charges, and the recommendation of specific sentences. Before the institution of the ban, explicit sentence bargaining by prosecutors had been the standard practice throughout the State.

For a time after the ban was implemented there was a shift by some prosecutors from the traditional sentence bargaining to charge bargaining. Also some judges circumvented the ban by making sentence commitments directly to defendants. Judicial participation was challenged and subsequently prohibited by a State Supreme Court decision (*State v. Buckalew*, 561 P.2d 289, 1977). The court ruled that judges should not participate in either sentence or charge bargaining.

The research team commissioned to evaluate the experiment concluded that after the plea bargaining ban was implemented the frequency of explicit negotiations was drastically reduced. A statistical analysis of convicted cases in the first year after the ban showed that only 4 to 12% involved a sentence recommendation by prosecutors. Followup interviews in 1977 and 1978 indicated that explicit negotiation (by prosecutors and judges) had continued to decline and in effect had pretty much stopped.

Before the ban was implemented opponents predicted that it would cause a "massive slowdown in the criminal docket" because defendants would refuse to plead guilty.<sup>13</sup> In fact disposition times decreased from 192 days to 90 days. The evaluators did not attribute this decline to the plea bargaining ban but rather to other administrative reforms instituted at the same time. It was significant, however, that the ban did not impede the

<sup>13</sup>*Ibid.*:374.

intended effect of the administrative and calendar changes. The number of trials did increase, but the majority of defendants continued to plead guilty. Before the ban 10% of convictions were obtained at trial; after the ban 19% of convictions were the result of trial verdicts.

Nor does the number of additional trials in Alaska's three major cities (an increase from 110 to 149) appear sufficiently large to create an administrative nightmare.<sup>14</sup>

On the issue of implicit penalties for going to trial, the evaluation results were somewhat less clear. A statistical analysis of sentences imposed on defendants who pleaded guilty and on those who were convicted at trial suggested that defendants who went to trial did fare worse, but this was true before as well as after the ban.<sup>15</sup> Further, the evaluators were unable to say whether this sentence differential was a true penalty for going to trial or due to a difference in the characteristics of the cases or the defendants who opted for trial.

**Statistical studies of sentence penalties for trials** attempt to control for the types of cases that go to trial. Still, they present conflicting results. An INSLAW study by Rhodes of pleas, trials, and sentences in the District of Columbia found that burglary, larceny, and assault defendants who pleaded guilty were sentenced no differently from those who went to trial. Robbery defendants, however, apparently were penalized. Forty-three percent of the robbery pleas resulted in sentences to probation, but only 24% of the robbery convictions by trial ended in probation. The difference remained even after controlling for seriousness of the offense and the defendant's prior record.<sup>16</sup> Another

<sup>14</sup>Stevens H. Clarke and Gary G. Koeh, "The Effect of the Prohibition of Plea Bargaining on the Disposition of Felony Cases in Alaska," in *Criminal Courts: A Statistical Analysis* (Alaska Judicial Council, 1978): Exhibit V.1.

<sup>15</sup>*Ibid.*

<sup>16</sup>William M. Rhodes, *Plea Bargaining: Who Gains? Who Loses?*, PROMIS Research Publication no. 14 (Washington, D.C.: Institute for Law and Social Research, 1978).

study, by Uhlman and Walker, of almost 30,000 guilty verdicts in an anonymous Eastern community, found that sentences were substantially more severe for defendants convicted at a jury trial than for those who pleaded guilty or were found guilty by a judge at a bench trial. Their analysis also controlled for severity of the criminal charges and the prior criminality of the defendant.<sup>17</sup>

**Trials, though infrequent, still play an important role in the disposition process**

Trials may occur before a jury or a judge. The latter are referred to as court or bench trials and in some jurisdictions they occur frequently. An extreme example is Philadelphia, where court trials account for close to 90% of all trials and, in fact, are more common than guilty pleas. In the Philadelphia felony court in 1982, of a total of 9,784 dispositions 3,453 were by guilty plea and 4,207 were by a court trial.

In most jurisdictions in this report, however, jury trials are the predominant form of trial, and as all of the previous discussion has indicated, trials are not a common disposition. As one would expect, the trial rate for cases disposed in the felony courts is higher than the trial rate computed as a percentage of all arrests or as a percentage of cases filed (table 22). An average of 3 of every 100 arrests result in a jury trial; of cases bound over to the felony court 8 of every 100 can be expected to end in a jury trial. These data show that even in the felony trial courts a jury trial is not a common method of adjudication.

Despite their lack of frequency trials still play an important role in the work of the courts. The rules that govern trials set the standards for the evaluation of evidence in the many cases in which the defendant pleads guilty. And many attorneys

<sup>17</sup>Thomas M. Uhlman and N. Darlene Walker, "He Takes Some of My Time; I Take Some of His: An Analysis of Sentencing Patterns in Jury Cases," *Law and Society Review* 14, no. 2 (1980).

## Guilty pleas and trials

a. Jury trials in lower or felony court, as fraction of felony arrests			b. Jury trials in lower or felony court, as fraction of cases filed			c. Jury trials in felony court, as fraction of cases indicted		
Jurisdiction	Percent jury trials	Number of arrests	Jurisdiction	Percent jury trials	Number of cases filed	Jurisdiction	Percent jury trials	Number of cases indicted
Washington, D.C.	8%	9,977	Seattle <sup>a</sup>	15%	3,126	Boston	19%	1,298
New Orleans <sup>a</sup>	5	7,773	New Orleans <sup>a</sup>	10	3,659	Washington, D.C.	18	3,217
Lansing	4	2,403	Washington, D.C.	9	8,442	Louisville	17	1,494
Minneapolis	4	3,609	Des Moines <sup>a</sup>	8	1,401	Montgomery County	15	1,079
Salt Lake City	4	3,718	Lansing	7	1,358	Seattle <sup>a,d</sup>	15	3,126
Tallahassee	4	3,108	Portland	7	3,892	Buffalo <sup>a</sup>	11	1,227
Dallas	3	18,285	Denver	6	3,772	Dedham	10	172
Manhattan	3	31,805	Minneapolis	6	2,364	Kansas City	10	1,649
Rhode Island	3	5,485	St. Louis	6	3,649	Lansing	10	676
Cobb County	2	4,427	Dallas	5	14,784	Manhattan	10	8,173
Denver	2	8,074	Salt Lake City	5	2,745	New Orleans <sup>a,d</sup>	10	3,659
Golden	2	2,279	Brighton	4	1,142	Des Moines <sup>a</sup>	9	1,222
Miami	2	32,468	Colorado Springs	4	1,484	Salt Lake City	9	1,546
San Diego	2	16,474	Philadelphia	4	13,796	Brighton	8	562
Greeley	1	865	Tallahassee	4	2,879	Kalamazoo	7	933
Jurisdiction mean	3%		Davenport	3	1,312	Portland	7	3,641
			Fort Collins	3	776	St. Louis	7	2,770
			Geneva	3	1,263	Detroit	6	10,439
			Manhattan	3	30,810	Los Angeles	6	18,752
			Rhode Island <sup>b</sup>	3	5,485	Philadelphia	6	9,784
			San Diego	3	11,534	San Diego	6	4,734
			Chicago	2	35,528	Dallas <sup>d</sup>	5	14,784
			Cobb County <sup>b</sup>	2	4,427	Golden	5	866
			Golden	2	1,838	Rhode Island	4	3,804
			Greeley	2	630	Tallahassee <sup>d</sup>	4	2,879
			Miami	2	21,413	Chicago	3	23,287
			Pueblo <sup>c</sup>	1	339	Cobb County	3	2,077
			Jurisdiction mean	5%		Indianapolis	3	3,373
						Miami	3	16,898
						Pueblo <sup>c</sup>	2	173
						Jurisdiction mean	8%	

<sup>a</sup>Estimated from supplemental data sources.  
<sup>b</sup>Arrests and cases filed are the same.

<sup>c</sup>Partial counts; see chapter II.

<sup>d</sup>Cases filed and cases indicted are the same.

believe that the most efficient way to manage their caseloads (and obtain pleas) is to maintain a credible threat of trial on virtually all accepted felony cases. This means treating all cases in the early stages of case preparation as if they will go to trial even though it is known that most will eventually end in a plea of guilty.<sup>18</sup>

Also, for individual attorneys one of the major attractions of working in a prosecutor's office is the opportunity the job provides for gaining trial experience early in a legal career. The typical career path for an

<sup>18</sup>This view of handling cases is described in David W. Neubauer, *Criminal Justice in Middle America* (New York: General Learning Press, 1974):117-118. It also came up repeatedly in our own interviews with attorneys.

assistant prosecutor is to spend only the first few years after graduation from law school in the prosecutor's office. After several years of trial experience, most move on to another job.<sup>19</sup>

### Why do cases go to trial?

Although a great deal of effort has been devoted to explaining why most cases end in a guilty plea, much less has been devoted to understanding the reverse: why do some go to

<sup>19</sup>James J. Fishman, "The Social and Occupational Mobility of Prosecutors: New York City," in *The Prosecutor*, William F. McDonald, ed. (Beverly Hills, Calif.: Sage Publications, 1979). A notable exception to this pattern is Los Angeles, where many deputies are career prosecutors with 15 or more years of experience in the Los Angeles district attorney's office.

trial? Clearly not all cases are equally likely to go to trial. Trial rates in the felony court in some of the larger jurisdictions are generally higher for violent offenses than for property and drug offenses (table 23). In all jurisdictions homicide is the most likely crime to be disposed by trial.

One qualitative study of the circumstances that lead public defenders to recommend trial to their clients is that performed by Mather in Los Angeles.<sup>20</sup> Mather suggests that two aspects of a case are most critical to the defense attorney's decision. One is the strength of the

<sup>20</sup>Lynn A. Mather, "Some Determinants of the Method of Case Disposition: Decision-Making by Public Defenders in Los Angeles," *Law and Society Review* 8 (Winter, 1973):187-216.

Jurisdiction	Percent of cases indicted resulting in trial:					
	Violent offenses			Property offenses		Drug offenses
	Homicide	Sexual assault	Robbery	Burglary	Larceny	
Indianapolis	38%	18%	21%	14%	12%	9%
Los Angeles	29	20	12	7	5	7
Louisville	37	27	18	13	10	11
Manhattan	25	12	11	9	8	8
New Orleans	22	18	16	5	7	7
Rhode Island	44	22	10	1	3	2
St. Louis	36	23	15	4	6	6
Salt Lake City	34	18	19	7	6	4
San Diego	37	2	12	6	5	3
Washington, D.C.	43	32	22	16	12	10

Jurisdiction	Percent of jury trials resulting in conviction	Number of trials
Dallas	88%	732
Portland	85	262
San Diego	85	286
Chicago	82	623
Dedham	82	17
Cobb County	81	69
Golden	79	42
Montgomery County	79	163
Washington, D.C.	78	591
Los Angeles	77	1,177
Manhattan	77	834
Salt Lake City	76	134
Tallahassee	76	119
St. Louis	75	204
Seattle*	75	478
Louisville	71	249
Philadelphia	70	554
Buffalo*	69	138
Kansas City	68	165
Boston	67	250
Indianapolis	64	96
Lansing	64	64
Kalamazoo	61	62
New Orleans*	61	353
Detroit	55	669
Rhode Island	52	166
Jurisdiction mean	73%	

\*Estimated from supplemental data sources.

In either a serious or nonserious case, according to Mather's typology, if the evidence is sufficiently weak to suggest there is a reasonable doubt that the defendant was involved in the crime the public defender will recommend a trial. If the evidence is strong, that is, if no conceivably credible explanation for the defendant's innocence can be devised (Mather uses the term "deadbang"), then a trial is not recommended unless the case is very serious. In a very serious case the defendant is likely to go to prison regardless of whether he or she pleads guilty or goes to trial and therefore has little to lose by going to trial and a small chance of a considerable gain—acquittal. (It is interesting that the public defenders Mather surveyed did not think judges in Los Angeles sentenced more harshly after trial.)

This analysis is consistent with the data presented here, which suggest that the most serious cases are more likely to go to trial. The public defenders themselves report that most of the cases they deal with are of the "deadbang" variety. In such cases questions of evidence usually involve the degree of involvement rather than guilt or innocence. As one attorney put it, "Most of the cases we get are pretty hopeless—really not much chance of acquittal."<sup>21</sup> This statement is supported by the rates of convictions at trial in this study (table 24). The average conviction rate at trial among the jurisdictions is 73%.

evidence. The other is the seriousness of the case in terms of the heinousness of the current offense or the defendant's criminal record, either one of which will make a prison sentence on conviction a likely possibility. Based on the consideration of evidence and seriousness, Mather developed a typology of cases and identified three types most likely to go to trial.

<sup>21</sup> *Ibid.*:209.

## Sentencing

Whether a defendant pleads guilty or is convicted at trial an additional court appearance is customary before the judge formally imposes a sentence. A sentence hearing is usually held several weeks after conviction to allow time for a probation worker to conduct a presentence investigation and submit a written report to the court.

The presentence report includes a description of the defendant's current offense, criminal record, and such social and personal characteristics as family background, employment status, marital status, number of dependents, and evidence of drug or alcohol abuse. The information used by judges to determine the defendant's sentence, in other words, may include information about the defendant that was not relevant to the issue of conviction.

### Sentencing is generally viewed as a judicial function

In some States juries have limited responsibility for determining sentences. In Missouri, for example, juries may impose sentences for defendants with no prior convictions who are convicted at trial. Where juries do participate in sentencing, the division of authority between the judge and jury and the types of cases in which juries may sentence (capital crimes are most common) are specified by State statute. The trend, however, has been away from jury sentencing, and in all jurisdictions the vast majority of sentences are determined by judges.

### Opinions as to what role the prosecutor should play in sentencing vary considerably

Some court participants argue that prosecutors should not participate at all or play only a limited role in sentencing. Others think the interests of the public are sacrificed if the prosecutor does not take a position on sentences.<sup>1</sup> An aggres-

sive prosecution stance on sentencing, it is argued, is one way to provide a judge with critical information on the nature of a crime. The prosecutor, especially when a case is plea bargained, has access to more information on the details of the criminal event than almost any other court participant.<sup>2</sup> The American Bar Association, in its standards on the role of the prosecutor at sentencing, maintains that prosecutors should be given an opportunity to participate in sentencing by making a sentence recommendation.<sup>3</sup>

### Prosecutors' practices in recommending sentences also vary among jurisdictions

In some jurisdictions in this report prosecutors recommend sentences rarely and only under special circumstances. In New Orleans sentence statements are made only in the relatively small number of cases for which charges are reduced. Prosecutors in other jurisdictions routinely make sentence recommendations, but of a limited nature, such as in Los Angeles where senior attorneys may indicate a preference only for probation or State prison or jail time. In still other jurisdictions specific recommendations of time are routine. In St. Louis specific sentence lengths are recommended for all convicted defendants, although the decision regarding probation versus incarceration is considered the prerogative of the judge.

### At sentencing judges have several options

If a conviction is to a felony charge the judge's principal options are to sentence the defendant to probation, combine a probation sentence with a short jail term, sentence the defendant to a short jail term only, or send the defendant to a State prison for

a long term of incarceration. If the conviction is to a misdemeanor charge sentences to incarceration in most States are limited to short-term jail sentences.

### This report measures sentences to incarceration only

The definition of incarceration used here includes defendants sentenced to periods of incarceration in either State prisons or local jails. In most States sentences of more than 1 year are served in prison, and sentences of a year or less are served in local jails. The distinction between prison and jail sentences, however, varies across States and among jurisdictions.

To derive measures of sentences that are comparable across jurisdictions, sentences of more than 1 year are treated here as a measure of long-term incarceration, regardless of the type of institution in which the sentence is served. Also, where possible, sentences of exactly 1 year are tabulated separately. In some jurisdictions defendants serving 1-year sentences are sent to prison and in others to local jails.

### Rates of incarceration vary greatly depending on the point in the criminal justice system from which they are measured

Sentences to incarceration as a fraction of arrests appear low. In contrast, sentences to incarceration as a fraction of defendants convicted in the felony court are much higher.

The data in this report illustrate how rates of incarceration increase as case processing progresses—

- 11% of all arrests for a felony crime lead to a sentence of incarceration of more than 1 year, 25% to any incarceration;<sup>4</sup>
- 22% of all convictions resulting from a felony arrest lead to a sentence of incarceration of more than 1 year, 50% to any incarceration; and

<sup>4</sup>Data were derived from tables 2 and 25.

<sup>2</sup>James Eisenstein and Herbert Jacob, *Felony Justice* (Boston, Mass.: Little, Brown and Company, 1977):23.

<sup>3</sup>American Bar Association, *Standards for Criminal Justice*, vol. 1 (Boston, Mass.: Little, Brown and Company, 1980):Ch. 3.

<sup>1</sup>Earl J. Silbert, former U.S. attorney for the District of Columbia, address before PROMIS Users Group, Los Angeles, California, April 21, 1977.

● 36% of all felony arrests convicted in the felony court lead to a sentence of incarceration of more than 1 year, 64% to any incarceration.

The lower incarceration rates, measured from the point of arrest, reflect the fact that many arrests do not end in a conviction, as well as the fact that judges do not impose sentences of incarceration on all defendants convicted. The higher incarceration rates for cases convicted in the felony court versus sentences for all convictions follow from the fact that some jurisdictions utilize the felony trial courts for the disposition only of the most serious felony crimes. Less serious felonies are disposed in the lower court, as misdemeanors. In most States sentences for misdemeanors cannot exceed 1 year.

In interpreting sentencing statistics it is important to take into account the differing use of the felony trial courts

Taking into account the differing use of the felony court is especially important in making sentencing comparisons across jurisdictions. The data on felony court sentences, for example, suggest that both Los Angeles and Manhattan sentence a higher fraction of convicted defendants to terms of more than 1 year than does New Orleans (table 25, cases convicted in felony court). In Los Angeles 38% and in Manhattan 50% of convicted defendants receive sentences of more than 1 year. In New Orleans only 28% receive such long-term sentences. These differences are somewhat surprising given the traditionally high rates of imprisonment in Southern States. The differences, however, are explained by the fact that felony court convictions in New Orleans include all convictions resulting from a felony arrest, but in Los Angeles and Manhattan they represent a subset of serious felony arrest convictions.

When comparisons among the three jurisdictions are made on the basis of all convictions (table 25, cases convicted in felony or misdemeanor court), a different picture emerges.

Table 25. Incarceration rates for cases that result in conviction in felony or misdemeanor court and in felony court alone

Jurisdiction	Number of convictions <sup>a</sup>	Percent of convictions resulting in incarceration:			
		Any	1 year or less	More than 1 year	Exactly 1 year
<b>Cases filed and convicted in felony or misdemeanor court</b>					
Brighton	451	43%	21%	22%	..
Colorado Springs	569	39	16	23	..
Denver <sup>b,c</sup>	2,716	45	21	24	5%
Fort Collins	351	31	13	18	..
Golden	725	68	42	26	..
Los Angeles <sup>d</sup>	40,408	..	..	15	..
Manhattan	18,899	56	39	17	6
New Orleans	2,670	53	25	28	7
Portland	2,607	34	8	26	2
Pueblo <sup>e</sup>	131	44	21	23	..
Rhode Island	2,547	34	18	16	6
St. Louis	2,334	62	33	29	6
Salt Lake City	1,436	41	23	18	13
San Diego	7,680	77	60	17	7
Seattle	2,245	73	50	23	..
Jurisdiction mean		50%	28%	22%	7%
<b>Cases indicted and convicted in felony court</b>					
Brighton	321	51%	20%	31%	..
Golden	465	83	37	46	..
Indianapolis	2,595	51	11	40	6%
Los Angeles	15,509	83	45	38	15
Louisville	1,078	62	12	50	10
Manhattan	6,292	71	21	50	11
Miami <sup>b</sup>	12,167	80	24	56	9
New Orleans <sup>f</sup>	2,670	53	25	28	7
Pueblo <sup>e</sup>	84	58	19	39	..
Rhode Island <sup>f</sup>	2,547	34	18	16	6
St. Louis	2,223	62	33	29	6
Salt Lake City	1,126	42	22	20	14
San Diego	3,739	91	58	33	12
Seattle <sup>f</sup>	2,245	73	50	23	..
Jurisdiction mean		64%	28%	36%	10%
.. Data not available.					
<sup>a</sup> Number of convictions for which sentence data were available.					
<sup>b</sup> Number of convictions and sentences based on sample estimates.					
<sup>c</sup> Excludes a small number of jail sentences on misdemeanor convictions.					
<sup>d</sup> OBTs data; see table 7.					
<sup>e</sup> Partial counts; see chapter II.					
<sup>f</sup> Cases filed and cases indicted are the same in New Orleans and Seattle. In Rhode Island, for both cases filed and cases indicted all convictions occur in the felony court.					

Los Angeles and Manhattan sentence 15% and 17%, respectively, of all convicted defendants to a year or more of incarceration, compared with 28% in New Orleans.

Because jurisdictions vary in the fraction of felony arrests carried forward to the felony court, the most useful statistic for comparing sentencing practices across jurisdictions is the rate of incarceration for felony arrests that result in a conviction for either a felony or a misdemeanor. This measure suggests

that a great deal of variation exists among jurisdictions in the use of short-term jail sentences—from a high of 60% of all convicted cases in San Diego to a low of 8% in Portland. The rates of long-term incarceration show less variation; the percentage of convicted defendants sentenced to more than 1 year ranges from 15 to 29%. Still, these statistics indicate a substantial degree of variation among jurisdictions in the severity of sentences imposed on convicted defendants.



**Type of crime is an important variable in explaining sentence severity**

The most serious crimes generally receive the most severe sentences.<sup>5</sup> Of the crimes of robbery, burglary, and larceny, for example, incarceration rates are higher for robbery, a crime of violence (frequently against strangers), than for burglary and larceny, crimes against property (table 26). The mean rate of long-term incarceration for robbery among the jurisdictions is 55%; for burglary and larceny the comparable rates are 27% and 13%, respectively. Still, the data suggest substantial variation among jurisdictions in the severity of sentences after controlling for type of crime. Long-term sentences for robbery, for example, range from 81% of all convictions in Golden to 23% of all convictions in Salt Lake City.

**Issues in sentencing: Disparity and discretion in sentencing decisions**

Over the last decade a major issue in the field of criminal justice has been the way judges make sentencing decisions and the underlying structure of sentencing laws that governs those decisions.

In the early 20th century the view that prisons should serve to rehabilitate rather than punish became the fundamental principle guiding correctional policy and sentencing. The idea that criminals were to be reformed rather than punished led to the view that the amount of time they should spend in prison should be determined primarily by their individual capacity for rehabilitation

<sup>5</sup>Eisenstein and Jacob, *Felony Justice*, 263-87, note 2 above; Leslie Wilkins et al., *Sentencing Guidelines, Structure, Judicial Discretion, Law Enforcement Assistance Administration* (Washington, D.C.: USGPO, 1978); INSLAW and Yankelovich, Skelley, and White, Inc., *Federal Sentencing, FJRP-81-003, Office for Improvements in the Administration of Justice* (Washington, D.C.: U.S. Department of Justice, 1981); and Terence Dungworth, *An Empirical Assessment of Sentencing Practices in the Superior Court of the District of Columbia*, PROMIS Research Publication no. 17, unpublished draft, INSLAW, Washington, D.C.

**Table 26. Incarceration rates for filed cases that result in conviction in felony or misdemeanor court, by most serious charge**

Jurisdiction	Percent of convictions resulting in any incarceration:			Percent of convictions resulting in incarceration of more than 1 year:		
	Robbery	Burglary	Larceny	Robbery	Burglary	Larceny
Brighton	71%	47%	41%	54%	24%	11%
Colorado Springs	68	39	27	54	19	14
Golden	100	78	55	81	36	12
Manhattan	67	63	56	38	19	4
New Orleans	80	64	49	66	36	15
Portland	54	40	35	43	36	29
Rhode Island	71	44	27	64	24	10
St. Louis	82	68	48	69	28	17
Salt Lake City	61	43	29	23	18	9
San Diego	94	89	75	59	29	8
Jurisdiction mean	75%	58%	44%	55%	27%	13%

rather than the nature of the crime they committed.

To accommodate the rehabilitative goal of prisons, sentencing laws were written to allow a broad range of possible sentences for a given crime. Under this system of sentencing, judges specify a minimum or a maximum sentence (or both). The decision as to the actual time served is then made by correctional authorities or a parole board, based on the defendant's progress toward reform.

Faith in the ability of prisons to rehabilitate has diminished, however. The great discretion accorded judges and parole boards and the potential for disparity inherent in this system of "indeterminant" sentences have now become the focus of sentencing reforms.

**Empirical studies have documented widely differing sentences for defendants convicted of the same crime**

The most dramatic documentation that disparity exists in judicial sentences comes from simulation studies of sentencing decisions. In these studies judges in a single court are given the same information for a group of hypothetical defendants and asked to determine a sentence for each. One such exercise, performed with Federal judges for 16 hypothetical defendants, found striking variations in sentences among the judges for the same defendant. In 9 of the 16 cases at least one judge recom-

mended no prison at all while another recommended at least 20 years in prison.<sup>6</sup>

Other studies of sentencing decisions use sophisticated statistical analyses of large numbers of actual cases to determine what factors explain judges' sentencing decisions. A study of sentencing in the District of Columbia found that judicial decisions regarding prison versus probation or a suspended sentence were most strongly influenced by a defendant's criminal record and the seriousness of the current offense. The length of sentence was most influenced by the statutory maximum for the offense.<sup>7</sup>

These findings are consistent with those reported for other jurisdictions—seriousness of the crime and a defendant's criminal record are invariably key factors in explaining the severity of sentences.<sup>8</sup> Most such studies, however, also find that these and other offense- and offender-related variables fail to explain variation among sentences fully. From this, researchers have inferred that the sentencing attitude of individual judges accounts for some of the unexplained variation. A defendant's sentence, in other words, will depend not only on his

<sup>6</sup>See INSLAW and Yankelovich, Skelley, and White, Inc., *Federal Sentencing*, note 5 above.

<sup>7</sup>See Dungworth, *An Empirical Assessment of Sentencing Practices*, note 5 above.

<sup>8</sup>See Eisenstein and Jacob, *Felony Justice*, note 2 above; Wilkins et al., *Sentencing Guidelines*, note 5 above.



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prior criminal record and the crime he has committed but also on the particular judge who happens to decide the sentence.

**Legislative proposals have been devised and enacted to limit the discretion of judges and parole boards in deciding sentences**

By 1980 nine States had passed determinate sentencing laws that eliminate the role of the parole board in sentencing. The sentence specified by the judge at the time of sentencing, in other words, is the amount of time the defendant will have to serve, with possible credit for good behavior in prison.

Among the States with determinate sentencing laws, however, the amount of discretion left to judges in setting the length of prison terms varies. In 1975 Maine abolished its parole board but did not specify in State statutes what sentences judges should impose for specific types of crimes other than to set maximum penalties for each class of felony crimes. In 1976 the California legislature adopted a much more restrictive determinate sentencing law. The California Uniform Determinate Sentencing Act allows three possible sentences for each crime. Unless mitigating or aggravating circumstances exist, the judge must choose the basic (middle) sentence. The basic sentence, for example, may be enhanced if the defendant has a prior record or used a weapon in the current offense. Judges still maintain the discretion to decide whether to sentence a defendant to probation; in other words, prison sentences are not mandatory. The other States with determinate sentencing statutes fall between the Maine and California models in terms of the discretion allowed judges in setting prison terms.

Another means of limiting judicial discretion in sentencing is the use of sentencing guidelines. Under a guidelines system a sentencing commission sets the criteria for determining sentences for specific

crimes. Under some guidelines systems, judges are bound by the commission's criteria; under others, compliance is voluntary.

The State legislatures of Minnesota, Pennsylvania, and Washington have passed laws authorizing sentencing commissions to develop sentencing guidelines, which judges are expected to follow. The sentence guidelines can be quite specific. The Minnesota guidelines system, for example, ranks all criminal offenses by seriousness and provides a formula for "scoring" a defendant's criminal history. A "sentencing grid" provided to judges indicates for each combination of criminal offense and prior criminal record what sentence is to be imposed. For some combinations prison is mandatory; for others the prison sentence is suspended but may be imposed if the defendant violates the conditions of probation. To impose a sentence that departs from the guidelines, a judge must submit a written explanation.

The third major sentencing reform adopted by States is mandatory sentences. Between 1977 and 1980, 27 States passed such laws, and the legislatures of another 14 had mandatory sentencing bills under consideration. Under these laws judges typically must send a convicted defendant to prison for a specified minimum period. Mandatory sentencing laws, however, only apply to very specific crimes or types of offenders, and the criminal situations they cover vary widely across States.

<sup>9</sup>For a discussion of sentencing reforms, see Alfred Blumstein et al., Research on Sentencing: The Search for Reform (Washington, D.C.: National Academy Press, 1983).

## Case-processing times

A criminal defendant's right to a speedy trial is guaranteed by the Sixth Amendment to the Constitution. Determining when this right has been violated, however, is rarely a matter of simple objective fact.<sup>1</sup>

In *Barker v. Wingo* (407 U.S. 514, 521 1972), the Supreme Court spelled out four factors for courts to weigh in determining if a defendant's constitutional right has been denied. The length of the delay is the most important consideration, but it must be judged in light of the reasons for the delay. Deliberate attempts to delay by the Government weigh heavily in favor of the defendant. Certain reasons for delay, such as the absence of a key witness, however, are considered valid. The court must also determine if the defendant asserted his or her right to a speedy trial and if delay prejudiced the case against the defendant.

#### Both Federal and State laws supplement the constitutional guarantee of a speedy trial

Federal and State "speedy trial laws" supplement the imprecise definitions of the Sixth Amendment by introducing quantitative measures of unacceptable delay. The Federal Speedy Trial Act of 1974, amended by Congress in 1979, specifies time standards for the two primary stages in the Federal court process. Thirty days are allowed from arrest to indictment and 70 days from indictment to trial. Certain time periods, such as those associated with hearings on pretrial motions, incompetency hearings, and absence of a material defense witness, are considered excludable time.

Most States also have statutes that restrict the amount of time the State may take to process criminal cases. These laws differ in many respects from one State to another, such as in what kinds of events count as excludable time and in the amount of time they allow for bringing a case to trial. In some States the

<sup>1</sup>The Sixth Amendment simply states: "In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial...."

Table 27. Case-processing time for cases filed and cases indicted

Jurisdiction	Number of cases <sup>a</sup>	Processing time from arrest to disposition	
		Median	Mean
<b>Cases filed</b>			
Manhattan	30,772	47 days	102 days
New Orleans	3,342	56	81
Portland	3,757	65	86
Oreoley	615	75	90
Salt Lake City	2,740	86	149
Pueblo	327	102	114
Los Angeles <sup>b</sup>	29,235	104	160
Colorado Springs	1,423	105	131
Washington, D.C.	8,433	111	160
Fort Collins	754	118	153
San Diego	11,472	126	217
Golden	1,804	127	162
St. Louis	3,610	127	141
Brighton	996	131	161
Rhode Island	5,479	181	207
Jurisdiction mean		104 days	141 days
<b>Cases indicted</b>			
New Orleans <sup>c</sup>	3,342	56 days	81 days
Portland <sup>d</sup>	3,757	65	86
Indianapolis	3,294	122	163
Los Angeles	18,735	129	181
Pueblo	159	133	139
Salt Lake City	1,545	134	180
Manhattan	8,161	151	203
St. Louis	2,748	155	167
San Diego	4,709	168	269
Golden	844	169	192
Brighton	468	193	203
Washington, D.C.	3,215	197	243
Louisville	1,487	225	273
Rhode Island	3,803	246	288
Jurisdiction mean		153 days	191 days

<sup>a</sup>Includes only cases for which time data were available.

<sup>b</sup>Excludes a number of felony arrests filed as misdemeanors and handled by municipal prosecutors.

<sup>c</sup>Cases filed and cases indicted are the same.

<sup>d</sup>Includes a small number of cases disposed in the lower court.

only restriction is that cases be processed with "no unnecessary or unreasonable delay." One of the most restrictive State speedy trial rules is that in California, which specifies 15 days from arrest to indictment for felony cases and 60 days from indictment to trial.<sup>2</sup>

#### This chapter gives baseline data on case-processing times—a key aspect of speedy trial rules

In this chapter case-processing times from arrest to final disposition are

<sup>2</sup>Nancy L. Ames et al., *The Processing of Federal Criminal Cases Under the Speedy Trial Act of 1974 (As Amended 1979)* (Cambridge, Mass.: Abt Associates, 1980).

presented for all felony arrests for which an initial court charge is filed—cases filed—and then for those felony arrests that are indicted or bound over to the felony court for disposition—cases indicted. In total, case disposition times were calculated for 17 jurisdictions. In 15 jurisdictions disposition times were calculated for cases filed and in 14 jurisdictions for cases indicted.

The time from arrest to final disposition was determined by calculating the number of days between the date of arrest, or the papering date if the arrest date was missing, and the date a case was dismissed in court or the defendant pleaded guilty or was convicted or acquitted at

**Table 28. Case-processing time for cases filed and cases indicted, by type of final disposition**

Jurisdiction	Median time from arrest to disposition for:			
	All dispositions <sup>a</sup>	Dismissal	Plea	Trial
<b>Cases filed</b>				
Manhattan	47 days	65 days	26 days	236 days
New Orleans	56	74	50	101
Portland	65	43	63	90
Greeley	75	76	73	-
Salt Lake City	86	88	73	215
Pueblo	102	110	90	-
Los Angeles <sup>b</sup>	104	76	104	205
Colorado Springs	104	100	104	162
Washington, D.C.	111	97	96	264
Fort Collins	118	105	118	304
San Diego	126	91	132	181
Golden	137	144	116	211
St. Louis	137	62	142	221
Brighton	131	178	111	259
Rhode Island	181	3	240	394
Jurisdiction mean	104 days	87 days	103 days	210 days
<b>Cases indicted</b>				
New Orleans <sup>c</sup>	56 days	74 days	50 days	101 days
Portland <sup>d</sup>	65	43	63	90
Indianapolis	122	131	119	134
Los Angeles	129	159	116	201
Pueblo	133	137	132	-
Salt Lake City	134	167	114	223
Manhattan	151	183	126	254
St. Louis	155	173	147	223
San Diego	168	129	169	304
Golden	169	165	165	222
Brighton	193	206	174	259
Washington, D.C.	197	242	158	303
Louisville	225	252	201	282
Rhode Island	246	245	240	394
Jurisdiction mean	153 days	165 days	141 days	222 days
- Insufficient data to calculate.		prosecutors.		
<sup>a</sup> Includes only cases for which time data were available.		<sup>c</sup> Cases filed and cases indicted are the same.		
<sup>b</sup> Excludes a number of felony arrests filed as misdemeanors and handled by municipal		<sup>d</sup> Includes a small number of cases disposed in the lower court.		

Felony court cases typically take longer to process than cases disposed in the lower court because they require more due-process hearings, such as preliminary hearings and grand jury presentations, than cases disposed as misdemeanors. Felony court cases are viewed generally as more serious and worthy of greater attention and court resources than cases disposed in lower courts. Finally, the felony court is where most trials, the most time-consuming type of disposition, take place.

**In all jurisdictions disposition times vary by whether a case ends in a dismissal, guilty plea, or trial**

In all jurisdictions trials require the longest disposition times. On average, trial dispositions take approximately 220 days—more than 7 months—from the time of arrest. The trial times for cases filed and cases indicted are virtually identical (219 and 222 days, respectively; table 28). This reflects the fact that most or, in some jurisdictions, practically all trials take place in the felony court. Across jurisdictions, the time from arrest to disposition by trial in the felony court ranges from 90 days or 3 months in Portland to 394 days or 13 months in Rhode Island.

Because 70 to 80% of trials typically result in a conviction, comparison of disposition times for trials and guilty pleas provides an approximate measure of the additional time required for those cases convicted by trial rather than by plea. On average, for cases convicted in the felony court the additional disposition time for cases convicted by trial rather than plea is close to 3 months. For individual jurisdictions, the additional time ranges from under 1 month in Portland and Indianapolis to close to 5 months in Rhode Island and Washington, D.C. (table 28, cases indicted).

Among cases disposed in the felony court, dismissals require the next longest disposition time (after trials) in most jurisdictions. The average time from arrest to dismissal in the felony court is 165 days, compared

trial. No adjustments were made for periods considered excludable time according to the various State speedy trial rules. The disposition times calculated, in other words, represent the elapsed calendar time from arrest to final court disposition.

**Across jurisdictions, the time from arrest to final court disposition varies substantially**

The median time from arrest to disposition for cases filed ranges from 47 days in Manhattan to 181 days in Rhode Island. The average among all jurisdictions is 104 days (table 27). The definition of cases

filed includes felony arrests disposed as misdemeanors in the lower court and cases disposed in the felony court.

Arrest-to-disposition times for only those cases bound over or indicted and disposed in the felony court are longer. The average disposition time among the jurisdictions is 153 days. But similar to the measure for cases filed there exists substantial variation across jurisdictions. In New Orleans the median arrest-to-disposition time for the cases disposed in the felony court is 56 days, whereas in Rhode Island felony court cases require a median time of 246 days for disposition.

## Case processing times

with 232 days for trials and 141 days for guilty pleas. In most jurisdictions dismissals take longer than guilty pleas. This pattern, however, does not hold for all 14 jurisdictions. In 4 of the 14 jurisdictions (Portland, San Diego, Golden, and Rhode Island), dismissal times are faster or close to equal to the arrest-to-disposition times for guilty pleas (table 28, cases indicted).

For cases filed (table 28) there is no consistent pattern in the disposition times for dismissals versus guilty pleas. In 6 of the 15 jurisdictions, dismissals are faster dispositions than guilty pleas, and in 6, guilty pleas are faster than dismissals. In three jurisdictions disposition times for dismissals and guilty pleas differ by only a few days.

These differing patterns across jurisdictions reflect the wide variety of administrative practices prosecutors have developed for weeding out cases that are unlikely to result in a conviction and for obtaining guilty pleas for less serious felony crimes. These variations are more apparent in the measure for cases filed, which includes data on lower court dispositions. Most nonconvictable cases are dropped before they reach the felony court, and in some jurisdictions a substantial fraction of convictions resulting from a felony arrest occur in the lower court on misdemeanor charges.

The rapid guilty plea times for cases filed in Manhattan (26 days), for example, reflects the district attorney's policy of obtaining guilty pleas to misdemeanor charges for a number of less serious felony crimes at the time of lower court arraignment, which takes place within 24 hours of arrest. Similarly, dismissal times for cases filed in Rhode Island are rapid (3 days) because the attorney general screens felony arrests after they have been filed with the lower court by the police. Arrests dropped for prosecution are sent back to the lower court for a dismissal. In jurisdictions where screening occurs prior to court filing, such cases could be dropped

Table 29. Case-processing time for cases filed and cases indicted, by most serious charge

Jurisdiction	Median time from arrest to disposition for <sup>a</sup>					
	All crimes <sup>a</sup>	Homicide	Sexual assault	Robbery	Burglary	Larceny
<b>Cases filed</b>						
Manhattan	47 days	171 days	63 days	62 days	37 days	20 days
New Orleans	56	96	105	68	45	50
Portland	65	76	81	61	60	89
Salt Lake City	86	223	123	101	68	86
Los Angeles <sup>b</sup>	104	187	132	90	78	101
Washington, D.C.	111	285	150	116	106	88
San Diego	126	215	145	124	129	131
St. Louis	127	197	182	159	110	104
Rhode Island	181	258	157	186	131	198
<b>Cases indicted</b>						
New Orleans <sup>c</sup>	56 days	96 days	105 days	68 days	45 days	50 days
Portland <sup>d</sup>	65	76	81	61	60	89
Indianapolis	122	184	161	140	114	97
Los Angeles	129	206	149	105	91	124
Salt Lake City	134	268	163	120	97	139
Manhattan	151	219	196	110	84	139
St. Louis	155	212	209	177	132	127
San Diego	168	218	170	144	161	169
Washington, D.C.	197	315	266	217	187	162
Louisville	225	271	251	220	188	223
Rhode Island	246	346	301	214	263	278

<sup>a</sup>Includes only cases for which time data were available.

<sup>b</sup>Excludes a number of felony arrests filed as misdemeanors and handled by municipal prosecutors.

<sup>c</sup>Cases filed and cases indicted are the same.

<sup>d</sup>Includes a small number of cases disposed in the lower court.

before court charges are filed and therefore would not show up in court caseloads.

### Type of crime also affects disposition times

Homicides, for most jurisdictions, require longer disposition times than sexual assaults, robbery, burglary, and larceny (table 29). In part this can be attributed to the fact that a higher proportion of homicides go to trial. Separate data on disposition times for trials, guilty pleas, and dismissals, however, indicate that whatever the type of disposition homicides usually take a longer time to process from arrest to final disposition. Generally, although there are exceptions the most serious crimes require the longest disposition times.

### Delay-reduction policies and case disposition times

Despite the differences in processing times by type of disposition and offense, certain jurisdictions are consistently fast or slow no matter what the disposition type or offense. This is especially true for cases disposed in the felony court. The felony courts in Portland and New Orleans, for example, have short disposition times for pleas, trials, and dismissals; Rhode Island has relatively long times for all three disposition types.

In New Orleans the district attorney stresses moving cases rapidly and for a number of years has had an office policy of moving filed cases from arraignment to trial in 60 days. The district attorney's office prevents cases from aging by reviewing the oldest cases on the docket each week.

An emphasis on rapid dispositions is also apparent in Portland. The district attorney's office requires that plea offers be made and communicated to defense attorneys shortly after screening to encourage an early decision on whether a case will be disposed by guilty plea or trial. Also, when the court backlog reaches 500 cases, two judges are assigned to work full time on criminal cases.

Rhode Island has had a longstanding problem of case backlog and in the last decade has initiated a number of programs to deal with the problem.<sup>3</sup> Beginning in 1976 several actions were taken to reduce the backlog (6,233 felonies and misdemeanors at the beginning of 1977). The court placed about one-third of the active backlog into an accelerated processing system. All single-defendant, private-attorney cases were scheduled for pretrial conferences to determine if the cases were going to result in plea or trial and to schedule a definite time, date, and judge for that disposition. The court doubled the number of criminal trial

judges to handle this program. Only three of the eight judges, however, handled the backlog cases; the other five were assigned trials from a pool of about 200 more recent serious crimes.

The results of Rhode Island's effort are apparent in a comparison of the mean case-processing times reported in this series. In 1977 the mean time to disposition for felony court cases in Rhode Island was 725 days, or almost 2 years. By 1979 the mean processing time had been reduced to 420 days, and in 1980 it had dropped further, to 288 days (see table 27, cases indicted).

### Do speedy trial rules reduce court delay?

Studies of State speedy trial rules have concluded that such rules have no effect on court delay. One cross-jurisdictional study of court delay reported no correlation between case-processing times in 10 urban felony courts and the time limits specified in State statutes.<sup>4</sup> Another study of speedy trial rules in 10 States found that speedy trial rules conforming to ABA standards had no effect on court-processing times.<sup>5</sup> Such findings have been used to support the view that speedy trial rules are an ineffective tool for dealing with court delay. This view, articulated by Malcolm Feeley, presumes that if speedy justice is not by tradition a concern among judges, prosecutors, and the local defense bar (a tradition termed "local legal culture"), victims, defendants, and the public must simply accept the fact "that the courts will always be inefficient."<sup>6</sup> "At worst, speedy trial rules are little more than symbolic responses... and have as yet contributed very little toward reducing delay."<sup>7</sup>

<sup>4</sup>Thomas Church, Jr. et al., *Justice Delayed: The Pace of Litigation in Urban Trial Courts* (Williamsburg, Va.: National Center for State Courts, 1978).

<sup>5</sup>"The Impact of Speedy Trial Provisions: A Tentative Appraisal," *Columbia Journal of Law and Social Problems* 8 (1972).

<sup>6</sup>Malcolm M. Feeley, *Court Reform on Trial* (New York: Basic Books, 1983):187.

<sup>7</sup>*Ibid.*:185.

There now exists some evidence to refute this view. The Federal Speedy Trial Act, overall, is more restrictive than most State statutes. In addition to the time limits of 30 days from arrest to indictment and 70 days from indictment to trial, the act provides a comprehensive list of specific reasons for excludable time. Two studies of the Federal Speedy Trial Act suggest it has had an effect on court delay.

Abt Associates' evaluation, commissioned by the Department of Justice, found that before enactment of the Speedy Trial Act in 1974 the slowest 10% of the Federal criminal caseload took 13 months or longer from filing to disposition. By 1978 the comparable figure was 3 months from filing to disposition. Processing for the slowest Federal cases, in other words, was reduced by almost 30%.<sup>8</sup> Additional evidence that the Federal act has reduced case-processing times is reported in a Bureau of Justice Statistics study by William Rhodes. Rhodes found that between 1970 and 1981 case-processing times in the slowest Federal districts were reduced by 47%. At the beginning of this period, the slowest districts took 7.3 months to process cases, over twice as long as the overall district average of 3 months. By the end of the study period, times in the slow districts had been reduced to 3.9 months, only slightly above the overall district average.<sup>9</sup>

One reason why it is difficult to observe a relationship between State speedy trial rules and court delay is that most State laws specify such

<sup>8</sup>See *The Processing of Federal Criminal Cases*, note 2 above.

<sup>9</sup>William Rhodes et al., 1979 Compendium of Federal Justice Statistics, draft prepared for the Bureau of Justice Statistics, INSLAW, Washington, D.C.:198-203.

<sup>3</sup>John Paul Ryan et al., "Analyzing Court Delay-Reduction Programs: Why Do Some Succeed?" *Judicature* 65, no. 2 (1981).

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generous time limits, in addition to provisions for excludable time, that the laws do not pose meaningful restrictions on the vast majority of felony cases. Only five States (California, Nevada, Alaska, North Carolina, and Texas) have time limits that approximate the restrictions of the Federal Speedy Trial Act. In these States the restriction on the time from arrest to trial for defendants not in custody ranges from 75 to 120 days. All but a handful of States allow at least 180 days between arrest and trial—after excludable time has been subtracted (table 30).

The Prosecution of Felony Arrest data on the elapsed time between arrest and disposition for cases disposed in the felony court, however, suggest that most jurisdictions, irrespective of statutory time limits and excludable time, are able to process the majority of their cases in less than 6 months. For 10 of 14 jurisdictions, the median case-processing time for cases indicted is less than 180 days. Speedy trial rules, in short, may not be ineffective but may be irrelevant to the processing of most criminal cases.

Table 30. State speedy trial restrictions for defendants not in custody, 1981

States that restrict time from arrest to trial:	
California	75 days
Nevada	75
Alaska	120
North Carolina	120
Texas	120
Iowa	135
Arizona	150
Illinois	160
Florida	180
Hawaii	180
New Mexico	180
New York	180
Pennsylvania	180
Ohio	270
Idaho	360
Louisiana	360
Indiana	365
Massachusetts	365
Arkansas	3 terms of court
Oklahoma	4
Utah	4
States that restrict time from indictment to trial:	
Minnesota	60 days
Wisconsin	90
Washington	104
Wyoming	120
Colorado	180
Maryland	180
Montana	180
Nebraska	180
Kansas	190
Missouri	190
Mississippi	270
Virginia	270
Georgia	2 terms of court
West Virginia	3
States that restrict "unreasonable delay":	
Delaware	
District of Columbia	
Kentucky	
Maine	
New Jersey	
North Dakota	
Oregon	
Rhode Island	
South Dakota	
Tennessee	
Vermont	
States with no restrictions:	
Alabama	
Connecticut	
Michigan	
New Hampshire	
South Carolina	

Source: Abt Associates, Policy Brief on Court Delay, unpublished draft prepared for National Institute of Justice, Abt Associates, Cambridge, Mass., no date.

## Case-processing statistics by crime type

This appendix provides statistics on felony arrest outcomes by crime type for 11 large, urban jurisdictions. Arrest outcomes are presented for the following:

**All felony arrests:** defined as arrests declined for prosecution (defined as rejections and other pre-filing dispositions) as well as arrests disposed in either the felony or lower court.

**Cases filed:** defined as felony arrests for which an initial court charge is filed, usually with the lower court, and disposed in the felony or lower court. Except where noted, cases filed include felony arrests filed as misdemeanors or felonies.

**Cases indicted:** defined as felony arrests indicted or bound over to the felony trial court for disposition.

These three measures are designed to capture the outcomes of felony arrests at the three primary stages of felony prosecution: at screening, before cases are filed in court; during the initial post-filing phase of case processing in the lower court; and after bindover to the felony court through grand jury indictment or finding of probable cause at a preliminary hearing. All three measures are not always available for all jurisdictions. Also, because case-processing procedures in some jurisdictions differ from this typical three-stage pattern, certain anomalies arise in the definitions of arrests, cases filed, and cases indicted. The most common deviations are for all arrests to be filed in court, in which event all arrests are equal to cases filed, or for all cases filed to be indicted, so that cases filed are equal to cases indicted. These deviations are explained below in the section on caveats and jurisdictional definitions. Further explanation of the felony disposition process can be found in the Overview chapter.

The jurisdictions for which case-processing statistics are presented in this appendix are:

Indianapolis	Rhode Island
Los Angeles	St. Louis
Louisville	Salt Lake City
Manhattan	San Diego
New Orleans	Washington, D.C.
Portland	

The data refer to felony arrests presented for prosecution in 1981, except for New Orleans and Rhode Island, for which the data refer to felony arrests presented in 1980.

The 10 crime type categories are:

Homicide and manslaughter	Larceny and auto theft
Sexual assault	Fraud
Robbery	Drugs
Assault	Weapons
Burglary	Other

The "other" category combines all other felony crimes, including kidnapping, morals offenses, arson, unknown, and miscellaneous other felonies. In several tables for Portland the "other" category also includes auto theft and fraud.

"Crime type" represents the most serious charge ever associated with a case. Typically, the most serious charge is the lead or top charge at the time of arrest or initial court filing. The crime type, in other words, represents the type of crime with which the defendant is charged in the early stages of a felony case. The arrest or initial court charge may or may not be the type of crime for which a defendant is later indicted, convicted, or sentenced.

This appendix presents nine sets of tables on four topics: dispositions, declination and dismissal reasons, sentences, and case-processing times

The nine sets of tables presented, when complete data are available, are:

1. Disposition of all felony arrests presented for prosecution.

2. Disposition of felony arrests filed in court as felonies or misdemeanors.
3. Disposition of felony arrests that result in felony indictment.
4. Reasons why felony arrests are declined for prosecution.
5. Reasons why cases are dismissed after filing or indictment.
6. Incarceration rates for filed cases that result in a conviction in felony or misdemeanor court.
7. Incarceration rates for indicted cases that result in a conviction in felony court.
8. Case-processing time for cases filed.
9. Case-processing time for cases indicted.

The data were obtained from PROMIS (Prosecutor's Management Information System), which tracks the arrests of individual defendants.

The data in this appendix were extracted from PROMIS data tapes obtained from each of the 11 jurisdictions. PROMIS is a computer-based management information system developed by the Institute for Law and Social Research (INSLAW) in the early 1970's with funding from the Law Enforcement Assistance Administration. The system is designed to track criminal cases from arrest to final disposition and sentencing in the courts.

In PROMIS each case represents a separate arrest for an individual defendant. Two arrests involving one defendant but two separate criminal incidents would be entered and counted as two separate cases. Similarly, two defendants arrested for a single criminal incident would be entered and counted separately.

In this appendix the tabulations of declinations and dismissals have not been adjusted to conform to the definition of attrition used elsewhere in the report.

In the Overview and Case Attrition chapters, the counts of cases declined and dismissed have been

adjusted to exclude cases referred to diversion programs or to other agencies for prosecution; this provides a more accurate count of cases dropped for prosecution. Cases that are diverted or referred may still result in prosecution and conviction, however, and therefore do not represent a final rejection or dismissal.

This adjustment has not been made in the appendix tables, but it can be derived for all arrests and for cases filed by subtracting the number of cases that were diverted or referred, as reported in tables 4 and 5 (declination and dismissal reasons), from the total number of declinations and dismissals, as reported in tables 1 and 2 (disposition of all arrests and cases filed).

**In interpreting the data certain caveats and jurisdictional definitions need to be kept in mind.**

It was not possible to produce all nine tables for all jurisdictions. In some jurisdictions certain data elements are not consistently recorded. For example, in Washington, D.C., sentences are not always available, and in Rhode Island dismissal reasons are not recorded. Other jurisdictions do not begin tracking cases until filing or indictment. This may reflect an administrative decision or the prosecutor's legal jurisdiction.

Certain other anomalies occur due to the unique administrative systems devised for processing cases. Most jurisdictions screen arrests prior to court filing and process felonies through the lower court before indictment or bindover to the felony court. In jurisdictions where the case-processing procedures differ from this typical pattern, the definitions of arrests, cases filed, and cases indicted require additional explanation.

In Rhode Island, for example, the police file all arrests directly in the lower court before the prosecutor reviews the arrest. Thus arrests and

cases filed are the same and declinations do not occur. In New Orleans felony arrests are either rejected for prosecution or prosecuted as felonies in a unified court, which handles both felonies and misdemeanors. Filing is typically by information. In New Orleans, therefore, no distinction exists between cases filed and cases indicted.

In instances such as in Rhode Island and New Orleans, in which one set of data fits the procedural definition of two tables, the data are presented twice to assist users in assembling procedurally similar data sets across jurisdictions.

The jurisdiction descriptions below explain the legal jurisdiction of the prosecutor, the data sets included in the tables, and any anomalies or peculiarities of the data.

#### Indianapolis

The prosecuting attorney has legal jurisdiction over all felonies and misdemeanors in Marion County. The data in the tables refer to cases indicted.

#### Los Angeles

The district attorney has jurisdiction over felonies in Los Angeles County and misdemeanors in unincorporated areas of the county. Municipal prosecutors handle most misdemeanors occurring in the county.

The data in the tables refer to cases filed and cases indicted. In Los Angeles, cases filed exclude a substantial fraction of felony arrests filed as misdemeanors and prosecuted by city prosecutors in the lower court. This definition of cases filed differs from that used in other jurisdictions and from that used for most text exhibits, in which the Los Angeles PROMIS data have been supplemented by Offender Based Transaction Statistics (OBTS) collected by the State of California. The OBTS data permit tracking outcomes of all felony arrests, including those dropped before filing of court charges and those filed as misdemeanors. The OBTS data, however, are not

available by crime type and thus are not reflected in the appendix tables.

#### Louisville

The commonwealth's attorney in Jefferson County has jurisdiction over felony cases after they have been bound over to the grand jury at a lower court preliminary hearing. Municipal prosecutors handle felony cases from arrest through the lower court preliminary hearing.

The data in the tables refer to cases indicted.

#### Manhattan

The district attorney has jurisdiction over felonies and misdemeanors in New York County (Manhattan).

The data in the tables refer to all arrests, cases filed, and cases indicted.

#### New Orleans

The district attorney has jurisdiction over felonies and misdemeanors in New Orleans Parish.

The data in the tables refer to all arrests, cases filed, and cases indicted.

Due to the district attorney's rigorous charging policies, cases are declined for prosecution or they are filed and prosecuted as felonies in a unified court, which handles felonies and misdemeanors. Filing is by information. Thus cases filed and cases indicted are identical and the numbers are the same in tables 2 and 3 (dispositions for cases filed and indicted), tables 6 and 7 (sentences for all convictions and for felony court convictions), and tables 8 and 9 (case-processing time for cases filed and cases indicted).

#### Portland

The district attorney for Multnomah County has jurisdiction over felonies and misdemeanors.

The data in the tables refer to cases filed. Most filed cases (94%) are



bound over to the felony court. Data for indicted cases are not presented separately.

### Rhode Island

The attorney general for Rhode Island has jurisdiction over all felonies committed in the State. The data in the tables refer to all arrests, cases filed, and cases indicted.

In Rhode Island the police automatically file all felony arrests with the lower court before they are screened by the attorney general's office. Felony arrests are screened after the lower court filing. The attorney general's office either files a felony arrest with the felony court or returns the case to the lower court for dismissal. Other than a dismissal, it is rare for a felony arrest to be disposed in the lower court.

Because of this unique processing arrangement, declinations do not occur and the number of arrests and cases filed are the same (tables 1 and 2). Similarly, because pleas and trials do not occur in the lower court, the number of sentences for all convictions and for felony court convictions are the same (tables 6 and 7). The attorney general's office does not record detailed dismissal reasons.

### St. Louis

The circuit attorney for St. Louis has jurisdiction over felonies and serious misdemeanors committed within the city of St. Louis.

The data in the tables refer to cases filed and cases indicted. Cases filed exclude a very small percentage of felony arrests filed as misdemeanors.

### Salt Lake

The county attorney for Salt Lake County has jurisdiction over felonies and serious misdemeanors.

The data in the tables refer to all arrests, cases filed, and cases indicted.

Cases filed exclude a very small percentage of felony arrests filed as misdemeanors. If a felony arrest is not rejected, a felony charge is almost always filed.

### San Diego

The district attorney for San Diego County has jurisdiction over all felonies in the county and misdemeanors in unincorporated areas of the county.

The data in the tables refer to all arrests (excluding police releases), cases filed (excluding misdemeanor filings referred to municipal prosecutors), and cases indicted.

### Washington, D.C.

The United States Attorney for the District of Columbia has jurisdiction over all felonies and misdemeanors in the District of Columbia.

The data in the tables refer to all arrests, cases filed, and cases indicted. Sentencing data are not recorded.

### Appendix A tables in sequence

1. Disposition of all felony arrests presented for prosecution, 40
2. Disposition of felony arrests filed in court as felonies or misdemeanors, 43
3. Disposition of felony arrests that result in felony indictments, 48
4. Reasons why felony arrests are declined for prosecution, 53
5. Reasons why cases are dismissed after filing or indictment, 56
6. Incarceration rates for filed cases that result in a conviction in felony or misdemeanor court, 61
7. Incarceration rates for indicted cases that result in a conviction in felony court, 65
8. Case-processing time for cases filed, 70
9. Case-processing time for cases indicted, 79

### Appendix A tables by jurisdiction

#### Indianapolis, Indiana 1981

3a, 48      7a, 65  
5a, 56      9a, 79

#### Los Angeles, California 1981

2a, 43      7b, 65  
3b, 48      8a, 70  
5b, 56      9b, 80

#### Louisville, Kentucky 1981

3c, 49      7c, 66  
5c, 57      9c, 81

#### Manhattan, New York 1981

1a, 40      6a, 61  
2b, 43      7d, 66  
3d, 49      8b, 71  
4a, 53      9d, 82  
5d, 57

#### New Orleans, Louisiana 1980

1b, 40      6b, 61  
2c, 44      7e, 67  
3e, 50      8c, 72  
4b, 53      9e, 83  
5e, 58

#### Portland, Oregon 1981

2d, 44      6c, 62  
5f, 58      8d, 73

#### Rhode Island 1980

1c, 41      7f, 67  
2e, 45      8e, 74  
3f, 50      9f, 84  
6d, 62

#### St. Louis, Missouri 1981

2f, 45      7g, 68  
3g, 51      8f, 75  
5g, 59      9g, 85  
6e, 63

#### Salt Lake City, Utah 1981

1d, 41      6f, 63  
2g, 46      7h, 68  
3h, 51      8g, 76  
4c, 54      9h, 86  
5h, 59

#### San Diego, California 1981

1e, 42      6g, 64  
2h, 46      7i, 69  
3i, 52      8h, 77  
4d, 54      9i, 87  
5i, 60

#### Washington, D.C. 1981

1f, 42      5j, 60  
2i, 47      8i, 78  
3j, 52      9j, 88  
4e, 55

**Table 1. Disposition of all felony arrests presented for prosecution**

a. Manhattan, New York 1981  
 b. New Orleans, Louisiana 1980  
 c. Rhode Island 1980  
 d. Salt Lake City, Utah 1981  
 e. San Diego, California 1981  
 f. Washington, D.C. 1981

**a. Manhattan, New York 1981**

Most serious charge	Total	Arrests resulting in:				
		Declination*	Dismissal*	Guilty plea	Trial conviction	Trial acquittal
Percent of felony arrests	100%	3%	32%	61%	3%	1%
Homicide and manslaughter	100	3	33	45	15	4
Sexual assault	100	4	67	26	3	-
Robbery	100	5	34	55	4	1
Assault	100	2	47	48	2	1
Burglary	100	3	24	70	3	1
Larceny and auto theft	100	3	23	73	1	-
Stolen property	100	6	30	63	1	-
Fraud	100	4	21	74	1	-
Drugs	100	1	34	63	1	-
Weapons	100	5	43	48	3	1
Other**	100	2	26	70	2	-
Number of felony arrests	31,805	995	10,233	19,522	807	248
Homicide and manslaughter	740	25	243	330	112	30
Sexual assault	471	18	315	121	15	2
Robbery	5,980	275	2,053	3,314	262	76
Assault	3,192	58	1,494	1,526	69	45
Burglary	3,269	107	770	2,289	84	19
Larceny and auto theft	5,714	180	1,289	4,167	65	13
Stolen property	1,815	112	538	1,146	13	6
Fraud	555	24	114	410	6	1
Drugs	6,827	87	2,303	4,316	91	30
Weapons	1,611	74	697	767	55	18
Other**	1,631	35	417	1,136	35	8

**b. New Orleans, Louisiana 1980**

Most serious charge	Total	Arrests resulting in:				
		Declination*	Dismissal*	Guilty plea	Trial conviction	Trial acquittal <sup>a</sup>
Percent of felony arrests	100%	55%	6%	36%	2%	1%
Homicide and manslaughter	100	62	5	25	5	3
Sexual assault	100	64	3	26	3	4
Robbery	100	66	3	26	5	1
Assault	100	78	3	17	1	1
Burglary	100	43	6	48	2	1
Larceny and auto theft	100	39	6	51	3	2
Stolen property	100	68	6	24	1	1
Fraud	100	22	10	66	1	2
Drugs	100	59	9	30	1	2
Weapons	100	61	8	29	2	1
Other**	100	50	4	43	2	-
Number of felony arrests	7,460	4,114	429	2,653	159	105
Homicide and manslaughter	390	242	18	98	19	13
Sexual assault	219	140	7	58	6	8
Robbery	851	562	24	219	40	6
Assault	687	536	18	120	4	9
Burglary	1,270	550	75	607	24	14
Larceny and auto theft	1,076	421	62	546	27	20
Stolen property	532	361	32	127	7	5
Fraud	240	54	25	164	2	4
Drugs	1,318	775	118	390	14	21
Weapons	363	220	28	105	7	3
Other**	504	252	22	219	9	2

\* Declinations and dismissals include diversions and referrals for other prosecution.

\*\* Includes kidnaping, morals, arson, unknown, and miscellaneous other felonies. - Insufficient data to calculate.

<sup>a</sup> Appendix tables for New Orleans undercount the total number of trials. Adjusted counts are provided in text exhibits.

### c. Rhode Island 1980

Most serious charge	Total	Arrests resulting in:				
		Declination*	Dismissal*	Guilty plea	Trial conviction	Trial acquittal
Percent of felony arrests	100%	0%	41%	55%	2%	2%
Homicide and manslaughter	100	0	38	31	23	8
Sexual assault	100	0	55	33	5	7
Robbery	100	0	29	64	4	4
Assault	100	0	47	50	1	2
Burglary	100	0	23	76	1	-
Larceny and auto theft	100	0	36	62	2	-
Stolen property	100	0	44	54	1	-
Fraud	100	0	43	56	-	1
Drugs	100	0	53	46	1	1
Weapons	100	0	47	53	0	0
Other**	100	0	42	51	4	3
Number of felony arrests	5,485	0	2,244	3,043	113	85
Homicide and manslaughter	64	0	24	20	15	5
Sexual assault	140	0	77	46	7	10
Robbery	254	0	73	163	9	9
Assault	810	0	382	401	12	15
Burglary	968	0	226	734	5	3
Larceny and auto theft	407	0	147	251	7	2
Stolen property	328	0	101	124	2	1
Fraud	299	0	128	168	1	2
Drugs	223	0	490	427	6	5
Weapons	182	0	86	96	0	0
Other**	1,205	0	510	613	49	33

NOTE: In Rhode Island the police file felony arrests in the lower court prior to screening by the prosecutor. Thus, felony arrests and cases filed are the same, and declinations by the prosecutor prior to court filing do not occur.

### d. Salt Lake City, Utah 1981

Most serious charge	Total	Arrests resulting in:				
		Declination*	Dismissal*	Guilty plea	Trial conviction	Trial acquittal
Percent of felony arrests	100%	26%	25%	45%	3%	1%
Homicide and manslaughter	100	17	13	29	35	6
Sexual assault	100	29	29	42	6	3
Robbery	100	23	26	39	8	4
Assault	100	55	14	28	3	-
Burglary	100	22	20	54	3	1
Larceny and auto theft	100	32	22	43	2	-
Stolen property	100	29	28	38	4	1
Fraud	100	20	29	49	2	-
Drugs	100	18	19	61	2	0
Weapons	100	39	16	42	2	1
Other**	100	14	46	37	2	1
Number of felony arrests	3,718	973	917	1,664	126	38
Homicide and manslaughter	52	9	7	15	18	3
Sexual assault	217	42	61	89	13	7
Robbery	250	37	66	98	19	10
Assault	333	196	49	99	10	1
Burglary	741	164	131	399	19	8
Larceny and auto theft	663	214	147	286	15	1
Stolen property	138	49	39	52	6	1
Fraud	165	94	133	226	10	2
Drugs	349	60	65	209	6	0
Weapons	192	49	16	43	2	1
Other**	100	77	183	148	8	4

\* Declinations and dismissals include diversions and referrals for other prosecution.  
 \*\* Includes kidnaping, morals, arson, unknown, and miscellaneous other felonies.  
 - Insufficient data to calculate.

**Table 1. Continued**  
**Disposition of all felony arrests presented for prosecution**

**e. San Diego, California 1981**

Most serious charge	Total	Arrests resulting in:				
		Declination*	Dismissal*	Guilty plea	Trial conviction	Trial acquittal
Percent of felony arrests	100%	30%	16%	51%	2%	1%
Homicide and manslaughter	100	30	8	38	22	2
Sexual assault	100	48	7	45	-	-
Robbery	100	23	13	57	6	1
Assault	100	44	11	41	3	1
Burglary	100	26	11	60	3	1
Larceny and auto theft	100	30	16	52	2	1
Stolen property	100	42	17	39	1	1
Fraud	100	16	17	67	-	-
Drugs	100	29	25	45	1	-
Weapons	100	26	7	60	0	7
Other**	100	30	16	51	2	1
Number of felony arrests	16,474	4,940	2,630	8,445	351	108
Homicide and manslaughter	127	38	10	48	28	3
Sexual assault	298	142	20	134	1	1
Robbery	1,007	233	132	572	61	9
Assault	1,306	578	139	533	37	19
Burglary	3,084	804	345	1,841	78	16
Larceny and auto theft	1,820	538	295	939	33	15
Stolen property	1,125	475	195	436	11	8
Fraud	1,199	196	200	798	3	2
Drugs	2,775	802	690	1,253	21	9
Weapons	42	11	3	25	0	3
Other**	3,691	1,123	601	1,866	78	23

**f. Washington, D.C. 1981**

Most serious charge	Total	Arrests resulting in:				
		Declination*	Dismissal*	Guilty plea	Trial conviction	Trial acquittal
Percent of felony arrests:	100%	15%	37%	30%	6%	3%
Homicide and manslaughter	100	2	32	38	22	7
Sexual assault	100	17	36	32	11	4
Robbery	100	16	35	39	7	3
Assault	100	25	42	24	5	4
Burglary	100	9	33	50	5	3
Larceny and auto theft	100	23	39	34	3	1
Stolen property	100	6	24	63	4	3
Fraud	100	7	39	51	2	1
Drugs	100	4	42	46	7	1
Weapons	100	7	25	48	13	7
Other**	100	11	36	46	6	1
Number of felony arrests:	9,977	1,535	3,656	3,935	592	259
Homicide and manslaughter	192	4	61	72	42	13
Sexual assault	259	43	93	84	28	11
Robbery	2,051	321	715	800	148	67
Assault	1,574	393	659	379	86	57
Burglary	1,398	128	462	701	70	37
Larceny and auto theft	1,651	378	638	562	50	23
Stolen property	71	4	17	45	3	2
Fraud	322	24	126	165	5	2
Drugs	411	18	172	188	27	6
Weapons	252	18	63	120	34	17
Other**	1,796	204	650	819	99	24

\* Dismissals include diversions and referrals for other prosecution.  
 \*\* Includes kidnaping, morals, arson, unknown, and miscellaneous other felonies.  
 - Insufficient data to calculate.

**Table 2. Disposition of felony arrests filed in court as felonies or misdemeanors**

a. Los Angeles, California 1981  
 b. Manhattan, New York 1981  
 c. New Orleans, Louisiana 1980  
 d. Portland, Oregon 1981  
 e. Rhode Island 1980  
 f. St. Louis, Missouri 1981  
 g. Salt Lake City, Utah 1981  
 h. San Diego, California 1981  
 i. Washington, D.C. 1981

**a. Los Angeles, California 1981**

Most serious charge	Total	Cases filed resulting in:			
		Dismissal*	Guilty plea	Trial conviction	Trial acquittal
Percent of cases filed	100%	29%	64%	5%	2%
Homicide and manslaughter	100	20	56	19	5
Sexual assault	100	23	61	11	5
Robbery	100	24	66	7	3
Assault	100	30	58	7	5
Burglary	100	20	75	3	1
Larceny and auto theft	100	23	73	2	1
Stolen property	100	36	60	3	1
Fraud	100	17	81	1	1
Drugs	100	39	57	3	1
Weapons	100	28	68	3	1
Other**	100	54	41	3	2
Number of cases filed	29,264	8,351	18,741	1,573	599
Homicide and manslaughter	1,718	345	965	329	79
Sexual assault	1,507	347	916	171	73
Robbery	4,586	1,122	3,014	331	119
Assault	1,850	559	1,075	131	85
Burglary	6,410	1,297	4,803	216	94
Larceny and auto theft	2,910	679	2,132	69	30
Stolen property	677	246	403	18	10
Fraud	996	173	804	10	9
Drugs	5,993	2,335	3,401	307	50
Weapons	604	168	409	21	6
Other**	2,013	1,080	819	70	44

NOTE: A substantial number of felony arrests filed as misdemeanors in Los Angeles are handled by municipal prosecutors and thus are not included in the Los Angeles district attorney's case-tracking system.

**b. Manhattan, New York 1981**

Most serious charge	Total	Cases filed resulting in:			
		Dismissal*	Guilty plea	Trial conviction	Trial acquittal
Percent of cases filed	100%	33%	63%	3%	1%
Homicide and manslaughter	100	34	46	16	4
Sexual assault	100	70	27	3	-
Robbery	100	36	58	5	1
Assault	100	48	49	2	1
Burglary	100	24	72	3	1
Larceny and auto theft	100	23	75	1	-
Stolen property	100	32	67	1	-
Fraud	100	21	77	1	-
Drugs	100	34	64	1	-
Weapons	100	45	50	4	1
Other**	100	26	71	2	1
Number of cases filed	30,810	10,233	19,522	807	248
Homicide and manslaughter	715	243	330	112	30
Sexual assault	453	315	121	15	2
Robbery	5,705	2,053	3,314	262	76
Assault	3,134	1,494	1,526	69	45
Burglary	3,162	770	2,289	84	19
Larceny and auto theft	5,534	1,289	4,167	65	13
Stolen property	1,703	538	1,146	13	6
Fraud	531	114	410	6	1
Drugs	6,740	2,303	4,316	91	30
Weapons	1,537	697	767	55	18
Other**	1,596	417	1,136	35	8

\* Dismissals include diversions and referrals for other prosecution.  
 \*\* Includes kidnaping, morals, arson, unknown, and miscellaneous other felonies.  
 - Insufficient data to calculate.

**Table 2. Continued**  
**Disposition of felony arrests filed in court**  
**as felonies or misdemeanors**

**c. New Orleans, Louisiana 1980**

<u>Most serious charge</u>	<u>Total</u>	<u>Cases filed resulting in:</u>			
		<u>Dismissal*</u>	<u>Guilty plea</u>	<u>Trial conviction</u>	<u>Trial acquittal<sup>a</sup></u>
Percent of cases filed	100%	13%	79%	5%	3%
Homicide and manslaughter	100	12	66	13	9
Sexual assault	100	9	73	8	10
Robbery	100	8	76	14	2
Assault	100	12	79	3	6
Burglary	100	10	84	3	2
Larceny and auto theft	100	9	83	4	3
Stolen property	100	19	74	4	3
Fraud	100	13	84	1	2
Drugs	100	22	72	3	4
Weapons	100	20	73	5	2
Other**	100	9	87	4	1
Number of cases filed	3,346	429	2,653	159	105
Homicide and manslaughter	148	18	98	19	13
Sexual assault	79	7	58	6	8
Robbery	289	24	219	40	6
Assault	151	18	120	4	9
Burglary	720	75	607	24	14
Larceny and auto theft	655	62	546	27	20
Stolen property	171	32	127	7	5
Fraud	195	25	164	2	4
Drugs	543	118	390	14	21
Weapons	143	28	105	7	3
Other**	252	22	210	9	2

NOTE: In New Orleans felony arrests filed and felony arrests indicted are the same.

<sup>a</sup> Appendix tables for New Orleans undercount the total number of trials. Adjusted counts are provided in text exhibits.

**d. Portland, Oregon 1981**

<u>Most serious charge</u>	<u>Total</u>	<u>Cases filed resulting in:</u>			
		<u>Dismissal*</u>	<u>Guilty plea</u>	<u>Trial conviction</u>	<u>Trial acquittal</u>
Percent of cases filed	100%	23%	62%	13%	2%
Homicide and manslaughter	100	15	56	26	3
Sexual assault	100	34	42	19	5
Robbery	100	28	49	21	2
Assault	100	41	48	7	4
Burglary	100	16	64	19	1
Larceny and auto theft	100	24	59	14	2
Stolen property	-	-	-	-	-
Fraud	100	14	79	7	1
Drugs	100	15	77	7	1
Weapons	100	21	63	15	1
Other**	100	26	65	7	1
Number of cases filed	3,892	906	2,428	491	67
Homicide and manslaughter	66	10	37	17	2
Sexual assault	231	78	96	45	12
Robbery	384	107	190	79	8
Assault	199	81	96	14	8
Burglary	566	92	362	109	3
Larceny and auto theft	733	178	436	104	15
Stolen property	0	0	0	0	0
Fraud	227	31	179	15	2
Drugs	527	79	408	37	3
Weapons	87	14	42	10	1
Other**	892	236	582	61	13

\* Dismissals include diversions and referrals for other prosecution.

\*\* Includes kidnaping, morals, arson, unknown, and miscellaneous other felonies.

- Insufficient data to calculate.

### e. Rhode Island 1980

Most serious charge	Total	Cases filed resulting in:			
		Dismissal*	Guilty plea	Trial conviction	Trial acquittal
Percent of cases filed	100%	41%	55%	2%	2%
Homicide and manslaughter	100	38	31	23	8
Sexual assault	100	55	33	5	7
Robbery	100	29	64	4	4
Assault	100	47	50	1	2
Burglary	100	23	76	1	-
Larceny and auto theft	100	36	62	2	-
Stolen property	100	44	54	1	-
Fraud	100	43	56	-	1
Drugs	100	53	46	1	1
Weapons	100	47	53	0	0
Other**	100	42	51	4	3
Number of cases filed	5,483	2,244	3,043	113	85
Homicide and manslaughter	64	24	20	15	5
Sexual assault	140	77	46	7	10
Robbery	254	73	163	9	9
Assault	810	382	401	12	15
Burglary	968	226	734	5	3
Larceny and auto theft	407	147	251	7	2
Stolen property	228	101	124	2	1
Fraud	299	128	168	1	2
Drugs	928	490	427	6	5
Weapons	182	86	96	0	0
Other**	1,205	510	613	49	33

NOTE: In Rhode Island the police file felony arrests with the lower court prior to screening by the prosecutor. Thus, felony arrests and cases filed are the same.

### f. St. Louis, Missouri 1981

Most serious charge	Total	Cases filed resulting in:			
		Dismissal*	Guilty plea	Trial conviction	Trial acquittal
Percent of cases filed	100%	30%	63%	5%	2%
Homicide and manslaughter	100	39	32	24	5
Sexual assault	100	42	40	13	5
Robbery	100	28	59	11	2
Assault	100	41	49	5	6
Burglary	100	24	73	2	1
Larceny and auto theft	100	23	72	3	2
Stolen property	100	30	62	6	2
Fraud	100	23	74	2	1
Drugs	100	27	68	2	3
Weapons	100	42	54	2	2
Other**	100	41	54	2	3
Number of cases filed	3,649	1,097	2,313	168	71
Homicide and manslaughter	120	47	38	29	6
Sexual assault	126	53	51	16	6
Robbery	388	109	230	43	6
Assault	233	95	114	11	13
Burglary	1,036	246	759	25	6
Larceny and auto theft	472	110	340	14	8
Stolen property	86	26	53	5	2
Fraud	133	31	98	3	1
Drugs	425	116	289	10	10
Weapons	431	182	233	8	8
Other**	199	82	108	4	5

\* Dismissals include diversions and referrals for other prosecution.

\*\* Includes kidnaping, morals, arson, unknown, and miscellaneous other felonies. - Insufficient data to calculate.

Table 2. Continued  
Disposition of felony arrests filed in court  
as felonies or misdemeanors

g. Salt Lake City, Utah 1981

Most serious charge	Total	Cases filed resulting in:			
		Dismissal*	Guilty plea	Trial conviction	Trial acquittal
Percent of cases filed	100%	33%	61%	5%	1%
Homicide and manslaughter	100	16	35	42	7
Sexual assault	100	36	52	8	4
Robbery	100	34	51	10	5
Assault	100	31	62	6	1
Burglary	100	26	69	3	1
Larceny and auto theft	100	33	64	3	-
Stolen property	100	40	53	6	1
Fraud	100	36	61	3	1
Drugs	100	23	75	2	0
Weapons	100	26	69	3	2
Other**	100	53	43	2	1
Number of cases filed	2,745	917	1,664	126	38
Homicide and manslaughter	43	7	15	18	3
Sexual assault	170	61	89	13	7
Robbery	193	66	98	19	10
Assault	159	49	99	10	1
Burglary	577	151	399	19	8
Larceny and auto theft	449	147	286	15	1
Stolen property	98	39	52	6	1
Fraud	371	133	220	10	2
Drugs	280	65	200	6	0
Weapons	62	16	43	2	1
Other**	343	183	148	8	4

h. San Diego, California 1981

Most serious charge	Total	Cases filed resulting in:			
		Dismissal*	Guilty plea	Trial conviction	Trial acquittal
Percent of cases filed	100%	23%	73%	3%	1%
Homicide and manslaughter	100	11	54	31	3
Sexual assault	100	13	86	1	1
Robbery	100	17	74	8	1
Assault	100	19	73	5	3
Burglary	100	15	81	3	1
Larceny and auto theft	100	23	73	3	1
Stolen property	100	30	67	2	1
Fraud	100	20	80	-	-
Drugs	100	35	64	1	-
Weapons	100	10	81	0	10
Other**	100	23	73	3	1
Number of cases filed	11,534	2,630	8,445	351	108
Homicide and manslaughter	89	10	48	28	3
Sexual assault	156	20	134	1	1
Robbery	774	132	572	61	9
Assault	728	139	533	37	19
Burglary	2,280	345	1,841	78	16
Larceny and auto theft	1,282	293	939	33	15
Stolen property	650	195	436	11	8
Fraud	1,003	200	798	3	2
Drugs	1,973	690	1,253	21	9
Weapons	31	3	25	0	3
Other**	2,568	601	1,866	78	23

\* Dismissals include diversions and referrals for other prosecution.

\*\* Includes kidnaping, morals, arson, unknown, and miscellaneous other felonies.

- Insufficient data to calculate.



**i. Washington, D.C. 1981**

Most serious charge	Total	Cases filed resulting in:			
		Dismissal*	Guilty plea	Trial conviction	Trial acquittal
Percent of cases filed	100 %	43 %	47 %	7 %	3 %
Homicide and manslaughter	109	32	38	22	7
Sexual assault	100	43	39	13	5
Robbery	100	41	46	9	4
Assault	100	56	33	7	5
Burglary	100	36	55	6	3
Larceny and auto theft	100	50	44	4	2
Stolen property	100	25	67	4	3
Fraud	100	42	55	2	1
Drugs	100	44	48	7	2
Weapons	100	27	51	15	7
Other**	100	41	51	6	2
Number of cases filed	8,442	3,656	3,935	592	259
Homicide and manslaughter	188	61	72	42	13
Sexual assault	216	93	84	28	11
Robbery	1,730	715	800	148	67
Assault	1,181	659	379	86	57
Burglary	1,270	462	701	70	37
Larceny and auto theft	1,273	638	562	50	23
Stolen property	67	17	45	3	2
Fraud	298	126	165	5	2
Drugs	393	172	188	27	6
Weapons	234	63	120	34	17
Other**	1,592	650	819	99	24

\* Dismissals include diversions and referrals for other prosecution.  
 \*\* Includes kidnaping, morals, arson, unknown, and miscellaneous other felonies.

**Table 3. Disposition of felony arrests that result in felony indictment**

- a. Indianapolis, Indiana 1981
- b. Los Angeles, California 1981
- c. Louisville, Kentucky 1981
- d. Manhattan, New York 1981
- e. New Orleans, Louisiana 1980
- f. Rhode Island 1980
- g. St. Louis, Missouri 1981
- h. Salt Lake City, Utah 1981
- i. San Diego, California 1981
- j. Washington, D.C. 1981

**a. Indianapolis, Indiana 1981**

Most serious charge	Total	Cases indicted* resulting in:			
		Dismissal**	Guilty plea	Trial conviction	Trial acquittal
Percent of cases indicted	100%	19%	87%	12%	2%
Homicide and manslaughter	100	15	48	33	5
Sexual assault	100	22	59	17	1
Robbery	100	22	56	17	4
Assault	100	28	61	7	4
Burglary	100	12	74	12	2
Larceny and auto theft	100	18	71	10	2
Stolen property	-	-	-	-	-
Fraud	100	23	77	0	0
Drugs	100	22	69	8	1
Weapons	100	12	82	6	0
Other***	100	23	63	12	3
Number of cases indicted	3,373	639	2,249	412	73
Homicide and manslaughter	128	19	61	42	6
Sexual assault	175	39	104	30	2
Robbery	478	106	270	83	19
Assault	119	33	73	8	5
Burglary	617	73	450	73	12
Larceny and auto theft	809	150	639	87	14
Stolen property	0	0	0	0	0
Fraud	22	5	17	0	0
Drugs	614	134	422	52	6
Weapons	17	2	14	1	0
Other***	304	69	190	36	9

**b. Los Angeles, California 1981**

Most serious charge	Total	Cases indicted* resulting in:			
		Dismissal**	Guilty plea	Trial conviction	Trial acquittal
Percent of cases indicted	100%	12%	77%	8%	3%
Homicide and manslaughter	100	11	61	23	6
Sexual assault	100	13	67	14	6
Robbery	100	9	78	9	3
Assault	100	12	72	10	7
Burglary	100	9	85	5	2
Larceny and auto theft	100	9	86	3	2
Stolen property	100	19	73	5	3
Fraud	100	9	88	1	2
Drugs	100	19	74	6	1
Weapons	100	16	78	4	1
Other***	100	12	74	9	6
Number of cases indicted	18,752	2,251	14,481	1,454	566
Homicide and manslaughter	1,276	135	772	297	72
Sexual assault	1,107	149	743	150	65
Robbery	3,421	320	2,674	312	115
Assault	1,247	147	892	125	83
Burglary	4,495	400	3,799	206	90
Larceny and auto theft	1,785	166	1,528	62	29
Stolen property	371	71	272	18	10
Fraud	414	36	364	5	9
Drugs	3,510	677	2,589	197	47
Weapons	412	66	323	18	5
Other***	714	84	525	64	41

\* The term "indicted" is used here to include cases that reach felony court by a grand jury indictment or by a finding of probable cause at a preliminary hearing.  
 \*\* Dismissals include diversions and referrals for other prosecution.  
 \*\*\* Includes kidnaping, morals, arson, unknown, and miscellaneous other felonies.  
 - insufficient data to calculate.

### c. Louisville, Kentucky 1981

Most serious charge	Total	Cases indicted* resulting in:			
		Dismissal**	Guilty plea	Trial conviction	Trial acquittal
Percent of cases indicted	100%	18%	64%	12%	5%
Homicide and manslaughter	100	12	31	46	11
Sexual assault	100	21	52	16	11
Robbery	100	16	65	16	2
Assault	100	15	61	15	8
Burglary	100	19	68	8	5
Larceny and auto theft	100	19	71	7	3
Stolen property	100	25	57	13	5
Fraud	100	15	79	4	2
Drugs	100	20	69	6	5
Weapons	100	0	79	8	13
Other***	100	23	51	14	12
Number of cases indicted	1,494	272	954	186	82
Homicide and manslaughter	83	10	26	38	9
Sexual assault	82	17	43	13	9
Robbery	210	34	137	34	5
Assault	119	18	73	18	10
Burglary	328	63	223	27	15
Larceny and auto theft	158	30	112	11	5
Stolen property	101	25	58	13	5
Fraud	116	17	92	5	2
Drugs	99	20	68	6	5
Weapons	24	0	19	2	3
Other***	57	13	29	8	7

### d. Manhattan, New York 1981

Most serious charge	Total	Cases indicted* resulting in:			
		Dismissal**	Guilty plea	Trial conviction	Trial acquittal
Percent of cases indicted	100%	14%	75%	9%	2%
Homicide and manslaughter	100	19	55	20	5
Sexual assault	100	28	59	11	1
Robbery	100	11	78	9	2
Assault	100	19	62	14	5
Burglary	100	7	83	7	2
Larceny and auto theft	100	14	77	7	1
Stolen property	100	19	74	5	1
Fraud	100	12	83	4	1
Drugs	100	12	80	6	2
Weapons	100	25	68	5	2
Other***	100	14	73	11	2
Number of cases indicted	8,173	1,138	6,143	700	192
Homicide and manslaughter	554	107	306	111	30
Sexual assault	135	38	80	15	2
Robbery	2,764	300	2,150	247	67
Assault	322	61	201	44	16
Burglary	958	70	799	71	18
Larceny and auto theft	514	74	398	37	5
Stolen property	223	42	166	12	3
Fraud	69	8	57	3	1
Drugs	1,469	178	1,179	83	29
Weapons	904	224	616	49	15
Other***	261	36	191	28	6

\* The term "indicted" is used here to include cases that reach felony court by a grand jury indictment or by a finding of probable cause at a preliminary hearing.  
 \*\* Dismissals include diversions and referrals for other prosecution.  
 \*\*\* Includes kidnaping, morals, arson, unknown, and miscellaneous other felonies.

**Table 3. Continued**  
**Disposition of felony arrests that result in felony indictment**

**e. New Orleans, Louisiana 1980**

Most serious charge	Total	Cases indicted* resulting in:			
		Dismissal**	Guilty plea	Trial conviction	Trial acquittal <sup>a</sup>
Percent of cases indicted	100%	13%	79%	5%	3%
Homicide and manslaughter	100	12	66	13	9
Sexual assault	100	9	73	8	10
Robbery	100	8	76	14	2
Assault	100	12	79	3	6
Burglary	100	10	84	3	2
Larceny and auto theft	100	9	83	4	3
Stolen property	100	19	74	4	3
Fraud	100	13	84	1	2
Drugs	100	22	72	3	4
Weapons	100	20	73	5	2
Other***	100	9	87	4	1
Number of cases indicted	3,346	429	2,653	159	105
Homicide and manslaughter	148	18	98	19	13
Sexual assault	79	7	58	6	8
Robbery	289	24	219	40	6
Assault	151	18	120	4	9
Burglary	720	75	607	24	14
Larceny and auto theft	655	62	546	27	20
Stolen property	171	32	127	7	5
Fraud	195	25	164	2	4
Drugs	543	118	390	14	21
Weapons	143	28	105	7	3
Other***	252	22	219	9	2

NOTE: In New Orleans felony arrests filed and felony arrests indicted are the same.  
<sup>a</sup> Appendix tables for New Orleans undercount the total number of trials.  
 Adjusted counts are provided in text exhibits.

**f. Rhode Island 1980**

Most serious charge	Total	Cases indicted* resulting in:			
		Dismissal**	Guilty plea	Trial conviction	Trial acquittal
Percent of cases indicted	100%	15%	80%	3%	2%
Homicide and manslaughter	100	13	43	33	11
Sexual assault	100	21	58	9	13
Robbery	100	6	84	5	5
Assault	100	14	81	2	3
Burglary	100	8	91	1	-
Larceny and auto theft	100	13	84	2	1
Stolen property	100	15	83	1	1
Fraud	100	18	81	-	1
Drugs	100	11	86	1	1
Weapons	100	9	91	0	0
Other***	100	25	66	5	4
Number of cases indicted	3,804	563	3,043	113	85
Homicide and manslaughter	46	6	20	15	5
Sexual assault	80	17	46	7	10
Robbery	193	12	163	9	9
Assault	497	69	401	12	15
Burglary	806	64	734	5	3
Larceny and auto theft	300	40	251	7	2
Stolen property	149	22	124	2	1
Fraud	208	37	168	1	2
Drugs	494	56	427	6	5
Weapons	106	10	96	0	0
Other***	925	230	613	49	33

\* The term "indicted" is used here to include cases that reach felony court by a grand jury indictment or by a finding of probable cause at a preliminary hearing.  
 \*\* Dismissals include diversions and referrals for other prosecution.  
 \*\*\* Includes kidnaping, morals, arson, unknown, and miscellaneous other felonies.  
 - Insufficient data to calculate.

### g. St. Louis, Missouri 1981

Most serious charge	Total	Cases indicted* resulting in:			
		Dismissal**	Guilty plea	Trial conviction	Trial acquittal
Percent of cases indicted	100%	12%	80%	6%	2%
Homicide and manslaughter	100	25	39	30	6
Sexual assault	100	28	49	17	6
Robbery	100	13	71	13	2
Assault	100	19	66	7	8
Burglary	100	6	90	3	1
Larceny and auto theft	100	7	88	4	2
Stolen property	100	14	77	6	3
Fraud	100	8	88	3	1
Drugs	100	13	81	3	3
Weapons	100	15	79	3	3
Other***	100	21	73	3	4
Number of cases indicted	2,770	335	2,203	163	69
Homicide and manslaughter	97	24	38	29	6
Sexual assault	94	26	46	16	6
Robbery	319	43	227	43	6
Assault	166	32	110	11	13
Burglary	806	52	725	23	6
Larceny and auto theft	365	26	320	13	6
Stolen property	64	9	49	4	2
Fraud	103	8	91	3	1
Drugs	343	44	279	10	10
Weapons	274	42	217	7	8
Other***	139	29	101	4	5

### h. Salt Lake City, Utah 1981

Most serious charge	Total	Cases indicted* resulting in:			
		Dismissal**	Guilty plea	Trial conviction	Trial acquittal
Percent of cases indicted	100%	20%	70%	8%	2%
Homicide and manslaughter	100	3	33	57	7
Sexual assault	100	23	59	12	6
Robbery	100	23	58	12	7
Assault	100	16	71	12	1
Burglary	100	20	73	5	2
Larceny and auto theft	100	22	71	6	-
Stolen property	100	24	63	11	2
Fraud	100	24	71	4	1
Drugs	100	13	83	4	0
Weapons	100	28	62	7	3
Other***	100	16	77	5	2
Number of cases indicted	1,546	311	1,081	118	36
Homicide and manslaughter	30	1	10	17	2
Sexual assault	111	26	65	13	7
Robbery	145	33	84	18	10
Assault	75	12	53	9	1
Burglary	373	74	273	18	8
Larceny and auto theft	221	49	158	13	1
Stolen property	54	13	34	6	1
Fraud	233	55	160	10	2
Drugs	143	19	118	6	0
Weapons	29	8	18	2	1
Other***	132	21	102	6	3

\* The term "indicted" is used here to include cases that reach felony court by a grand jury indictment or by a finding of probable cause at a preliminary hearing.  
 \*\* Dismissals include diversions and referrals for other prosecution.  
 \*\*\* Includes kidnaping, morals, arson, unknown, and miscellaneous other felonies.  
 - Insufficient data to calculate.

**Table 3. Continued**  
**Disposition of felony arrests that result in felony indictment**

**i. San Diego, California 1981**

Most serious charge	Total	Cases indicted* resulting in:			
		Dismissal**	Guilty plea	Trial conviction	Trial acquittal
Percent of cases indicted	100%	7%	86%	6%	1%
Homicide and manslaughter	100	8	55	33	4
Sexual assault	100	4	94	1	1
Robbery	100	5	83	10	2
Assault	100	6	83	9	3
Burglary	100	6	89	5	1
Larceny and auto theft	100	10	85	4	1
Stolen property	100	10	86	3	1
Fraud	100	6	93	1	0
Drugs	100	0	88	2	1
Weapons	100	33	67	0	0
Other***	100	7	86	6	1
Number of cases indicted	4,734	330	4,092	262	50
Homicide and manslaughter	84	7	46	28	3
Sexual assault	113	5	106	1	1
Robbery	597	31	496	61	9
Assault	316	19	261	28	8
Burglary	1,366	80	1,209	67	10
Larceny and auto theft	379	38	322	15	4
Stolen property	222	22	192	6	2
Fraud	354	21	330	3	0
Drugs	597	56	524	14	3
Weapons	3	1	2	0	0
Other***	703	50	604	39	10

**j. Washington, D.C. 1981**

Most serious charge	Total	Cases indicted* resulting in:			
		Dismissal**	Guilty plea	Trial conviction	Trial acquittal
Percent of cases indicted	100%	15%	66%	14%	5%
Homicide and manslaughter	100	6	51	33	10
Sexual assault	100	12	56	23	9
Robbery	100	14	64	15	7
Assault	100	13	58	18	10
Burglary	100	10	74	11	5
Larceny and auto theft	100	19	69	10	2
Stolen property	100	0	79	13	8
Fraud	100	17	75	8	0
Drugs	100	34	57	8	2
Weapons	100	15	57	18	10
Other***	100	14	76	9	1
Number of cases indicted	3,217	481	2,125	442	169
Homicide and manslaughter	129	8	66	42	13
Sexual assault	117	14	66	27	10
Robbery	906	125	579	140	62
Assault	212	28	123	39	22
Burglary	518	53	384	55	26
Larceny and auto theft	291	55	201	30	5
Stolen property	24	0	19	3	2
Fraud	48	8	36	4	0
Drugs	274	92	155	22	5
Weapons	173	26	99	31	17
Other***	525	72	397	49	7

\* The term "indicted" is used here to include cases that reach felony court by a grand jury indictment or by a finding of probable cause at a preliminary hearing.

\*\* Dismissals include diversions and referrals for other prosecution.

\*\*\* Includes kidnaping, morals, arson, unknown, and miscellaneous other felonies.

**Table 4. Reasons why felony arrests are declined for prosecution**

a. Manhattan, New York 1981  
 b. New Orleans, Louisiana 1980  
 c. Salt Lake City, Utah 1981  
 d. San Diego, California 1981  
 e. Washington, D.C. 1981

**a. Manhattan, New York 1981**

Most serious charge	Total	Arrests declined due to:							
		Insuf- ficient evidence	Witness prob- lems	Due process prob- lems	Inter- est of justice	Plea on an- other case	Re- ferral to di- version	Referral for other prose- cution	Other
Percent of declinations	100%	61%	23%	5%	4%	0%	-%	5%	4%
Homicide and manslaughter	100	72	20	0	0	0	0	4	4
Sexual assault	100	33	56	0	6	0	0	0	6
Robbery	100	60	25	-	2	0	0	9	4
Assault	100	36	55	0	2	0	2	3	2
Burglary	100	77	21	1	1	0	0	1	0
Larceny and auto theft	100	62	28	3	2	0	0	0	4
Stolen property	100	57	21	11	4	0	0	1	5
Fraud	100	63	21	8	8	0	0	0	0
Drugs	100	57	3	18	15	0	0	1	5
Weapons	100	70	8	15	4	0	1	0	1
Other*	100	54	17	3	9	0	0	3	14
Number of declinations	995	603	232	50	38	0	2	33	37
Homicide and manslaughter	25	18	5	0	0	0	0	1	1
Sexual assault	18	6	10	0	1	0	0	0	1
Robbery	275	164	69	1	5	0	0	26	10
Assault	58	21	32	0	1	0	1	2	1
Burglary	107	92	22	1	1	0	0	1	0
Larceny and auto theft	180	112	50	6	4	0	0	0	8
Stolen property	112	64	24	12	5	0	0	1	6
Fraud	24	15	5	2	2	0	0	0	0
Drugs	87	50	3	14	13	0	0	1	4
Weapons	74	52	6	11	3	0	1	0	1
Other*	35	19	6	1	3	0	0	1	5

**b. New Orleans, Louisiana 1980**

Most serious charge	Total	Arrests declined due to:							
		Insuf- ficient evidence	Witness prob- lems	Due process prob- lems	Inter- est of justice	Plea on an- other case	Re- ferral to di- version	Referral for other prose- cution	Other
Percent of declinations	100%	38%	30%	12%	8%	0%	7%	4%	-%
Homicide and manslaughter	100	36	20	1	21	0	19	3	0
Sexual assault	100	36	44	0	3	0	15	3	0
Robbery	100	43	49	0	5	0	4	1	0
Assault	100	10	54	-	15	0	3	18	0
Burglary	100	38	47	1	5	0	7	2	0
Larceny and auto theft	100	40	34	1	8	0	13	4	0
Stolen property	100	56	19	11	6	0	7	1	0
Fraud	100	35	22	0	24	0	15	4	0
Drugs	100	44	1	50	2	0	2	-	0
Weapons	100	53	4	27	10	0	3	3	0
Other*	100	32	27	2	15	0	20	4	0
Number of declinations	4,114	1,569	1,242	504	332	0	307	159	1
Homicide and manslaughter	242	87	48	3	50	0	46	8	0
Sexual assault	140	50	61	0	4	0	21	4	0
Robbery	562	240	270	0	27	0	22	3	0
Assault	336	53	202	1	82	0	14	94	0
Burglary	530	210	259	3	27	0	41	10	0
Larceny and auto theft	421	168	145	6	32	0	54	16	0
Stolen property	361	203	68	41	20	0	26	3	0
Fraud	54	19	12	0	13	0	8	2	0
Drugs	775	341	10	386	16	0	19	3	0
Weapons	320	117	9	59	22	0	6	7	0
Other*	253	91	69	5	39	0	50	9	1

\* Includes kidnaping, morals, arson, unknown, and miscellaneous other felonies.  
 - Insufficient data to calculate.

**Table 4. Continued**  
**Reasons why felony arrests are declined for prosecution**

**c. Salt Lake City, Utah 1981**

Most serious charge	Total	Arrests declined due to:							
		Insuf- ficient evidence	Witness prob- lems	Due process prob- lems	Inter- est of justice	Plea on an- other case	Re- ferral to di- version	Referral for other prose- cution	Other
Percent of declinations	100%	58%	12%	1%	8%	1%	2%	19%	~%
Homicide and manslaughter	100	89	0	0	11	0	0	0	0
Sexual assault	100	64	24	0	5	0	0	7	0
Robbery	100	44	40	0	7	0	0	9	0
Assault	100	54	21	1	9	0	3	12	0
Burglary	100	72	7	0	4	2	1	15	0
Larceny and auto theft	100	50	7	0	9	-	-	33	-
Stolen property	100	75	13	0	3	0	3	8	0
Fraud	100	60	4	2	7	6	2	18	0
Drugs	100	70	2	8	5	0	0	15	0
Weapons	100	45	3	5	23	0	0	25	0
Other*	100	40	5	0	11	0	7	37	0
Number of declinations	973	560	114	10	77	11	15	185	1
Homicide and manslaughter	9	8	0	0	1	0	0	0	0
Sexual assault	42	27	10	0	2	0	0	3	0
Robbery	57	25	23	0	4	0	0	5	0
Assault	196	106	42	1	18	0	6	23	0
Burglary	164	118	11	0	6	4	1	24	0
Larceny and auto theft	214	107	14	0	20	1	1	70	1
Stolen property	40	30	5	0	1	0	1	3	0
Fraud	94	56	4	2	7	6	2	17	0
Drugs	60	42	1	5	3	0	0	9	0
Weapons	40	18	1	2	9	0	0	10	0
Other*	57	23	3	0	6	0	4	21	0

**d. San Diego, California 1981**

Most serious charge	Total	Arrests declined due to:							
		Insuf- ficient evidence	Witness prob- lems	Due process prob- lems	Inter- est of justice	Plea on an- other case	Re- ferral to di- version	Referral for other prose- cution	Other
Percent of declinations	100%	54%	15%	6%	9%	1%	0%	9%	7%
Homicide and manslaughter	100	92	3	0	3	0	0	0	3
Sexual assault	100	36	46	0	6	0	0	4	8
Robbery	100	52	25	-	4	1	0	2	15
Assault	100	45	34	1	8	-	0	6	7
Burglary	100	60	7	2	7	1	0	10	13
Larceny and auto theft	100	54	11	2	9	1	0	13	10
Stolen property	100	63	8	4	8	1	0	8	8
Fraud	100	58	5	9	14	4	0	8	4
Drugs	100	51	2	24	9	-	0	10	3
Weapons	100	45	0	18	27	0	0	0	9
Other*	100	51	20	4	10	1	0	11	4
Number of declinations	4,940	2,645	723	301	426	32	0	460	353
Homicide and manslaughter	38	35	1	0	1	0	0	0	1
Sexual assault	142	51	65	0	9	0	0	6	11
Robbery	233	122	59	1	10	2	0	4	35
Assault	578	260	194	3	49	1	0	32	39
Burglary	804	483	59	16	60	5	0	80	101
Larceny and auto theft	538	289	59	11	49	4	0	71	55
Stolen property	475	299	36	20	39	3	0	40	38
Fraud	196	113	9	17	27	7	0	16	7
Drugs	802	411	19	190	72	2	0	83	25
Weapons	11	5	0	2	3	0	0	0	1
Other*	1,123	577	222	41	107	8	0	128	40

\* Includes kidnaping, morals, arson, unknown, and miscellaneous other felonies.  
 - Insufficient data to calculate.



e. Washington, D.C. 1981

Most serious charge	Total	Arrests declined due to:							
		Insufficient evidence	Witness problems	Due process problems	Interest of justice	Plea on another case	Referral to diversion	Referral for other prosecution	Other
Percent of declinations	100%	30%	24%	-%	13%	0%	-%	3%	20%
Homicide and manslaughter	100	25	0	0	25	0	0	0	50
Sexual assault	100	19	33	0	16	0	0	0	33
Robbery	100	32	35	-	5	0	0	2	26
Assault	100	7	38	0	25	0	1	3	26
Burglary	100	27	27	0	7	0	1	4	35
Larceny and auto theft	100	50	12	0	0	0	1	5	23
Stolen property	100	25	0	0	0	0	0	25	50
Fraud	100	38	13	0	8	0	0	8	33
Drugs	100	17	0	6	17	0	0	0	61
Weapons	100	39	0	0	6	0	0	6	50
Other*	100	34	8	-	15	0	0	5	38
Number of declinations	1,535	454	376	3	203	0	5	53	441
Homicide and manslaughter	4	1	0	0	1	0	0	0	2
Sexual assault	43	8	14	0	7	0	0	0	14
Robbery	321	103	113	1	16	0	0	5	83
Assault	393	29	149	0	100	0	2	10	103
Burglary	128	34	34	0	9	0	1	5	45
Larceny and auto theft	378	190	47	0	34	0	2	19	86
Stolen property	4	1	0	0	0	0	0	1	2
Fraud	24	9	3	0	2	0	0	2	8
Drugs	18	3	0	1	3	0	0	0	11
Weapons	18	7	0	0	1	0	0	1	9
Other*	204	69	16	1	30	0	0	10	78

\* Includes kidnaping, morals, arson, unknown, and miscellaneous other felonies.  
 - Insufficient data to calculate.

**Table 5. Reasons why cases are dismissed after filing or indictment**

a. Indianapolis, Indiana 1981  
 b. Los Angeles, California 1981  
 c. Louisville, Kentucky 1981  
 d. Manhattan, New York 1981  
 e. New Orleans, Louisiana 1980  
 f. Portland, Oregon 1981  
 g. St. Louis, Missouri 1981  
 h. Salt Lake City, Utah 1981  
 i. San Diego, California 1981  
 j. Washington, D.C. 1981

**a. Indianapolis, Indiana 1981**

Most serious charge	Total	Cases dismissed due to:							
		Insuf- ficient evidence	Witness prob- lems	Due process prob- lems	Inter- est of justice	Plea on an- other case	Re- ferral to di- version	Referral for other prose- cution	Other
Percent of dismissals	100%	27%	15%	1%	33%	21%	-%	1%	1%
Homicide and manslaughter	100	21	11	0	37	26	0	5	0
Sexual assault	100	36	23	0	28	13	0	0	0
Robbery	100	50	13	0	20	16	0	0	1
Assault	100	12	33	6	24	18	3	0	3
Burglary	100	23	16	4	29	23	0	4	0
Larceny and auto theft	100	21	17	0	33	28	0	1	1
Stolen property	-	-	-	-	-	-	-	-	-
Fraud	100	20	0	0	40	40	0	0	0
Drugs	100	24	10	0	42	20	0	1	2
Weapons	100	0	0	0	100	0	0	0	0
Other*	100	23	14	0	46	16	0	0	0
Number of dismissals	639	174	99	5	212	135	1	7	6
Homicide and manslaughter	19	4	2	0	7	5	0	1	0
Sexual assault	39	14	9	0	11	5	0	0	0
Robbery	106	53	14	0	21	17	0	0	1
Assault	33	4	11	2	8	6	1	0	1
Burglary	73	17	12	3	21	17	0	3	0
Larceny and auto theft	159	33	27	0	52	45	0	1	1
Stolen property	0	0	0	0	0	0	0	0	0
Fraud	5	1	0	0	2	2	0	0	0
Drugs	134	32	14	0	56	27	0	2	3
Weapons	2	0	0	0	2	0	0	0	0
Other*	69	16	10	0	32	11	0	0	0

NOTE: In Indianapolis dismissal reasons are for cases indicted.

**b. Los Angeles, California 1981**

Most serious charge	Total	Cases dismissed due to:							
		Insuf- ficient evidence	Witness prob- lems	Due process prob- lems	Inter- est of justice	Plea on an- other case	Re- ferral to di- version	Referral for other prose- cution	Other
Percent of dismissals	100%	29%	16%	2%	17%	2%	10%	10%	14%
Homicide and manslaughter	100	37	13	2	24	3	0	1	19
Sexual assault	100	30	23	3	22	2	-	1	19
Robbery	100	34	25	1	20	2	-	1	17
Assault	100	35	29	3	19	3	1	1	10
Burglary	100	32	21	3	17	4	-	3	20
Larceny and auto theft	100	33	19	1	23	4	0	1	19
Stolen property	100	42	17	3	17	2	0	2	17
Fraud	100	24	12	4	20	7	2	1	31
Drugs	100	30	8	2	15	2	35	-	8
Weapons	100	34	11	5	25	6	8	3	8
Other*	100	8	6	1	8	1	-	71	6
Number of dismissals	8,351	2,433	1,296	174	1,409	203	842	857	1,137
Homicide and manslaughter	345	129	45	7	83	9	0	5	67
Sexual assault	347	104	79	9	75	8	1	4	67
Robbery	1,122	376	275	15	229	21	1	14	191
Assault	359	197	164	16	105	14	3	5	55
Burglary	1,297	414	274	38	223	49	2	36	261
Larceny and auto theft	679	222	132	9	154	25	0	7	130
Stolen property	246	104	43	7	43	4	0	4	41
Fraud	173	41	20	7	34	12	3	2	54
Drugs	2,335	703	184	47	339	44	815	9	194
Weapons	168	57	19	8	42	10	14	5	13
Other*	1,080	86	61	11	82	7	3	766	64

NOTE: In Los Angeles dismissal reasons are for cases filed but they exclude a substantial number of felony arrests that are filed as misdemeanors and handled by municipal prosecutors.

\* Includes kidnapping, morals, arson, unknown, and miscellaneous other felonies.  
 - Insufficient data to calculate.

**c. Louisville, Kentucky 1981**

Most serious charge	Total	Cases dismissed due to:							
		Insuf- ficient evidence	Witness prob- lems	Due process prob- lems	Inter- est of justice	Plea on an- other case	Re- ferral to di- version	Referral for other prose- cution	Other
Percent of dismissals	100%	11%	10%	3%	28%	5%	15%	3%	24%
Homicide and manslaughter	100	30	10	0	50	0	0	0	10
Sexual assault	100	6	12	0	35	6	0	0	41
Robbery	100	9	12	9	26	9	0	0	35
Assault	100	11	28	0	28	0	6	0	28
Burglary	100	13	11	5	27	8	14	2	21
Larceny and auto theft	100	10	13	0	27	0	33	3	13
Stolen property	100	0	4	4	36	4	24	0	28
Fraud	100	12	6	0	24	6	12	18	24
Drugs	100	20	0	5	45	5	5	10	10
Weapons	-	-	-	-	-	-	-	-	-
Other*	100	15	15	8	15	8	0	8	31
Number of dismissals	272	31	28	9	77	13	41	9	64
Homicide and manslaughter	10	3	1	0	5	0	0	0	1
Sexual assault	17	1	2	0	6	1	0	0	7
Robbery	34	3	4	3	9	3	0	0	12
Assault	18	2	5	0	5	1	1	0	5
Burglary	63	8	7	3	17	5	9	1	13
Larceny and auto theft	30	3	4	0	8	0	10	1	4
Stolen property	25	0	1	1	9	1	6	0	7
Fraud	17	2	1	0	4	1	2	3	4
Drugs	20	4	0	1	9	1	1	2	2
Weapons	0	0	0	0	0	0	0	0	0
Other*	13	2	2	1	2	1	0	1	4

NOTE: In Louisville dismissal reasons are for cases indicted.

**d. Manhattan, New York 1981**

Most serious charge	Total	Cases dismissed due to:							
		Insuf- ficient evidence	Witness prob- lems	Due process prob- lems	Inter- est of justice	Plea on an- other case	Re- ferral to di- version	Referral for other prose- cution	Other
Percent of dismissals	100%	26%	24%	1%	17%	4%	0%	1%	26%
Homicide and manslaughter	100	35	15	0	7	2	0	2	40
Sexual assault	100	10	53	-	12	1	0	2	21
Robbery	100	17	38	0	8	3	0	4	30
Assault	100	10	49	0	19	2	0	-	21
Burglary	100	17	23	1	24	5	0	1	29
Larceny and auto theft	100	17	22	-	32	8	0	1	19
Stolen property	100	26	12	1	33	7	0	1	20
Fraud	100	17	8	0	39	14	0	0	23
Drugs	100	51	2	3	11	4	0	-	30
Weapons	100	47	6	5	9	2	0	-	32
Other*	100	15	21	-	38	3	0	1	22
Number of dismissals	10,233	2,689	2,417	117	1,789	397	0	146	2,678
Homicide and manslaughter	243	84	36	0	18	4	0	5	96
Sexual assault	315	32	167	1	39	3	0	7	66
Robbery	2,053	358	782	0	165	55	0	86	607
Assault	1,494	142	726	0	280	27	0	6	313
Burglary	770	128	177	5	187	39	0	9	225
Larceny and auto theft	1,289	218	287	1	413	107	0	13	250
Stolen property	538	138	66	4	180	39	0	6	105
Fraud	114	19	9	0	44	16	0	0	26
Drugs	2,303	1,180	40	71	242	82	0	8	680
Weapons	697	328	39	34	62	12	0	2	220
Other*	417	62	88	1	159	13	0	4	90

NOTE: In Manhattan dismissal reasons are for cases filed.

\* Includes kidnaping, morals, arson, unknown, and miscellaneous other felonies.  
- Insufficient data to calculate.

**Table 5. Continued**  
**Reasons why cases are dismissed after filing or indictment**

**e. New Orleans, Louisiana 1980**

Most serious charge	Total	Cases dismissed due to:							Other
		Insuf- ficient evidence	Witness prob- lems	Due process prob- lems	Inter- est of justice	Plea on an- other case	Re- ferral to di- version	Referral for other prose- cution	
Percent of dismissals	100%	22%	16%	20%	15%	6%	7%	1%	14%
Homicide and manslaughter	100	33	22	0	17	6	0	0	22
Sexual assault	100	14	37	0	0	29	0	0	0
Robbery	100	25	33	4	17	0	4	0	17
Assault	100	0	31	0	17	17	0	0	6
Burglary	100	20	32	7	4	7	3	1	27
Larceny and auto theft	100	24	10	0	15	5	21	6	19
Stolen property	100	41	6	22	13	3	6	0	9
Fraud	100	36	8	0	8	4	20	0	24
Drugs	100	15	0	49	25	5	1	0	5
Weapons	100	29	7	46	11	7	0	0	0
Other*	100	14	18	0	14	5	32	0	18
Number of dismissals	429	94	67	84	63	25	31	5	60
Homicide and manslaughter	18	6	4	0	3	1	0	0	4
Sexual assault	7	1	4	0	0	2	0	0	0
Robbery	24	6	8	1	4	0	1	0	4
Assault	18	0	11	0	3	3	0	0	1
Burglary	75	15	24	5	3	5	2	1	20
Larceny and auto theft	62	15	6	0	9	3	13	4	12
Stolen property	32	13	2	7	4	1	2	0	3
Fraud	25	9	2	0	2	1	5	0	6
Drugs	118	18	0	58	29	6	1	0	6
Weapons	28	8	2	13	3	2	0	0	0
Other*	22	3	4	0	3	1	7	0	4

NOTE: In New Orleans cases filed and cases indicted are the same.

**f. Portland, Oregon 1981**

Most serious charge	Total	Cases dismissed due to:							Other
		Insuf- ficient evidence	Witness prob- lems	Due process prob- lems	Inter- est of justice	Plea on an- other case	Re- ferral to di- version	Referral for other prose- cution	
Percent of dismissals	100%	15%	22%	3%	6%	23%	7%	13%	13%
Homicide and manslaughter	100	30	30	0	20	0	0	0	20
Sexual assault	100	12	24	0	4	23	0	1	31
Robbery	100	21	46	1	4	9	5	1	14
Assault	100	14	51	0	0	5	14	1	16
Burglary	100	21	18	1	7	23	11	2	18
Larceny	100	20	13	1	5	46	9	1	6
Stolen property	..	..	..	..	..	..	..	..	..
Fraud	..	..	..	..	..	..	..	..	..
Drugs	100	16	5	0	19	47	0	3	10
Weapons	100	21	7	0	14	14	0	14	29
Other*	100	8	17	0	6	16	7	36	10
Number of dismissals	906	134	203	3	56	212	61	116	121
Homicide and manslaughter	10	3	3	0	2	0	0	0	2
Sexual assault	78	9	19	0	3	23	0	1	24
Robbery	107	22	49	1	4	19	5	1	13
Assault	81	11	41	0	0	4	11	1	13
Burglary	92	19	17	1	6	20	10	2	17
Larceny	151	30	19	1	7	70	14	1	9
Stolen property	0	0	0	0	0	0	0	0	0
Fraud	..	..	..	..	..	..	..	..	..
Drugs	79	13	4	0	15	37	0	2	8
Weapons	14	3	1	0	2	2	0	2	4
Other*	294	24	50	0	17	47	21	106	29

NOTE: In Portland dismissal reasons are for cases filed. Dismissal reasons for auto theft and fraud are included in "other."

**g. St. Louis, Missouri 1981**

Most serious charge	Total	Cases dismissed due to:							
		Insuf- ficient evidence	Witness prob- lems	Due process prob- lems	Inter- est of justice	Plea on an- other case	Re- ferral to di- version	Referral for other prose- cution	Other
Percent of dismissals	100%	22%	20%	0%	4%	10%	~%	1%	32%
Homicide and manslaughter	100	19	28	0	0	21	0	0	10
Sexual assault	100	30	32	0	2	11	0	0	25
Robbery	100	17	20	2	0	17	0	1	31
Assault	100	17	34	0	5	7	0	1	36
Burglary	100	23	21	8	2	4	0	1	41
Larceny and auto theft	100	23	15	4	5	8	2	0	44
Stolen property	100	23	15	4	8	15	0	4	31
Fraud	100	19	23	0	0	10	0	0	42
Drugs	100	28	0	23	5	15	1	3	20
Weapons	100	20	13	24	4	7	0	3	30
Other*	100	22	28	4	6	16	0	2	22
Number of dismissals	1,097	239	224	102	49	110	3	16	354
Homicide and manslaughter	47	9	13	3	3	10	0	0	9
Sexual assault	53	16	17	0	1	6	0	0	13
Robbery	109	19	28	2	7	18	0	1	34
Assault	95	16	32	0	5	7	0	1	34
Burglary	246	56	52	19	6	10	0	3	100
Larceny and auto theft	110	25	17	4	5	9	2	0	48
Stolen property	26	6	4	1	2	4	0	1	8
Fraud	31	6	7	0	2	3	0	0	13
Drugs	116	32	7	27	6	17	1	3	23
Weapons	182	36	24	43	7	13	0	5	54
Other*	82	18	23	3	5	13	0	2	18

NOTE: In St. Louis dismissal reasons are for cases filed.

**h. Salt Lake City, Utah 1981**

Most serious charge	Total	Cases dismissed due to:							
		Insuf- ficient evidence	Witness prob- lems	Due process prob- lems	Inter- est of justice	Plea on an- other case	Re- ferral to di- version	Referral for other prose- cution	Other
Percent of dismissals	100%	16%	17%	1%	2%	27%	9%	9%	19%
Homicide and manslaughter	100	71	29	0	0	0	0	0	0
Sexual assault	100	18	39	0	0	13	15	5	10
Robbery	100	26	18	3	2	45	0	2	5
Assault	100	18	53	0	2	16	0	6	4
Burglary	100	11	13	3	1	40	13	3	16
Larceny and auto theft	100	22	18	1	3	26	15	4	10
Stolen property	100	21	15	0	0	38	10	3	13
Fraud	100	15	13	0	3	41	11	4	14
Drugs	100	23	6	3	2	26	17	3	22
Weapons	100	19	13	0	13	44	0	6	6
Other*	100	7	7	1	2	5	2	28	48
Number of dismissals	917	150	152	11	20	248	82	78	176
Homicide and manslaughter	7	5	2	0	0	0	0	0	0
Sexual assault	61	11	24	0	0	8	9	3	6
Robbery	66	17	12	2	1	30	0	1	3
Assault	49	9	26	0	1	8	0	3	2
Burglary	151	17	20	4	2	61	19	4	24
Larceny and auto theft	147	33	27	1	5	38	22	6	15
Stolen property	39	8	6	0	0	15	4	1	5
Fraud	133	20	17	0	4	54	14	5	19
Drugs	65	15	3	2	1	17	11	2	14
Weapons	16	3	2	0	2	7	0	1	1
Other*	183	12	13	2	4	10	3	52	87

NOTE: In Salt Lake City dismissal reasons are for cases filed.

\* Includes kidnaping, morals, arson, unknown, and miscellaneous other felonies.  
- Insufficient data to calculate.

**Table 5. Continued**  
**Reasons why cases are dismissed after filing or indictment**

**i. San Diego, California 1981**

Most serious charge	Total	Cases dismissed due to:							
		Insuf- ficient evidence	Witness prob- lems	Due process prob- lems	Inter- est of justice	Plea on an- other case	Re- ferral to di- version	Referral for other prose- cution	Other
Percent of dismissals	100%	25%	11%	3%	7%	18%	10%	6%	20%
Homicide and manslaughter	100	40	20	0	0	20	0	0	20
Sexual assault	100	30	30	0	5	5	0	0	30
Robbery	100	35	28	2	2	11	0	5	18
Assault	100	37	28	1	4	12	1	2	16
Burglary	100	29	12	1	4	29	1	1	23
Larceny and auto theft	100	33	7	-	8	20	0	2	22
Stolen property	100	36	14	5	4	21	0	5	15
Fraud	100	21	6	2	29	25	0	2	18
Drugs	100	17	6	6	6	12	36	1	17
Weapons	100	33	0	0	33	33	0	0	0
Other*	100	21	10	2	5	15	2	21	25
Number of dismissals	2,630	664	285	76	173	480	263	163	526
Homicide and manslaughter	10	4	2	0	0	2	0	0	2
Sexual assault	20	6	6	0	1	1	0	0	6
Robbery	132	46	37	2	2	15	0	3	24
Assault	139	51	39	1	5	17	1	3	22
Burglary	345	101	40	5	13	99	3	5	79
Larceny and auto theft	295	97	20	1	23	85	0	5	64
Stolen property	195	70	28	0	8	41	0	10	29
Fraud	200	42	11	3	57	40	0	3	35
Drugs	690	118	43	44	32	81	240	6	117
Weapons	3	1	0	0	1	1	0	0	0
Other*	601	128	59	11	31	89	10	125	148

NOTE: In San Diego dismissal reasons are for cases filed.

**j. Washington, D.C. 1981**

Most serious charge	Total	Cases dismissed due to:							
		Insuf- ficient evidence	Witness prob- lems	Due process prob- lems	Inter- est of justice	Plea on an- other case	Re- ferral to di- version	Referral for other prose- cution	Other
Percent of dismissals	100%	21%	16%	1%	4%	9%	7%	1%	41%
Homicide and manslaughter	100	54	5	5	10	2	0	2	23
Sexual assault	100	22	37	0	5	5	13	2	16
Robbery	100	37	31	1	4	6	1	1	20
Assault	100	10	25	-	3	4	6	-	51
Burglary	100	22	16	1	4	9	10	0	39
Larceny and auto theft	100	15	8	1	4	11	16	2	43
Stolen property	100	12	6	0	12	12	12	0	47
Fraud	100	16	8	0	6	7	25	2	37
Drugs	100	33	3	3	1	16	2	1	41
Weapons	100	44	5	2	0	11	0	3	35
Other*	100	13	4	1	3	13	5	1	59
Number of dismissals	3,656	769	592	27	134	323	273	42	1,496
Homicide and manslaughter	61	33	3	3	6	1	0	1	14
Sexual assault	93	20	34	0	5	5	12	2	15
Robbery	715	261	221	4	27	41	9	9	143
Assault	659	66	163	2	21	29	38	2	338
Burglary	462	100	75	3	19	43	44	0	178
Larceny and auto theft	638	98	51	4	24	71	101	14	275
Stolen property	17	2	1	0	2	2	2	0	8
Fraud	126	20	10	0	7	9	31	3	46
Drugs	172	57	6	5	1	28	3	1	71
Weapons	63	28	3	1	0	7	0	2	22
Other*	650	84	23	5	22	87	33	8	386

NOTE: In Washington, D.C. dismissal reasons are for cases filed.

\* Includes kidnaping, morals, arson, unknown, and miscellaneous other felonies.

- Insufficient data to calculate.

**Table 6. Incarceration rates for filed cases that result in a conviction in felony or misdemeanor court**

a. Manhattan, New York 1981  
 b. New Orleans, Louisiana 1980  
 c. Portland, Oregon 1981  
 d. Rhode Island 1980  
 e. St. Louis, Missouri 1981  
 f. Salt Lake City, Utah 1981  
 g. San Diego, California 1981

**a. Manhattan, New York 1981**

Most serious charge	Total	Convictions* resulting in a sentence to incarceration:			
		Any	Less than 1 year	Exactly 1 year	More than 1 year
Percent of convictions	100%	56%	33%	6%	17%
Homicide and manslaughter	100	84	4	5	74
Sexual assault	100	70	20	4	44
Robbery	100	67	19	9	38
Assault	100	43	34	3	6
Burglary	100	63	35	8	19
Larceny and auto theft	100	56	47	5	4
Stolen property	100	53	42	4	7
Fraud	100	42	32	2	8
Drugs	100	53	35	3	14
Weapons	100	52	13	12	26
Other**	100	41	28	3	10
Number of convictions	18,899	10,619	6,247	1,070	3,252
Homicide and manslaughter	413	348	15	22	306
Sexual assault	117	82	23	5	52
Robbery	3,354	2,242	649	312	1,268
Assault	1,507	646	519	42	83
Burglary	2,283	1,434	804	104	429
Larceny and auto theft	3,978	2,215	1,886	182	143
Stolen property	1,061	563	444	47	71
Fraud	381	160	121	9	30
Drugs	3,980	2,100	1,386	137	569
Weapons	752	391	100	92	193
Other**	1,073	438	300	28	106

**b. New Orleans, Louisiana 1980**

Most serious charge	Total	Convictions* resulting in a sentence to incarceration:			
		Any	Less than 1 year	Exactly 1 year	More than 1 year
Percent of convictions	100%	53%	17%	7%	28%
Homicide and manslaughter	100	66	5	8	53
Sexual assault	100	75	7	2	67
Robbery	100	80	8	5	66
Assault	100	39	14	7	19
Burglary	100	64	17	11	36
Larceny and auto theft	100	49	23	9	15
Stolen property	100	50	17	9	25
Fraud	100	48	14	4	30
Drugs	100	28	11	4	13
Weapons	100	56	18	5	32
Other**	224	46	33	7	6
Number of convictions	2,670	1,420	467	198	755
Homicide and manslaughter	98	65	5	8	52
Sexual assault	57	43	4	1	38
Robbery	241	192	19	13	169
Assault	118	46	16	8	22
Burglary	608	390	102	67	221
Larceny and auto theft	556	272	140	49	83
Stolen property	129	65	22	11	32
Fraud	161	78	22	7	49
Drugs	367	101	42	13	49
Weapons	111	62	20	6	36
Other**	224	103	75	15	13

\* Includes only cases with known sentencing data.  
 \*\* Includes kidnaping, morals, arson, unknown, and miscellaneous other felonies.

NOTE: In New Orleans cases filed and cases indicted are the same.

**Table 6. Continued**  
**Incarceration rates for filed cases that result**  
**in a conviction in felony or misdemeanor court**

**c. Portland, Oregon 1981**

Most serious charge	Total	Convictions* resulting in a sentence to incarceration:			
		Any	Less than 1 year	Exactly 1 year	More than 1 year
Percent of convictions	100%	34%	6%	2%	26%
Homicide and manslaughter	100	63	0	0	63
Sexual assault	100	39	1	2	36
Robbery	100	54	9	2	43
Assault	100	30	13	3	14
Burglary	100	40	4	1	36
Larceny	100	35	4	2	29
Stolen property	100	-	-	-	-
Fraud	..	..	..	..	..
Drugs	100	14	4	1	9
Weapons	100	32	12	2	18
Other**	100	31	8	3	20
Number of convictions	2,607	878	154	49	673
Homicide and manslaughter	48	30	0	0	30
Sexual assault	119	46	1	2	43
Robbery	259	140	24	5	111
Assault	94	28	12	3	13
Burglary	452	182	17	3	162
Larceny	420	145	16	8	121
Stolen property	0	0	0	0	0
Fraud	..	..	..	..	..
Drugs	407	58	17	4	37
Weapons	50	16	6	1	9
Other**	758	233	61	23	149

NOTE: In Portland sentences for auto theft and fraud are included in "other."

**d. Rhode Island 1980**

Most serious charge	Total	Convictions* resulting in a sentence to incarceration:			
		Any	Less than 1 year	Exactly 1 year	More than 1 year
Percent of convictions	100%	34%	12%	6%	16%
Homicide and manslaughter	100	69	3	0	66
Sexual assault	100	48	0	0	48
Robbery	100	71	4	2	64
Assault	100	27	14	4	9
Burglary	100	44	11	9	24
Larceny and auto theft	100	27	8	8	10
Stolen property	100	30	14	5	11
Fraud	100	15	5	5	5
Drugs	100	23	13	7	4
Weapons	100	12	6	2	4
Other**	100	28	23	3	3
Number of convictions	2,547	861	305	148	408
Homicide and manslaughter	32	22	1	0	21
Sexual assault	46	22	0	0	22
Robbery	163	115	6	4	105
Assault	311	83	42	12	29
Burglary	682	302	75	64	163
Larceny and auto theft	216	58	18	18	22
Stolen property	112	34	16	6	12
Fraud	150	22	7	8	7
Drugs	364	83	46	24	13
Weapons	81	10	5	2	3
Other**	390	110	89	10	11

\* Includes only cases with known sentencing data.  
 \*\* Includes kidnaping, morals, arson, unknown, and miscellaneous other felonies.  
 - Insufficient data to calculate.  
 .. Not available.

NOTE: In Rhode Island all convictions resulting from a felony arrest occur in the felony court. Dispositions of filed cases in the lower court are all dismissals. This case-processing arrangement results in the same incarceration rates for filed and indicted cases.



### e. St. Louis, Missouri 1981

Most serious charge	Total	Convictions* resulting in a sentence to incarceration:			
		Any	Less than 1 year	Exactly 1 year	More than 1 year
Percent of convictions	100%	62%	27%	6%	29%
Homicide and manslaughter	100	85	0	3	82
Sexual assault	100	78	9	6	63
Robbery	100	82	9	5	69
Assault	100	55	19	7	29
Burglary	100	68	33	6	28
Larceny and auto theft	100	48	25	7	17
Stolen property	100	56	30	0	26
Fraud	100	57	33	10	13
Drugs	100	52	34	6	13
Weapons	100	51	38	5	8
Other**	100	54	30	8	16
Number of convictions	2,334	1,446	640	140	666
Homicide and manslaughter	62	53	0	2	51
Sexual assault	64	50	6	4	40
Robbery	258	212	22	12	178
Assault	117	64	22	8	34
Burglary	745	506	249	47	210
Larceny and auto theft	333	161	82	23	56
Stolen property	54	30	16	0	14
Fraud	97	55	32	10	13
Drugs	269	141	91	15	35
Weapons	233	119	89	11	19
Other**	102	55	31	8	16

### f. Salt Lake City, Utah 1981

Most serious charge	Total	Convictions* resulting in a sentence to incarceration:			
		Any	Less than 1 year	Exactly 1 year	More than 1 year
Percent of convictions	100%	41%	10%	13%	18%
Homicide and manslaughter	100	79	4	36	39
Sexual assault	100	47	15	11	20
Robbery	100	61	10	28	23
Assault	100	42	18	15	9
Burglary	100	43	9	16	18
Larceny and auto theft	100	29	11	9	9
Stolen property	100	27	11	4	11
Fraud	100	32	5	10	17
Drugs	100	22	8	5	9
Weapons	100	35	15	15	6
Other**	100	64	10	11	43
Number of convictions	1,436	583	141	188	254
Homicide and manslaughter	28	22	1	10	11
Sexual assault	88	41	13	10	18
Robbery	112	68	11	31	26
Assault	79	33	14	12	7
Burglary	349	151	31	57	63
Larceny and auto theft	223	65	25	19	21
Stolen property	45	12	5	2	5
Fraud	191	62	10	20	32
Drugs	158	35	13	8	14
Weapons	34	12	5	5	2
Other**	129	82	13	14	55

\* Includes only cases with known sentencing data.  
 \*\* Includes kidnaping, morals, arson, unknown, and miscellaneous other felonies.

**Table 6. Continued**  
**Incarceration rates for filed cases that result**  
**in a conviction in felony or misdemeanor court**

**g. San Diego, California 1981**

<u>Most serious charge</u>	<u>Total</u>	<u>Convictions* resulting in a sentence to incarceration:</u>			
		<u>Any</u>	<u>Less than 1 year</u>	<u>Exactly 1 year</u>	<u>More than 1 year</u>
Percent of convictions	100%	77%	52%	7%	17%
Homicide and manslaughter	100	99	0	3	90
Sexual assault	100	85	54	12	19
Robbery	100	94	27	9	59
Assault	100	75	51	11	13
Burglary	100	89	49	11	20
Larceny and auto theft	100	75	62	5	8
Stolen property	100	80	60	8	12
Fraud	100	69	56	6	8
Drugs	100	66	56	5	6
Weapons	100	42	38	0	4
Other**	100	70	56	6	7
Number of convictions	7,680	5,895	4,026	574	1,295
Homicide and manslaughter	68	67	4	2	61
Sexual assault	100	85	54	12	19
Robbery	548	517	147	49	221
Assault	467	349	239	50	60
Burglary	1,043	1,457	799	185	473
Larceny and auto theft	852	639	531	44	64
Stolen property	386	307	230	31	46
Fraud	699	485	391	39	55
Drugs	1,090	723	606	54	63
Weapons	24	10	9	0	1
Other**	1,803	1,256	1,016	108	132

\* Includes only cases with known sentencing data.  
 \*\* Includes kidnaping, morals, arson, unknown, and miscellaneous other felonies.

**Table 7. Incarceration rates for indicted cases that result in a conviction in felony court**

- a. Indianapolis, Indiana 1981
- b. Los Angeles, California 1981
- c. Louisville, Kentucky 1981
- d. Manhattan, New York 1981
- e. New Orleans, Louisiana 1980
- f. Rhode Island 1980
- g. St. Louis, Missouri 1981
- h. Salt Lake City, Utah 1981
- i. San Diego, California 1981

**a. Indianapolis, Indiana 1981**

Most serious charge	Total	Convictions* resulting in a sentence to incarceration:			
		Any	Less than 1 year	Exactly 1 year	More than 1 year
Percent of convictions	100%	51%	4%	6%	40%
Homicide and manslaughter	100	84	3	4	77
Sexual assault	100	78	2	5	71
Robbery	100	79	1	1	76
Assault	100	47	3	0	36
Burglary	100	59	4	4	51
Larceny and auto theft	100	42	4	10	29
Stolen property	-	-	-	-	-
Fraud	100	65	0	18	47
Drugs	100	25	5	6	13
Weapons	100	21	14	0	7
Other**	100	38	7	10	21
Number of convictions	3,595	1,313	99	168	1,046
Homicide and manslaughter	98	82	3	4	75
Sexual assault	131	102	2	7	93
Robbery	344	272	5	5	262
Assault	76	36	2	7	27
Burglary	517	307	19	23	265
Larceny and auto theft	714	303	27	70	206
Stolen property	0	0	0	0	0
Fraud	17	11	0	3	8
Drugs	461	114	24	28	62
Weapons	14	3	2	0	1
Other**	220	83	15	21	47

**b. Los Angeles, California 1981**

Most serious charge	Total	Convictions* resulting in a sentence to incarceration:			
		Any	Less than 1 year	Exactly 1 year	More than 1 year
Percent of convictions	100%	83%	31%	15%	38%
Homicide and manslaughter	100	88	10	10	68
Sexual assault	100	84	21	13	50
Robbery	100	89	19	15	55
Assault	100	77	34	17	25
Burglary	100	88	32	16	41
Larceny and auto theft	100	82	38	17	26
Stolen property	100	74	33	19	22
Fraud	100	78	32	17	29
Drugs	100	75	45	14	16
Weapons	100	83	34	18	31
Other**	100	78	42	15	22
Number of convictions	13,589	12,946	4,790	2,338	5,818
Homicide and manslaughter	1,040	913	103	104	706
Sexual assault	856	724	181	111	432
Robbery	2,935	2,615	540	442	1,624
Assault	983	761	339	171	251
Burglary	3,894	3,437	1,241	616	1,580
Larceny and auto theft	1,544	1,270	594	270	406
Stolen property	282	209	94	53	62
Fraud	361	281	115	62	104
Drugs	2,706	2,018	1,226	366	426
Weapons	336	279	113	61	105
Other**	560	439	235	82	122

\* Includes only cases with known sentencing data.  
 \*\* Includes kidnaping, morals, arson, unknown, and miscellaneous other felonies.  
 - Insufficient data to calculate.

**Table 7. Continued**  
**Incarceration rates for indicted cases that result**  
**in a conviction in felony court**

**c. Louisville, Kentucky 1981**

<u>Most serious charge</u>	<u>Total</u>	<u>Convictions* resulting in a sentence to incarceration:</u>			
		<u>Any</u>	<u>Less than 1 year</u>	<u>Exactly 1 year</u>	<u>More than 1 year</u>
Percent of convictions	100%	62%	1%	10%	50%
Homicide and manslaughter	100	74	0	5	69
Sexual assault	100	71	2	5	64
Robbery	100	87	0	2	85
Assault	100	52	5	14	33
Burglary	100	70	1	11	58
Larceny and auto theft	100	49	3	15	31
Stolen property	100	49	0	16	33
Fraud	100	58	0	15	43
Drugs	100	41	1	7	32
Weapons	100	57	5	19	33
Other**	100	76	9	18	50
Number of convictions	1,078	666	16	110	540
Homicide and manslaughter	58	43	0	3	40
Sexual assault	55	39	1	3	35
Robbery	164	142	0	3	139
Assault	85	44	4	12	28
Burglary	236	165	3	25	137
Larceny and auto theft	117	57	3	18	36
Stolen property	70	34	0	11	23
Fraud	88	51	0	13	38
Drugs	68	28	1	5	22
Weapons	21	12	1	4	7
Other**	34	26	3	6	17

**d. Manhattan, New York 1981**

<u>Most serious charge</u>	<u>Total</u>	<u>Convictions* resulting in a sentence to incarceration:</u>			
		<u>Any</u>	<u>Less than 1 year</u>	<u>Exactly 1 year</u>	<u>More than 1 year</u>
Percent of convictions	100%	71%	9%	11%	50%
Homicide and manslaughter	100	86	2	5	78
Sexual assault	100	77	7	4	63
Robbery	100	74	7	10	57
Assault	100	66	15	15	36
Burglary	100	76	13	13	50
Larceny and auto theft	100	61	13	16	31
Stolen property	100	78	17	20	41
Fraud	100	64	8	11	45
Drugs	100	67	10	7	49
Weapons	100	57	10	14	32
Other**	100	70	10	9	50
Number of convictions	6,292	4,459	576	676	3,164
Homicide and manslaughter	393	338	9	18	306
Sexual assault	82	63	6	3	52
Robbery	2,223	1,652	149	232	1,258
Assault	217	143	32	32	78
Burglary	832	629	105	104	414
Larceny and auto theft	401	243	54	63	126
Stolen property	157	123	27	31	64
Fraud	53	34	4	6	24
Drugs	1,123	748	107	84	549
Weapons	606	343	63	85	191
Other**	205	143	20	18	102

\* Includes only cases for which time data were available.

\*\* Includes kidnaping, morals, arson, unknown, and miscellaneous other felonies.

### e. New Orleans, Louisiana 1980

Most serious charge	Total	Convictions* resulting in a sentence to incarceration			
		Any	Less than 1 year	Exactly 1 year	More than 1 year
Percent of convictions	100%	53%	17%	7%	28%
Homicide and manslaughter	100	66	5	8	53
Sexual assault	100	75	7	2	67
Robbery	100	80	8	5	66
Assault	100	39	14	7	19
Burglary	100	64	17	11	30
Larceny and auto theft	100	49	25	9	15
Stolen property	100	50	17	9	35
Fraud	100	48	14	4	30
Drugs	100	28	11	4	13
Weapons	100	56	18	5	32
Other**	100	46	33	7	6
Number of convictions	2,670	1,420	467	198	755
Homicide and manslaughter	98	65	5	8	52
Sexual assault	57	43	4	1	38
Robbery	241	192	19	13	150
Assault	118	46	16	8	22
Burglary	608	390	102	67	221
Larceny and auto theft	556	272	140	49	83
Stolen property	129	65	22	11	32
Fraud	161	78	22	7	49
Drugs	367	104	42	13	49
Weapons	111	62	20	6	36
Other**	224	103	75	15	13

NOTE: In New Orleans cases filed and cases indicted are the same.

### f. Rhode Island 1980

Most serious charge	Total	Convictions* resulting in a sentence to incarceration			
		Any	Less than 1 year	Exactly 1 year	More than 1 year
Percent of convictions	100%	34%	12%	6%	16%
Homicide and manslaughter	100	69	3	0	66
Sexual assault	100	48	0	0	48
Robbery	100	71	4	2	64
Assault	100	27	14	4	9
Burglary	100	44	11	9	24
Larceny and auto theft	100	27	8	8	10
Stolen property	100	30	14	5	11
Fraud	100	15	5	5	5
Drugs	100	23	13	7	4
Weapons	100	12	6	2	4
Other**	100	28	23	3	3
Number of convictions	2,547	861	305	148	408
Homicide and manslaughter	32	22	1	0	21
Sexual assault	46	22	0	0	22
Robbery	163	115	6	4	105
Assault	311	83	42	12	29
Burglary	682	302	75	64	163
Larceny and auto theft	216	58	18	18	22
Stolen property	112	34	16	6	12
Fraud	150	22	7	8	7
Drugs	364	83	46	24	13
Weapons	81	10	5	2	3
Other**	390	110	89	10	11

NOTE: In Rhode Island all convictions resulting from a felony arrest occur in the felony court. Dispositions of filed cases in the lower court are all dismissals. This case-processing arrangement results in the same incarceration rates for filed and indicted cases.

\* Includes only cases for which time data were available.  
 \*\* Includes kidnaping, morals, arson, unknown, and miscellaneous other felonies.

**Table 7. Continued**  
**Incarceration rates for indicted cases that result**  
**in a conviction in felony court**

**g. St. Louis, Missouri 1981**

<u>Most serious charge</u>	<u>Total</u>	<u>Convictions* resulting in a sentence to incarceration:</u>			
		<u>Any</u>	<u>Less than 1 year</u>	<u>Exactly 1 year</u>	<u>More than 1 year</u>
Percent of convictions	100%	62%	27%	6%	29%
Homicide and manslaughter	100	85	0	3	82
Sexual assault	100	81	10	7	64
Robbery	100	82	8	5	69
Assault	100	55	18	7	30
Burglary	100	68	32	7	28
Larceny and auto theft	100	47	24	7	17
Stolen property	100	55	27	0	29
Fraud	100	59	34	11	14
Drugs	100	53	34	6	13
Weapons	100	52	39	5	9
Other**	100	55	31	7	17
Number of convictions	2,223	1,384	596	136	652
Homicide and manslaughter	62	53	0	2	51
Sexual assault	59	48	6	4	38
Robbery	255	210	21	12	177
Assault	114	63	21	8	34
Burglary	709	479	230	47	202
Larceny and auto theft	314	149	74	21	54
Stolen property	49	27	13	0	14
Fraud	91	54	31	10	13
Drugs	259	136	87	15	34
Weapons	216	113	84	10	19
Other**	95	52	29	7	16

**h. Salt Lake City, Utah 1981**

<u>Most serious charge</u>	<u>Total</u>	<u>Convictions* resulting in a sentence to incarceration:</u>			
		<u>Any</u>	<u>Less than 1 year</u>	<u>Exactly 1 year</u>	<u>More than 1 year</u>
Percent of convictions	100%	42%	8%	14%	20%
Homicide and manslaughter	100	80	4	40	36
Sexual assault	100	50	13	13	25
Robbery	100	61	10	30	21
Assault	100	46	17	17	12
Burglary	100	42	6	16	21
Larceny and auto theft	100	31	8	11	13
Stolen property	100	29	13	5	11
Fraud	100	33	5	11	18
Drugs	100	24	7	4	12
Weapons	100	39	6	28	6
Other**	100	66	5	13	48
Number of convictions	1,126	477	85	162	230
Homicide and manslaughter	25	20	1	10	9
Sexual assault	72	36	9	9	18
Robbery	98	60	10	29	21
Assault	59	27	10	10	7
Burglary	278	118	16	44	58
Larceny and auto theft	158	49	12	17	20
Stolen property	38	11	5	2	4
Fraud	165	55	8	18	29
Drugs	113	27	8	5	14
Weapons	18	7	1	5	1
Other**	102	67	5	13	49

\* Includes only cases with known sentencing data.  
 \*\* Includes kidnaping, morals, arson, unknown, and miscellaneous other felonies.

## i. San Diego, California 1981

<u>Most serious charge</u>	<u>Total</u>	<u>Convictions* resulting in a sentence to incarceration:</u>			
		<u>Any</u>	<u>Less than 1 year</u>	<u>Exactly 1 year</u>	<u>More than 1 year</u>
Percent of convictions	100%	91%	45%	12%	33%
Homicide and manslaughter	100	99	6	3	90
Sexual assault	100	92	54	15	23
Robbery	100	96	23	9	84
Assault	100	88	43	19	26
Burglary	100	95	40	14	41
Larceny and auto theft	100	89	57	10	22
Stolen property	100	93	53	13	27
Fraud	100	82	56	9	17
Drugs	100	86	63	10	13
Weapons	100	100	50	0	50
Other**	100	87	52	14	21
Number of convictions	3,739	3,393	1,699	458	1,236
Homicide and manslaughter	67	66	4	2	60
Sexual assault	79	73	43	12	18
Robbery	486	465	111	44	310
Assault	230	203	100	44	59
Burglary	1,089	1,034	431	154	449
Larceny and auto theft	277	247	157	28	62
Stolen property	163	152	86	22	44
Fraud	295	241	165	26	50
Drugs	460	397	292	44	61
Weapons	2	2	1	0	1
Other**	591	513	309	82	122

\* Includes only cases for which time data were available.

\*\* Includes kidnaping, morals, arson, unknown, and miscellaneous other felonies.

**Table 8. Case-processing time for cases filed**

- a. Los Angeles, California 1981
- b. Manhattan, New York 1981
- c. New Orleans, Louisiana 1980
- d. Portland, Oregon 1981
- e. Rhode Island 1980
- f. St. Louis, Missouri 1981
- g. Salt Lake City, Utah 1981
- h. San Diego, California 1981
- i. Washington, D.C. 1981

**a. Los Angeles, California 1981**

<u>Most serious charge</u>	<u>All cases filed*</u>	<u>Processing time for cases disposed of by:</u>		
		<u>Dismissals</u>	<u>Guilty pleas</u>	<u>Trials</u>
Median time from arrest to disposition	104 days	76 days	104 days	205 days
Homicide and manslaughter	187	110	175	280
Sexual assault	132	82	129	206
Robbery	90	36	94	149
Assault	104	55	111	197
Burglary	78	46	79	160
Larceny and auto theft	101	84	101	231
Stolen property	111	83	116	268
Fraud	94	79	94	230
Drugs	173	228	147	241
Weapons	111	107	116	126
Other**	55	16	107	221
Mean time from arrest to disposition	160 days	147 days	155 days	248 days
Homicide and manslaughter	233	164	222	316
Sexual assault	178	136	176	243
Robbery	130	87	135	201
Assault	147	102	152	237
Burglary	118	102	117	196
Larceny and auto theft	159	151	156	271
Stolen property	161	138	167	273
Fraud	149	153	146	242
Drugs	224	249	202	284
Weapons	178	190	171	209
Other**	106	52	155	269
Number of cases filed	29,235	8,340	18,725	2,170
Homicide and manslaughter	1,716	345	964	407
Sexual assault	1,508	346	916	244
Robbery	4,579	1,120	3,010	449
Assault	1,849	559	1,074	216
Burglary	6,407	1,297	4,400	310
Larceny and auto theft	2,907	679	2,129	99
Stolen property	676	245	403	28
Fraud	995	173	803	19
Drugs	5,991	2,335	3,399	257
Weapons	603	167	409	27
Other**	2,006	1,074	818	114

\* Includes only cases for which time data were available.  
 \*\* Includes kidnaping, morals, arson, unknown, and miscellaneous other felonies.

NOTE: A substantial number of felony arrests filed as misdemeanors in Los Angeles are handled by municipal prosecutors and thus are not included in the Los Angeles district attorney's case-tracking system.



## b. Manhattan, New York 1981

Most serious charge	All cases filed*	Processing time for cases disposed of by:		
		Dismissals	Guilty pleas	Trials
Median time from arrest to disposition	47 days	65 days	26 days	236 days
Homicide and manslaughter	171	76	183	295
Sexual assault	63	56	102	223
Robbery	62	57	55	209
Assault	50	63	21	204
Burglary	37	89	20	201
Larceny and auto theft	20	113	3	163
Stolen property	41	103	15	369
Fraud	29	164	9	331
Drugs	39	48	24	377
Weapons	67	75	116	240
Other**	31	127	1	336
Mean time from arrest to disposition	102 days	112 days	87 days	280 days
Homicide and manslaughter	208	128	216	325
Sexual assault	126	104	162	270
Robbery	108	94	103	245
Assault	94	104	73	235
Burglary	88	130	67	251
Larceny and auto theft	78	143	56	185
Stolen property	106	136	87	416
Fraud	101	174	77	320
Drugs	103	93	100	388
Weapons	149	120	163	286
Other**	100	148	72	382
Number of cases filed	30,772	10,230	10,488	1,054
Homicide and manslaughter	712	242	328	142
Sexual assault	452	315	120	17
Robbery	5,699	2,052	3,309	338
Assault	3,130	1,494	1,522	114
Burglary	3,158	770	2,286	102
Larceny and auto theft	5,525	1,288	4,159	78
Stolen property	1,703	538	1,146	19
Fraud	531	114	410	7
Drugs	6,731	2,303	4,307	121
Weapons	1,537	697	767	73
Other**	1,594	417	1,134	43

\* Includes only cases for which time data were available.

\*\* Includes kidnaping, morals, arson, unknown, and miscellaneous other felonies.

**Table 8. Continued**  
**Case-processing time for cases filed**

**c. New Orleans, Louisiana 1980**

<u>Most serious charge</u>	<u>All cases filed*</u>	<u>Processing time for cases disposed of by:</u>		
		<u>Dismissals</u>	<u>Guilty pleas</u>	<u>Trials</u>
Median time from arrest to disposition	56 days	74 days	50 days	101 days
Homicide and manslaughter	96	138	82	134
Sexual assault	105	145	95	162
Robbery	68	95	50	100
Assault	58	74	53	91
Burglary	45	54	41	87
Larceny and auto theft	50	66	43	77
Stolen property	61	81	54	121
Fraud	54	70	50	92
Drugs	61	81	55	92
Weapons	53	77	49	132
Other**	57	82	54	91
Mean time from arrest to disposition	81 days	101 days	74 days	121 days
Homicide and manslaughter	124	167	103	164
Sexual assault	131	154	119	167
Robbery	86	123	77	112
Assault	77	89	72	105
Burglary	61	74	56	116
Larceny and auto theft	77	85	74	99
Stolen property	85	110	73	139
Fraud	79	112	72	134
Drugs	81	91	76	109
Weapons	76	97	64	147
Other**	101	190	92	90
Number of cases filed	3,342	428	2,050	264
Homicide and manslaughter	148	18	98	32
Sexual assault	79	7	58	14
Robbery	289	24	219	46
Assault	151	18	120	13
Burglary	720	75	607	38
Larceny and auto theft	654	62	543	47
Stolen property	171	32	127	12
Fraud	194	24	164	6
Drugs	342	118	389	35
Weapons	143	28	105	10
Other**	251	22	218	11

\* Includes only cases for which time data were available.

\*\* Includes kidnaping, morals, arson, unknown, and miscellaneous other felonies.

NOTE: In New Orleans cases filed and indicted are the same.

#### d. Portland, Oregon 1981

Most serious charge	All cases filed*	Processing time for cases disposed of by:		
		Dismissals	Guilty pleas	Trials
Median time from arrest to disposition	65 days	43 days	63 days	90 days
Homicide and manslaughter	76	58	74	104
Sexual assault	81	77	73	97
Robbery	61	8	64	87
Assault	64	10	74	81
Burglary	60	21	57	78
Larceny	89	106	75	114
Stolen property	-	-	-	-
Fraud	..	..	..	..
Drugs	61	88	53	95
Weapons	77	52	69	98
Other**	61	28	63	82
Mean time from arrest to disposition	86 days	78 days	84 days	109 days
Homicide and manslaughter	96	65	90	123
Sexual assault	92	79	85	122
Robbery	79	51	85	100
Assault	80	52	90	97
Burglary	75	49	76	92
Larceny	112	130	99	132
Stolen property	-	-	-	-
Fraud	..	..	..	..
Drugs	83	120	72	119
Weapons	97	84	92	130
Other**	80	67	83	97
Number of cases filed	3,757	899	2,314	554
Homicide and manslaughter	64	10	35	19
Sexual assault	225	77	91	57
Robbery	373	107	179	87
Assault	198	80	96	22
Burglary	354	92	350	112
Larceny	618	151	358	109
Stolen property	0	0	0	0
Fraud	..	..	..	..
Drugs	500	78	382	40
Weapons	67	14	42	11
Other**	1,158	280	781	97

\* Includes only cases for which time data were available.

\*\* Includes kidnaping, morals, arson, unknown, and miscellaneous other felonies.

- Insufficient data to calculate.

.. Data not available.

NOTE: In Portland processing times for auto theft and fraud are included in "other."

**Table 8. Continued**  
**Case-processing time for cases filed**

**e. Rhode Island 1980**

<u>Most serious charge</u>	<u>All cases filed*</u>	<u>Processing time for cases disposed of by:</u>		
		<u>Dismissals</u>	<u>Guilty pleas</u>	<u>Trials</u>
Median time from arrest to disposition	181 days	3 days	240 days	304 days
Homicide and manslaughter	258	3	297	338
Sexual assault	157	3	302	325
Robbery	186	1	212	296
Assault	129	1	235	347
Burglary	231	1	262	360
Larceny and auto theft	198	2	268	465
Stolen property	187	4	244	344
Fraud	252	2	316	651
Drugs	111	3	240	229
Weapons	94	1	268	-
Other**	186	59	203	702
Mean time from arrest to disposition	207 days	96 days	275 days	426 days
Homicide and manslaughter	266	122	360	343
Sexual assault	187	101	292	287
Robbery	206	55	262	307
Assault	173	57	272	348
Burglary	247	99	292	359
Larceny and auto theft	228	106	294	376
Stolen property	206	118	275	336
Fraud	251	133	335	514
Drugs	164	71	270	237
Weapons	140	45	226	-
Other**	222	144	242	565
Number of cases <sup>a</sup> filed	5,479	2,239	3,042	198
Homicide and manslaughter	64	24	20	20
Sexual assault	140	77	46	17
Robbery	254	73	163	18
Assault	809	381	401	27
Burglary	907	226	733	8
Larceny and auto theft	406	146	251	9
Stolen property	228	101	124	3
Fraud	298	127	168	3
Drugs	326	488	427	11
Weapons	182	86	96	0
Other**	1,305	510	613	82

\* Includes only cases for which time data were available.

\*\* Includes kidnaping, morals, arson, unknown, and miscellaneous other felonies.

- Insufficient data to calculate.

**f. St. Louis, Missouri 1981**

Most serious charge	All cases filed*	Processing time for cases disposed of by:		
		Dismissals	GUILTY pleas	Trials
Median time from arrest to disposition	127 days	62 days	142 days	231 days
Homicide and manslaughter	197	120	211	277
Sexual assault	182	71	302	258
Robbery	159	57	172	196
Assault	142	39	176	235
Burglary	110	49	121	191
Larceny and auto theft	104	63	111	187
Stolen property	148	70	167	222
Fraud	116	54	135	218
Drugs	140	77	161	229
Weapons	116	65	146	217
Other**	120	64	150	197
Mean time from arrest to disposition	141 days	94 days	154 days	229 days
Homicide and manslaughter	204	142	218	268
Sexual assault	178	117	307	257
Robbery	159	94	179	201
Assault	154	92	184	259
Burglary	125	82	135	205
Larceny and auto theft	125	96	129	201
Stolen property	161	102	181	231
Fraud	137	75	152	242
Drugs	154	109	167	231
Weapons	135	90	164	231
Other**	133	84	163	221
Number of cases filed	3,610	1,079	2,293	238
Homicide and manslaughter	118	45	38	35
Sexual assault	121	51	48	22
Robbery	383	106	228	49
Assault	251	94	114	23
Burglary	1,029	242	756	31
Larceny and auto theft	469	109	338	22
Stolen property	85	26	62	7
Fraud	128	30	94	4
Drugs	424	116	288	20
Weapons	429	180	233	16
Other**	193	80	104	9

\* Includes only cases for which time data were available.  
 \*\* includes kidnaping, morals, arson, unknown, and miscellaneous other felonies.

Table 8. Continued  
Case-processing time for cases filed

g. Salt Lake City, Utah 1981

Most serious charge	All cases filed*	Processing time for cases disposed of by:		
		Dismissals	Guilty pleas	Trials
Median time from arrest to disposition	86 days	88 days	73 days	215 days
Homicide and manslaughter	223	58	131	261
Sexual assault	123	188	86	196
Robbery	101	97	89	187
Assault	91	62	86	214
Burglary	68	107	58	132
Larceny and auto theft	86	112	69	182
Stolen property	101	105	90	279
Fraud	115	137	101	184
Drugs	73	122	65	359
Weapons	72	78	63	294
Other**	59	44	73	283
Mean time from arrest to disposition	149 days	168 days	127 days	261 days
Homicide and manslaughter	223	56	219	282
Sexual assault	165	189	136	221
Robbery	159	148	127	295
Assault	137	117	134	252
Burglary	139	198	112	212
Larceny and auto theft	148	183	125	224
Stolen property	191	193	173	316
Fraud	177	217	150	240
Drugs	145	224	116	310
Weapons	125	139	100	411
Other**	112	91	123	304
Number of cases filed	2,740	915	1,661	164
Homicide and manslaughter	43	7	15	21
Sexual assault	170	61	89	20
Robbery	193	66	98	29
Assault	159	49	99	11
Burglary	577	151	399	27
Larceny and auto theft	449	147	286	16
Stolen property	98	39	52	7
Fraud	370	132	226	12
Drugs	279	64	209	6
Weapons	62	16	43	3
Other**	340	183	145	12

\* Includes only cases for which time data were available.

\*\* Includes kidnaping, morals, arson, unknown, and miscellaneous other felonies.

## h. San Diego, California 1981

<u>Most serious charge</u>	<u>All cases filed*</u>	<u>Processing time for cases disposed of by:</u>		
		<u>Dismissals</u>	<u>Guilty pleas</u>	<u>Trials</u>
Median time from arrest to disposition	126 days	91 days	132 days	181 days
Homicide and manslaughter	215	145	201	277
Sexual assault	145	54	159	182
Robbery	124	30	138	163
Assault	124	82	129	150
Burglary	129	82	135	183
Larceny and auto theft	131	105	136	178
Stolen property	103	73	118	146
Fraud	140	111	148	107
Drugs	155	190	144	183
Weapons	58	251	52	64
Other**	100	74	109	100
Mean time from arrest to disposition	217 days	183 days	226 days	239 days
Homicide and manslaughter	311	160	287	396
Sexual assault	206	79	225	182
Robbery	209	210	207	229
Assault	180	114	196	192
Burglary	223	153	236	222
Larceny and auto theft	215	177	224	258
Stolen property	193	123	223	217
Fraud	242	227	247	148
Drugs	228	223	231	242
Weapons	157	266	154	69
Other**	210	176	218	245
Number of cases filed	11,472	2,612	8,403	457
Homicide and manslaughter	87	10	46	31
Sexual assault	156	20	134	2
Robbery	770	132	568	70
Assault	722	137	523	56
Burglary	2,265	341	1,831	93
Larceny and auto theft	1,275	295	933	47
Stolen property	647	194	434	19
Fraud	999	200	794	5
Drugs	1,967	687	1,250	30
Weapons	31	3	25	3
Other**	2,553	593	1,859	101

\* Includes only cases for which time data were available.

\*\* Includes kidnaping, morals, arson, unknown, and miscellaneous other felonies.

**Table 8. Continued**  
**Case-processing time for cases filed**

**i. Washington, D.C. 1981**

<u>Most serious charge</u>	<u>All cases filed*</u>	<u>Processing time for cases disposed of by:</u>		
		<u>Dismissals</u>	<u>Guilty pleas</u>	<u>Trials</u>
Median time from arrest to disposition	111 days	97 days	96 days	264 days
Homicide and manslaughter	285	244	304	333
Sexual assault	150	80	192	308
Robbery	116	54	128	300
Assault	102	90	73	232
Burglary	196	95	86	258
Larceny and auto theft	88	103	64	195
Stolen property	108	108	100	302
Fraud	90	124	64	206
Drugs	137	152	106	279
Weapons	183	187	136	244
Other**	111	113	85	202
Mean time from arrest to disposition	160 days	139 days	150 days	293 days
Homicide and manslaughter	280	193	312	333
Sexual assault	194	118	216	327
Robbery	172	115	180	330
Assault	154	141	136	266
Burglary	156	142	144	299
Larceny and auto theft	135	138	115	261
Stolen property	172	155	153	407
Fraud	133	156	108	328
Drugs	177	191	149	281
Weapons	226	193	211	301
Other**	146	139	136	245
Number of cases filed	8,433	3,651	3,932	850
Homicide and manslaughter	188	61	72	55
Sexual assault	216	93	84	39
Robbery	1,728	714	799	215
Assault	1,181	659	379	143
Burglary	1,248	461	700	107
Larceny and auto theft	1,272	637	562	73
Stolen property	67	17	45	5
Fraud	296	126	164	6
Drugs	393	172	188	33
Weapons	234	63	120	51
Other**	1,590	648	810	123

\* Includes only cases for which time data were available.  
 \*\* Includes kidnaping, morals, arson, unknown, and miscellaneous other felonies.



**Table 9. Case-processing time for cases indicted**

- a. Indianapolis, Indiana 1981
- b. Los Angeles, California 1981
- c. Louisville, Kentucky 1981
- d. Manhattan, New York 1981
- e. New Orleans, Louisiana 1980
- f. Rhode Island 1980
- g. St. Louis, Missouri 1981
- h. Salt Lake City, Utah 1981
- i. San Diego, California 1981
- j. Washington, D.C. 1981

**a. Indianapolis, Indiana 1981**

<u>Most serious charge</u>	<u>All cases indicted*</u>	<u>Processing time for cases disposed of by:</u>		
		<u>Dismissals</u>	<u>Guilty pleas</u>	<u>Trials</u>
Median time from arrest to disposition	122 days	131 days	119 days	134 days
Homicide and manslaughter	184	108	192	191
Sexual assault	161	116	165	173
Robbery	140	110	147	144
Assault	136	119	136	140
Burglary	114	105	114	118
Larceny and auto theft	97	139	92	102
Stolen property	-	-	-	-
Fraud	126	127	126	-
Drugs	112	141	106	117
Weapons	91	121	85	381
Other**	150	172	143	176
Mean time from arrest to disposition	163 days	173 days	158 days	178 days
Homicide and manslaughter	216	141	233	223
Sexual assault	192	148	199	222
Robbery	179	165	184	184
Assault	168	172	155	228
Burglary	151	157	150	152
Larceny and auto theft	146	181	136	152
Stolen property	-	-	-	-
Fraud	175	156	179	-
Drugs	154	163	151	157
Weapons	133	121	116	381
Other**	195	225	181	205
Number of cases indicted	3,294	624	2,193	477
Homicide and manslaughter	126	19	60	47
Sexual assault	173	39	102	32
Robbery	471	106	265	100
Assault	114	31	70	13
Burglary	604	69	451	84
Larceny and auto theft	869	156	615	98
Stolen property	0	0	0	0
Fraud	21	4	17	0
Drugs	601	131	413	57
Weapons	17	2	14	1
Other**	298	67	186	45

\* Includes only cases for which time data were available.

\*\* Includes kidnaping, morals, arson, unknown, and miscellaneous other felonies.

- Insufficient data to calculate.

**Table 9. Continued**  
**Case-processing time for cases indicted**

**b. Los Angeles, California 1981**

<u>Most serious charge</u>	<u>All cases indicted*</u>	<u>Processing time for cases disposed of by:</u>		
		<u>Dismissals</u>	<u>Guilty pleas</u>	<u>Trials</u>
Median time from arrest to disposition	129 days	159 days	116 days	201 days
Homicide and manslaughter	206	183	183	274
Sexual assault	149	153	136	203
Robbery	105	107	99	148
Assault	139	143	124	193
Burglary	91	109	87	157
Larceny and auto theft	124	155	115	226
Stolen property	153	160	146	268
Fraud	138	160	127	230
Drugs	180	254	182	232
Weapons	148	212	130	149
Other**	139	117	132	211
Mean time from arrest to disposition	181 days	220 days	166 days	245 days
Homicide and manslaughter	253	237	229	312
Sexual assault	198	196	183	242
Robbery	148	154	140	200
Assault	180	193	164	235
Burglary	134	162	127	193
Larceny and auto theft	180	211	171	274
Stolen property	201	209	192	273
Fraud	179	210	174	235
Drugs	236	295	217	277
Weapons	210	299	192	219
Other**	193	190	179	263
Number of cases indicted	18,735	2,249	14,468	2,018
Homicide and manslaughter	1,275	135	772	368
Sexual assault	1,107	146	743	215
Robbery	3,415	319	2,670	426
Assault	1,246	147	891	208
Burglary	4,492	400	3,796	296
Larceny and auto theft	1,783	166	1,523	91
Stolen property	371	71	272	28
Fraud	414	36	364	14
Drugs	3,508	677	2,587	244
Weapons	411	65	323	23
Other**	713	84	524	105

\* Includes only cases for which time data were available.

\*\* Includes kidnaping, morals, arson, unknown, and miscellaneous other felonies.

### c. Louisville, Kentucky 1981

<u>Most serious charge</u>	<u>All cases indicted*</u>	<u>Processing time for cases disposed of by:</u>		
		<u>Dismissals</u>	<u>Guilty pleas</u>	<u>Trials</u>
Median time from arrest to disposition	225 days	252 days	201 days	282 days
Homicide and manslaughter	271	342	261	306
Sexual assault	251	300	235	298
Robbery	220	223	209	238
Assault	245	197	243	302
Burglary	188	216	180	314
Larceny and auto theft	223	353	188	282
Stolen property	258	314	232	294
Fraud	161	226	147	240
Drugs	226	181	225	312
Weapons	266	-	260	233
Other**	211	286	199	190
Mean time from arrest to disposition	273 days	327 days	249 days	304 days
Homicide and manslaughter	342	442	300	344
Sexual assault	314	465	253	318
Robbery	266	263	260	287
Assault	270	266	279	287
Burglary	257	302	230	334
Larceny and auto theft	286	365	261	313
Stolen property	292	361	259	301
Fraud	225	287	206	328
Drugs	271	244	274	306
Weapons	316	-	323	292
Other**	246	317	238	202
Number of cases indicted	1,487	270	949	268
Homicide and manslaughter	83	10	26	47
Sexual assault	82	17	43	22
Robbery	209	33	137	39
Assault	119	18	73	28
Burglary	327	63	222	42
Larceny and auto theft	157	30	111	16
Stolen property	100	25	57	18
Fraud	116	17	92	7
Drugs	99	20	68	11
Weapons	34	0	19	5
Other**	57	13	29	15

\* Includes only cases for which time data were available.

\*\* Includes kidnaping, morals, arson, unknown, and miscellaneous other felonies.

- Insufficient data to calculate.

**Table 9. Continued**  
**Case-processing time for cases indicted**

**d. Manhattan, New York 1981**

<u>Most serious charge</u>	<u>All cases indicted*</u>	<u>Processing time for cases disposed of by:</u>		
		<u>Dismissals</u>	<u>Guilty pleas</u>	<u>Trials</u>
Median time from arrest to disposition	151 days	183 days	126 days	254 days
Homicide and manslaughter	219	151	198	296
Sexual assault	196	231	168	223
Robbery	110	153	90	213
Assault	158	169	118	268
Burglary	84	157	69	201
Larceny and auto theft	139	222	101	190
Stolen property	208	208	181	543
Fraud	166	232	150	383
Drugs	233	258	213	381
Weapons	161	181	144	243
Other**	252	234	237	418
Mean time from arrest to disposition	203 days	241 days	182 days	298 days
Homicide and manslaughter	247	198	227	326
Sexual assault	243	286	215	279
Robbery	155	198	135	251
Assault	208	207	181	297
Burglary	137	215	117	257
Larceny and auto theft	196	338	168	218
Stolen property	270	254	256	474
Fraud	254	299	240	358
Drugs	287	313	273	389
Weapons	205	231	187	295
Other**	286	280	258	449
Number of cases indicted	8,161	1,136	6,134	891
Homicide and manslaughter	551	106	304	141
Sexual assault	134	38	79	17
Robbery	2,762	300	2,148	314
Assault	322	61	201	60
Burglary	957	70	799	88
Larceny and auto theft	513	73	398	42
Stolen property	223	42	166	15
Fraud	69	8	57	4
Drugs	1,466	178	1,176	112
Weapons	904	224	616	64
Other**	260	36	100	34

\* Includes only cases for which time data were available.

\*\* Includes kidnaping, morals, arson, unknown, and miscellaneous other felonies.

### e. New Orleans, Louisiana 1980

Most serious charge	All cases indicted*	Processing time for cases disposed of by:		
		Dismissals	GUILTY pleas	Trials
Median time from arrest to disposition	56 days	74 days	50 days	101 days
Homicide and manslaughter	96	138	82	134
Sexual assault	105	145	95	162
Robbery	68	95	59	100
Assault	58	74	53	91
Burglary	45	54	41	87
Larceny and auto theft	50	66	43	77
Stolen property	61	81	54	121
Fraud	54	70	50	92
Drugs	61	81	55	92
Weapons	53	77	49	132
Other**	57	82	54	91
Mean time from arrest to disposition	81 days	101 days	74 days	121 days
Homicide and manslaughter	124	167	103	164
Sexual assault	131	154	119	167
Robbery	86	123	77	112
Assault	77	89	72	105
Burglary	61	74	56	116
Larceny and auto theft	77	85	74	99
Stolen property	85	110	73	139
Fraud	79	112	72	134
Drugs	81	91	76	109
Weapons	76	97	64	147
Other**	101	190	92	90
Number of cases indicted	3,342	428	2,650	264
Homicide and manslaughter	148	18	98	32
Sexual assault	79	7	58	14
Robbery	289	24	219	46
Assault	151	18	120	13
Burglary	720	75	607	38
Larceny and auto theft	654	62	545	47
Stolen property	171	32	127	12
Fraud	194	24	164	6
Drugs	542	118	389	35
Weapons	143	28	105	10
Other**	251	22	218	11

NOTE: In New Orleans cases filed and indicted are the same.

\* Includes only cases for which time data were available.

\*\* Includes kidnaping, morals, arson, unknown, and miscellaneous other felonies.

Table 9. Continued  
Case-processing time for cases indicted

f. Rhode Island 1980

Most serious charge	All cases indicted*	Processing time for cases disposed of by:		
		Dismissals	Guilty pleas	Trials
Median time from arrest to disposition	246 days	243 days	240 days	394 days
Homicide and manslaughter	346	570	297	338
Sexual assault	301	289	302	325
Robbery	214	219	212	296
Assault	241	228	235	347
Burglary	263	270	262	360
Larceny and auto theft	278	340	268	463
Stolen property	237	394	244	344
Fraud	322	363	310	651
Drugs	248	346	240	229
Weapons	208	210	208	-
Other**	206	195	203	702
Mean time from arrest to disposition	288 days	312 days	275 days	426 days
Homicide and manslaughter	367	467	360	343
Sexual assault	300	331	292	287
Robbery	268	287	262	307
Assault	276	270	272	348
Burglary	291	309	292	359
Larceny and auto theft	305	353	294	376
Stolen property	297	418	275	336
Fraud	343	366	335	514
Drugs	279	353	270	237
Weapons	230	269	226	-
Other**	232	237	242	565
Number of cases indicted	3,803	563	3,042	198
Homicide and manslaughter	46	6	20	20
Sexual assault	80	17	46	17
Robbery	193	12	163	18
Assault	497	60	461	27
Burglary	905	64	733	8
Larceny and auto theft	300	40	251	9
Stolen property	149	22	124	3
Fraud	208	37	168	3
Drugs	494	56	427	11
Weapons	106	10	96	0
Other**	925	230	613	32

\* Includes only cases for which time data were available.

\*\* Includes kidnaping, morals, arson, unknown, and miscellaneous other felonies.

- Insufficient data to calculate.

**g. St. Louis, Missouri 1981**

<u>Most serious charge</u>	<u>All cases indicted*</u>	<u>Processing time for cases disposed of by:</u>		
		<u>Dismissals</u>	<u>Guilty pleas</u>	<u>Trials</u>
Median time from arrest to disposition	155 days	173 days	147 days	223 days
Homicide and manslaughter	212	183	211	277
Sexual assault	209	168	209	258
Robbery	177	156	173	196
Assault	190	191	176	255
Burglary	132	180	126	198
Larceny and auto theft	127	209	113	224
Stolen property	174	133	174	237
Fraud	145	147	140	218
Drugs	171	189	162	229
Weapons	157	167	153	217
Other**	151	127	157	197
Mean time from arrest to disposition	167 days	182 days	158 days	232 days
Homicide and manslaughter	228	184	218	268
Sexual assault	222	194	222	257
Robbery	181	160	181	201
Assault	193	170	186	259
Burglary	145	192	139	212
Larceny and auto theft	143	214	132	217
Stolen property	191	163	190	245
Fraud	160	153	157	242
Drugs	178	199	170	231
Weapons	177	192	170	232
Other**	168	143	170	221
Number of cases indicted	2,748	332	2,185	231
Homicide and manslaughter	96	23	38	35
Sexual assault	91	26	43	22
Robbery	316	42	225	49
Assault	165	32	110	23
Burglary	803	51	723	29
Larceny and auto theft	363	26	318	19
Stolen property	63	9	48	6
Fraud	100	8	88	4
Drugs	342	44	278	20
Weapons	274	42	217	15
Other**	135	29	97	9

\* Includes only cases for which time data were available.  
 \*\* includes kidnaping, morals, arson, unknown, and miscellaneous other felonies.

Table 9. Continued  
Case-processing time for cases indicted

h. Salt Lake City, Utah 1981

Most serious charge	All cases indicted*	Processing time for cases disposed of by		
		Dismissals	Guilty pleas	Trials
Median time from arrest to disposition	134 days	167 days	114 days	223 days
Homicide and manslaughter	268	104	232	279
Sexual assault	163	243	119	196
Robbery	120	140	89	193
Assault	186	281	173	251
Burglary	97	126	85	133
Larceny and auto theft	139	168	124	182
Stolen property	204	203	144	279
Fraud	133	152	121	184
Drugs	144	144	141	359
Weapons	173	135	176	294
Other**	120	175	95	258
Mean time from arrest to disposition	180 days	215 days	158 days	264 days
Homicide and manslaughter	283	104	274	298
Sexual assault	192	240	163	221
Robbery	176	188	131	300
Assault	222	268	204	269
Burglary	151	189	134	220
Larceny and auto theft	172	212	156	215
Stolen property	248	285	220	316
Fraud	103	243	173	240
Drugs	174	194	164	310
Weapons	212	222	174	411
Other**	167	197	149	303
Number of cases indicted	1,545	311	1,080	154
Homicide and manslaughter	30	1	10	19
Sexual assault	111	26	65	20
Robbery	145	33	84	28
Assault	75	12	53	10
Burglary	373	74	273	26
Larceny and auto theft	221	49	158	11
Stolen property	54	13	34	7
Fraud	233	55	166	12
Drugs	143	19	118	6
Weapons	29	8	18	3
Other**	131	21	101	9

\* Includes only cases for which time data were available.

\*\* Includes kidnaping, morals, arson, unknown, and miscellaneous other felonies.



## i. San Diego, California 1981

<u>Most serious charge</u>	<u>All cases indicted*</u>	<u>Processing time for cases disposed of by:</u>		
		<u>Dismissals</u>	<u>Guilty pleas</u>	<u>Trials</u>
Median time from arrest to disposition	168 days	129 days	169 days	204 days
Homicide and manslaughter	218	190	201	277
Sexual assault	170	160	176	182
Robbery	144	90	145	163
Assault	166	15	168	180
Burglary	161	119	163	201
Larceny and auto theft	169	153	167	251
Stolen property	156	136	156	261
Fraud	174	113	177	189
Drugs	187	167	189	232
Weapons	251	251	520	-
Other**	175	114	175	255
Mean time from arrest to disposition	269 days	270 days	269 days	265 days
Homicide and manslaughter	318	196	283	396
Sexual assault	240	175	245	182
Robbery	216	134	219	229
Assault	233	184	238	219
Burglary	259	175	266	235
Larceny and auto theft	264	201	268	323
Stolen property	278	198	289	259
Fraud	280	213	285	189
Drugs	284	227	290	271
Weapons	430	351	520	-
Other**	332	717	303	298
Number of cases indicted	4,709	324	4,074	311
Homicide and manslaughter	83	7	45	31
Sexual assault	113	5	106	2
Robbery	594	31	493	70
Assault	314	18	260	36
Burglary	1,359	78	1,205	76
Larceny and auto theft	377	38	320	19
Stolen property	221	22	191	8
Fraud	353	21	329	3
Drugs	593	54	522	17
Weapons	3	1	2	0
Other**	699	49	601	49

\* Includes only cases for which time data were available.

\*\* Includes kidnaping, morals, arson, unknown, and miscellaneous other felonies.

- Insufficient data to calculate.

**Table 9. Continued**  
**Case-processing time for cases indicted**

**j. Washington, D.C. 1981**

<u>Most serious charge</u>	<u>All cases indicted*</u>	<u>Processing time for cases disposed of by:</u>		
		<u>Dismissals</u>	<u>Guilty pleas</u>	<u>Trials</u>
Median time from arrest to disposition	197 days	242 days	158 days	303 days
Homicide and manslaughter	315	270	310	333
Sexual assault	266	322	223	315
Robbery	217	366	169	303
Assault	241	259	184	318
Burglary	187	247	156	330
Larceny and auto theft	162	253	125	237
Stolen property	284	-	261	302
Fraud	204	222	180	443
Drugs	169	239	112	301
Weapons	197	213	173	271
Other**	150	180	134	228
Mean time from arrest to disposition	243 days	283 days	210 days	329 days
Homicide and manslaughter	333	324	335	333
Sexual assault	290	340	254	334
Robbery	263	306	225	340
Assault	288	323	252	345
Burglary	231	283	202	333
Larceny and auto theft	219	283	189	295
Stolen property	296	-	267	407
Fraud	250	346	207	509
Drugs	211	272	161	285
Weapons	258	266	230	311
Other**	196	222	176	302
Number of cases indicted	3,215	481	2,124	610
Homicide and manslaughter	129	8	66	55
Sexual assault	117	14	66	37
Robbery	905	125	578	202
Assault	212	28	123	61
Burglary	518	53	384	81
Larceny and auto theft	291	55	201	35
Stolen property	24	0	19	5
Fraud	47	8	36	3
Drugs	274	92	155	27
Weapons	173	26	99	48
Other**	525	72	397	56

\* Includes only cases for which time data were available.

\*\* Includes kidnaping, morals, arson, unknown, and miscellaneous other felonies.

- Insufficient data to calculate.

## Appendix B

# Jurisdictional characteristics

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This appendix describes the local law enforcement and court systems, the organization of the prosecutor's office, and the procedures for handling felony cases from arrest through sentencing in each of the 37 participating jurisdictions. This information was collected through on-site interviews conducted in each jurisdiction between 1982 and 1984. The information reported for each jurisdiction refers to the procedures in place at the time of the on-site interviews.

Because of the varied legal and administrative systems jurisdictions have developed for processing felony arrests, a detailed understanding of each jurisdiction's system is necessary to determine the appropriate felony case definitions (felony arrests, cases filed, or cases indicted) to attach to the statistics collected from each jurisdiction. The jurisdiction information is provided here to assist users in interpreting the data reported and as a resource for gaining understanding of the felony disposition process.

Each jurisdiction description also includes population and crime rate statistics. The population data are from the 1980 census, as reported in The World Almanac and Book of Facts 1983, Newspaper Enterprise Association, New York, New York. For all jurisdictions except Manhattan, the crime rate data are from the 1980 or 1981 Crime in the United States, Federal Bureau of Investigation, U.S. Department of Justice, Washington, D.C. The Manhattan crime rates are from Crime and Justice 1982, Annual Report of the New York State Division of Criminal Justice Services. The crime rates reported are based on the FBI's reports of index offenses, which include the violent crimes of murder, rape, aggravated assault, and robbery and the property crimes of burglary, auto theft, and larceny.

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## **Boston, Massachusetts (Suffolk County)**

### **Demographic characteristics and crime rate**

Suffolk County had a population of 650,142 in 1980. The city of Boston accounted for approximately 87% (562,994) of the jurisdiction's population.

Boston had a crime rate in 1981 of 14,054 index crimes per 100,000 population. The violent crime rate was 2,483 per 100,000. Corresponding rates in 18 cities of comparable size were 9,464 and 1,211, respectively.

### **Criminal justice setting**

The office of the district attorney for Suffolk County has jurisdiction over all felonies and misdemeanors occurring in the county. The office also handles criminal traffic cases, juvenile crimes, and child-support cases.

A number of law enforcement agencies bring cases to the office, including university police. The single largest agency is the Boston police department, which accounts for about 75% of the district attorney's felony caseload.

The county has a two-tiered court system. Both the lower and upper court hear civil and criminal cases. The district (lower) court is responsible for the disposition of all misdemeanors and some lesser felonies (maximum sentence of 5 years or less). The maximum sentence that can be imposed by the district court, however, is 2.5 years in prison. District attorneys in Massachusetts have the discretion to determine whether lesser felonies are disposed in the lower or upper court.

The district court also is responsible for the initial felony hearings (initial arraignment, bail setting, and preliminary hearings) for serious felonies (maximum sentence of more than 5 years in prison). There are nine district courts, each located in the district it serves. The district court has 35 judges, who rotate civil and criminal responsibilities.

The superior (upper) court prosecutes all serious felonies. Superior court jurisdiction begins after bindover at a district court preliminary hearing and indictment by the grand jury.

Nine superior court judges hear criminal cases at any one time. In each court session approximately 1-month long, one judge works the first session, or calendar court. This judge handles superior court arraignments, pleas prior to the day of trial, and other routine appearances. One or two judges may be assigned to hear trials for specialized cases, such as homicides or drug-related crimes. The other judges are assigned trials on an as-available basis.

### **District attorney's office: Size, organization, procedures**

The district attorney's office employs 120 attorneys. Felony cases are handled by attorneys in the district court, grand jury, and superior court divisions. Each of nine district court divisions has a minimum of 1 attorney; the largest division (for the Boston municipal court) has 15 attorneys. District court attorneys are responsible for screening all cases presented, disposing of misdemeanors and lesser felonies, and handling serious felonies through the preliminary hearing.

The grand jury division consists of two attorneys, who handle all grand jury presentments with the exception of homicide cases and direct indictments.

Superior court attorneys, divided into nine trial teams, handle serious felony cases after indictment by the grand jury. Each team consists of four attorneys and a team leader. Five of the trial teams prosecute general felonies and are estimated to handle 80 to 90% of the caseload. The other four teams specialize in the prosecution of cases involving homicide, organized crime, drugs, and economic crimes.

The prosecution of most serious felonies is horizontal. Cases are handled by the district court assistants through the preliminary hearing, then by the grand jury division, and finally by the trial team. Repeat offender cases are filed through direct indictment to the superior court and are handled vertically from screening. Lesser felonies are assigned after screening to a single attorney for disposition in the district court.

### **Flow of felony cases—arrest through sentencing**

When an arrest is made, the defendant is booked at the local police station, where the arresting officer prepares an arrest affidavit. The affidavit is used at the district court screening the following day. At screening an assistant district attorney reviews the affidavit to determine what the charges should be and prepares an application for a complaint. The complaint is then filed by the police officer with the clerk of the district court. The primary function of screening is to ensure that defendants are accurately charged; arrests are rarely rejected for prosecution.

Defendants are arraigned the day after arrest in district court, at which time they are formally notified of the charges, an attorney is appointed (if needed), bail is established, and a date is set for the next appearance. The next scheduled appearance for misdemeanors and lesser felonies is a trial in district court. The first trial in district court is a bench trial before a judge. Defendants convicted at the bench trial have the right to request a second trial (a de novo jury trial), at which a jury of six decides guilt or innocence.

For defendants charged with serious felonies, the next scheduled appearance after arraignment is the district court preliminary hearing, held within 10 days of arrest if the defendant is in custody and within 2 to 3 weeks for defendants on release. The attorney assigned to the case after screening conducts the preliminary hearing; this is usually a perfunctory proceeding at which probable cause is established. The case is then sent to the grand jury for indictment.

After indictment, general felony cases are assigned evenly among the five general trial teams by the chief trial assistant. Special cases are assigned to the appropriate special team. Superior court arraignment is held before the first session judge (the calendar judge) within 2 to 3 weeks of indictment. Within 21 days of the arraignment in superior court, a pretrial conference is held, again

in the first session court, to set forth motions demanding discovery and scheduling the date of trial.

On the set trial day the defense counsel and prosecutor appear before the first session judge to be assigned a trial judge and courtroom. If no judges are available the case is rescheduled within 60 days or held on the schedule on a day-by-day basis.

The district attorney has no formal plea policy. Assistants generally have the discretion to determine plea offers for their cases, but plea offers are made only at the request of the defense attorney. Sentence recommendations are the primary focus of offers. Some offers (cases involving rape, robbery, breaking and entering a dwelling at night) require prior approval of the first assistant

or trial chief if the offer does not involve some incarceration. Judges do not typically participate in plea discussions.

When a plea offer is made victims are usually informed of the offer. If victims object strongly to the offer, the offer must be withdrawn.

## Brighton, Colorado (17th Judicial District)

### Demographic characteristics and crime rate

The 17th Judicial District comprises Adams County. The jurisdiction had a population of 245,944 in 1980, a 32% increase over the prior decade.

The cities of Aurora, Northglenn, and Thornton accounted for 93% (228,778) of the jurisdiction's 1980 population. In 1981 the three cities had a combined crime rate of 7,335 index crimes per 100,000 population. The violent crime rate was 731 per 100,000.

### Criminal justice setting

The district attorney for the 17th Judicial District has jurisdiction over misdemeanors, felonies, traffic, juvenile, and nonsupport cases in Adams County. Ten law enforcement agencies bring cases to the district attorney. About 20% of the caseload is accounted for by the county sheriff's office.

The county court, the lower court of a two-tiered court system, handles traffic violations, misdemeanors, and initial felony proceedings (advisement, return appearance, and preliminary hearing). The county court also has jurisdiction over civil matters under \$5,000. Four of the five county court judges hear criminal matters and the other, civil. During fiscal 1981 approximately 3,100 felonies and misdemeanors were filed in the county court.

The district (felony) court handles felony bindovers, juvenile cases, and civil matters involving \$5,000 or more. The court is staffed by six judges, two of whom hear criminal cases. Judges operate individual calendars.

### District attorney's office: Size, organization, procedures

The district attorney's office is headquartered in Brighton. The office employs 22 attorneys, most of whom are assigned to one of two sections: the county court (misdemeanor and traffic cases) section, which is staffed by 6 attorneys, and the district court (felony cases) section, which is staffed by 7 attorneys. Attorneys in the latter section are the more experienced prosecutors and are organized into two teams of three attorneys each; the seventh attorney rotates as needed. Felony cases are assigned at the county court stage and are prosecuted on a vortical basis, beginning with the county court preliminary hearing.

Other attorneys staff the appellate and juvenile divisions. A former police officer serves as the complaint officer in the intake (screening) unit. A senior district court attorney serves as the complaint deputy for a 6-month period and reviews the complaint officer's decisions and signs official papers.

### Flow of felony cases—arrest through sentencing

Police may release arrestees on bail or bond prior to their initial court appearance, which is advisement in county court. At the advisement, arrestees are informed of their rights, charges are read, and return appearances are scheduled (within 48 hours).

Several hours prior to the return appearance, the district attorney's intake unit screens the case, which is presented by a police investigator who has obtained reports and related papers from the arresting officer.

The police do little if any pre-screening. The intake unit files, rejects, or diverts the case.

At the return appearance in county court, the complaint or information is read, the defendant is advised to obtain an attorney, bail status is reviewed, and a preliminary setting is scheduled (for about 10 days later) in county court. The preliminary setting is a scheduling appearance at which the date for a preliminary hearing is set. Defendants have the right to a preliminary hearing within 30 days; typically, they waive that right and agree to a preliminary hearing 2 to 3 months later. However, the preliminary hearing is scheduled within 30 days for defendants in custody.

By the time of the preliminary hearing, most cases are settled. Only about half of the felony filings result in bindover to the district court. The others are either dismissed or convicted on misdemeanor charges in county court. Many of the cases that are bound over are actually settled prior to the preliminary hearing by an agreement to plea to felony charges, in which event the county court judge binds over the defendant to district court for entry of the plea and sentencing. Of the cases not settled by the time of the preliminary hearing most are bound over to district court, and a first appearance in that court is scheduled within 2 to 3 weeks.

At the first appearance in district court the information is read and defendants are asked how they plead. If the plea is "guilty," sentencing is set within 6 to 8 weeks. If the plea is "not guilty," the judge sets a motions filing deadline of 30 days and schedules the notice to set. During the notice-to-set appearance the judge schedules

the motions hearing and trial date. For defendants convicted at trial a presentence investigation report is prepared, and sentencing occurs 6 to 8 weeks after trial.

At sentencing, the defense attorney calls character witnesses, but the prosecutor usually does not call victims. The judge asks the defense and prosecuting attorneys for their sentencing recommendations.

In the vast majority of cases the first plea offer is made a few minutes before the county court preliminary hearing. A second, revised offer may be made during the period between the preliminary and motions hearings. After the motions hearing, cases go to trial.

Typically, plea offers involve charge reductions—aggravated robbery reduced to robbery, for example.

Some deputies put time limits on their offers. For Class I and II felonies (the most serious), office guidelines specify that plea offers must be approved by a supervisor, must be to the top charge after the preliminary hearing, and must not involve sentence concessions. Judges are not directly involved in the plea negotiation process.

## Buffalo, New York (Erie County)

### Demographic characteristics and crime rate

Erie County had a population of 1,015,472 in 1980. The city of Buffalo, the most densely populated section of the county, had a population of 357,870.

Buffalo had a crime rate of 8,138 index crimes per 10,000 population in 1980. The violent crime rate was 1,073 per 100,000. Corresponding rates in 32 cities of comparable size were 10,044 and 1,286, respectively.

### Criminal justice setting

The district attorney for Erie County is responsible for the prosecution of all adult misdemeanor and felony arrests. Offenses are brought to the district attorney by a number of local police departments and the Erie County sheriff's department. The Buffalo police department is the single largest police agency.

All felonies are filed in court by the police, prior to screening by the district attorney. Approximately 5,000 to 6,000 felony arrests are made in Erie County annually.

Erie County has a two-tiered court structure. A "justice court," or lower court, is located in each town or city and is responsible for the prosecution of misdemeanors and for initial arraignments, bail hearings, and preliminary hearings in felony cases. There are 40 justice courts in the county. In Buffalo the justice court, known as the city court, is composed of 10 judicial parts, each of which has a permanently assigned judge.

The superior (felony) court handles felony arrests after indictment by the grand jury. One of the 12 superior court judges, called a special term judge, handles arraignments, court assignments, and preindictment pleas. Indicted cases are randomly assigned to 1 of the 11 other judges at a postindictment arraignment. Judges maintain individual calendars once cases have been assigned.

The jurisdiction of both the justice and superior courts is limited to adult criminal cases.

### District attorney's office: Size, organization, procedures

The district attorney's office has 75 attorneys, who are organized into seven divisions: executive (5), appeals (6), special investigations (7), city court (10; Buffalo only), grand jury (10), justice court (11; excludes Buffalo), and superior court (26). The superior court division includes two special prosecution teams, major offenders program and major violent offenders unit, which handle cases vertically after the initial police filing. All other cases are handled horizontally, first by the city or justice court division, then by the grand jury division, and finally by the superior court division.

Most superior court assistants are assigned to specific judges. Each of the 11 judges has two assigned assistants, at least one of whom has considerable trial experience.

### Flow of felony cases—arrest through sentencing

When an arrest is made, the defendant is booked at the local police station and an accusatory document

is filed directly in the lower court by the police. Cases are not screened by the district attorney prior to filing in the lower court.

By statute, lower court arraignment must follow with all due haste; routinely this is interpreted to mean within 72 hours of arrest. For felony cases arraignment is a preliminary hearing, held for the purpose of binding over cases to the grand jury. About 2,000 cases are bound over to the grand jury annually.

After the initial police filing felony cases are reviewed by the justice court bureau chief, who determines the charges to be presented at the preliminary hearing in justice court. The bureau chief may also decide to reduce charges to misdemeanors or to dismiss all charges and drop the case. Cases bound over at the preliminary hearing are assigned to the grand jury division.

In the grand jury division cases are randomly assigned to assistants. An assistant reviews the facts of the case; contacts victims, witnesses, and the investigating officer; and establishes an initial plea offer. This plea offer, if not accepted, expires on the day of the grand jury hearing.

Grand jury hearings occur approximately 45 days after the preliminary hearing. About half the cases bound over to the grand jury result in an indictment, 30% are settled by a plea prior to indictment, and another 20% are dropped or returned to the lower court for disposition.

Defendants who agree to a guilty plea prior to indictment waive the grand jury hearing and plead guilty at the first superior court

appearance. Indicted defendants appear before the superior court special term judge for arraignment. At arraignment cases are randomly assigned among the 11 other superior court judges. Superior court arraignment occurs approximately 6 days after indictment.

After indictment felony cases are turned over to the chief of the superior court division, who reviews each case and establishes a new plea offer. Cases then go to the trial assistants working with the judge to whom the case has been assigned.

A trial assistant, in turn, reviews the case and the established plea offer and informs victims and witnesses of the offer. The plea offer is con-

veyed to the defense attorney, defendant, and the trial judge at the pretrial conference, which is held several weeks after arraignment. An expiration date of approximately 2 weeks is put on the plea offer. Cases not settled by plea are scheduled for trial.

Trials are almost exclusively jury trials and last about 1 week. If the defendant is convicted a presentence investigation report is ordered and a sentencing hearing is set for about 4 to 6 weeks after trial.

There is no formal plea policy in the office; elements of an offer might include charges, counts, or sentence recommendations. Most offers, however, involve the reduction of charges. Plea offers extended prior to the grand jury hearing are generally more lenient than postindictment offers. Postindictment offers, determined by the chief of the superior court division, cannot be changed by the assistants without the approval of a supervisor.

Judges may participate in plea bargaining when the offer involves the sentence. However, the degree of involvement depends on the particular judge.

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## Chicago, Illinois (Cook County)

### Demographic characteristics and crime rate

Cook County, one of the largest counties in the country, had a population of 5,253,190 in 1980. Chicago, with 3,005,072 residents, accounts for 57% of the county's population.

The crime rate for Chicago in 1981 was 5,753 index crimes per 100,000 population. The violent crime rate was 850 per 100,000. Corresponding rates in five cities of comparable size were 9,065 and 1,727, respectively.

### Criminal justice setting

The Cook County state's attorney has legal jurisdiction over all felonies and misdemeanors, including juvenile offenses, occurring within the county. In addition the state's attorney is responsible for representing the county in some civil matters and for providing legal advice to county officials. Within the city of Chicago, certain traffic and petty offenses are handled by a city prosecutor; outside the city, those offenses are prosecuted by the state's attorney's office.

Over 100 police agencies bring cases to the state's attorney's office; the single largest agency is the Chicago police department, which accounts for 75% of filed felony cases. An estimated 40,000 felonies and 370,000 misdemeanors are filed annually.

Misdemeanor arrests are filed directly in court by the police. Felonies are also filed by the police but only after review and approval by the state's attorney's office. The state's attorney's office can and does reject cases for prosecution prior to court filing.

The Cook County circuit court handles virtually all legal matters arising in the county, including civil, criminal, juvenile, domestic relations, and traffic cases. The circuit court is a unified court with a two-tiered structure.

The municipal division of the circuit court handles felony cases from initial filing through preliminary hearing and misdemeanors from filing to final disposition. The municipal division is divided into six districts. Twenty-five judges serve District 1 (Chicago) and another 10 serve the five suburban districts. In Chicago 5 to 10 municipal division judges handle only initial hearings in felony cases. In the suburban areas felony pleas and trials can be handled by the municipal division.

The criminal division, referred to locally as the "criminal court," handles felony cases after filing of an information or indictment. The criminal division has a presiding judge and 39 other judges who sit at three locations within the city of Chicago. In addition 11 felony trial judges handle felony cases in the suburban areas.

### State's attorney's office: Size, organization, procedures

The state's attorney's office employs 550 to 570 attorneys. The office is organized into an executive staff and six bureaus: criminal prosecutions, civil actions, special prosecutions, public interest, investigations, and legal support. The vast majority of criminal cases are handled by the criminal prosecutions bureau.

The criminal prosecutions bureau has two main divisions: municipal and felony trial. The municipal division, in turn, consists of felony review, preliminary hearing, first municipal, and suburban municipal sections. The felony trial division consists of the grand jury and information section and three felony trial sections, two of which serve the city and one the suburban areas. Approximately 400 attorneys are assigned to the criminal prosecutions bureau (including the juvenile, appeals, and traffic divisions). About 200 attorneys handle adult felony and misdemeanor cases arising in the city of Chicago.

The majority of cases in Chicago are disposed in the courtrooms located at 26th and California Streets, south of downtown. The remainder of this description refers primarily to case handling in those courtrooms.

Prior to bindover, felony cases are handled horizontally by the felony review, preliminary hearing, and grand jury and information sections.

The Chicago felony review section consists of 28 attorneys and 2 supervisors, who are available for screening on a 24-hour basis. At any one time there are six attorneys at three locations to approve or reject police arrests.

After review, cases go to the preliminary hearing section. Eighteen assistants and four supervisors work in five preliminary hearing courtrooms. The preliminary hearing section will either dismiss a case, send it to the grand jury for indictment, or hold a preliminary hearing. The grand jury and information section conducts grand jury proceedings and files the information for cases bound over at preliminary hearings.

After indictment or bindover, cases are randomly assigned among the 30 felony trial judges handling cases at the 26th and California Street location. From this point cases are handled on a vertical basis. Three assistants are assigned to work with each judge. Trial assistants in each courtroom report to one of five supervisors.

#### **Flow of felony cases—arrest through sentencing**

Although police actually do the initial filing of felony charges all cases, except narcotics cases, must first be approved by the felony review unit of the state's attorney's office. If charges are approved the police initiate the charging process by filing a "complaint for a preliminary hearing" in the municipal division of the circuit court. Narcotics cases are filed directly in municipal court by the police without being screened by the state's attorney's office. Preliminary hearings typically occur the day after an arrest.

The standard procedure is for police to have witnesses available at the preliminary hearing courtroom the morning after the suspect is arrested. The prosecution's intention is to dispose of the case that day by working out a plea or having a preliminary or grand jury hearing. Most plea offers at this point involve sentences of probation, but the pleas

are to felonies. Office policy does not allow reductions to misdemeanors. Preliminary hearing judges may take felony pleas and decide sentences for those cases. Technically, however, an information is still filed with the criminal division and the case is recorded as a criminal division disposition.

A substantial number of dismissals and nolle prosequis also occur at the preliminary hearing. Many of these are cases in which the victim and defendant resolve the problem or in which witnesses fail to appear. Cases not dismissed or settled by plea at the preliminary hearing are carried forward to the criminal division.

The state's attorney uses both preliminary hearings and grand jury indictments to get cases to the felony trial stage. About half of the cases carried forward result from grand jury indictments and half from findings of probable cause at the preliminary hearing. The state's attorney has 30 days from arrest to obtain an indictment or file an information if the defendant is in custody, 60 days if the defendant is on release.

After a finding of probable cause or an indictment cases are scheduled for arraignment in 3 weeks before the criminal division arraignment judge, who randomly assigns cases to trial judges. Typically, a first appearance (first call) before the criminal division trial judge also occurs the same day as arraignment. At first call discovery dates are set and the defense may ask for a bond review. At this point trial assistants have not yet received the case files so discussions of substantive matters are not common.

Once cases are assigned to judges the prosecutor's case files are sent to the attorneys working with the assigned judge. The most senior of the three assistants, called the first chair, is responsible for all cases in that courtroom and for case assignments. Early in the case the assistant assigned to that case will have to prepare an answer to the defense

motion for discovery, to be presented at the second criminal court appearance. At the second appearance the case is continued for the defense to answer the prosecutor's discovery motion. By the third appearance most routine felonies will have been settled. For more complex and serious cases dates may be set at the third appearance for motions. Depending on the judge, immediately after the motions hearing the case may go to trial or a trial date will be set.

Office policy regarding plea negotiations is that the defense usually initiates the discussions. The substance of plea offers is the sentence recommendation. Assistants are not allowed to reduce charges without a supervisor's approval; however, they have broad discretion within the statutes on sentence recommendations.

Judges vary in the extent to which they actively participate in the plea negotiation process. Some only want to be informed of agreements after they have been worked out by the prosecutor and the defense; others are willing to discuss sentences directly with defense attorneys. Virtually all judges participate in plea conferences, in accordance with Illinois Supreme Court Rule 402. In essence, Rule 402 states that if the defense and prosecutor are not in agreement, but the difference is not "substantial," the defense may ask for a conference with the judge. At the conference the judge basically mediates between the prosecutor and the defense. The judge may side with the prosecutor or with the defense or make a new offer, but all have to agree. If the prosecutor disagrees with the judge's decision that fact goes on the record, and the judge is supposed to order a presentence investigation report if the sentence is below the prosecutor's offer. If the defendant rejects the judge's decision he or she goes to trial before that judge. The defendant does not have the right to request a new trial judge.



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## Cobb County, Georgia

### Demographic characteristics and crime rate

Cobb County's population in 1980 was 297,694, a 51% increase since 1970. Marietta and Smyrna, the two largest cities in the county, accounted for 17% (51,117) of the population.

The combined crime rate in Marietta and Smyrna in 1980 was 11,197 index crimes per 100,000 population. The violent crime rate was 823 per 100,000.

### Criminal justice setting

The Cobb County district attorney is responsible for the prosecution of all felony arrests within the county. All other cases, including misdemeanor, traffic, juvenile, and domestic relations, are handled by the State solicitor.

Approximately 4,000 felony arrests are presented annually to the district attorney, the majority of which are initiated by the Cobb County, Marietta, and Smyrna police departments. The rest are brought by 30 law enforcement departments with jurisdiction in the county. There are about 20 elected justices of the peace in the county, who sign arrest warrants brought to them by the police. All felony arrests must be presented to a justice of the peace and be based on a signed warrant to be official. Charges are then automatically filed in court, prior to screening by the district attorney.

The county has a two-tiered court system. The State (lower) court is responsible for the initial arraignment and release decision for all felony cases and the disposition of

all other cases. Felony arraignments and release decisions are handled by two State court magistrates.

The four-judge superior (felony) court adjudicates indicted felony cases and civil matters. Judges maintain individual calendars, alternating weeks of trial and nontrial work.

### District attorney's office: Size, organization, procedures

The district attorney's staff consists of nine attorneys. The district attorney reviews each felony case and assigns it to one of the assistant district attorneys. Prosecution is vertical: each attorney screens, prepares, and prosecutes assigned cases.

### Flow of felony cases—arrest through sentencing

After defendants are taken into custody the police officer obtains an arrest warrant from a justice of the peace, which leads to an automatic filing in State court. Within 72 hours of filing, defendants must be arraigned before a State court magistrate. The magistrate informs the defendant of the charges against him and makes the bond decision. Defendants who are held in custody may demand a preliminary hearing in State court within 2 weeks of arrest for a determination of whether there is probable cause to hold.

Assistant prosecutors screen cases after they have been initiated in State court. The district attorney receives copies of arrest warrants daily and reviews all warrants before assigning cases to individual attorneys. Typically, screening occurs about a week after arrest, when the

office has received written arrest reports from police officers. Cases that do not merit prosecution are returned to State court for dismissal or, occasionally, for prosecution as misdemeanors.

Cases carried forward as felonies are sent to the grand jury, which meets once a week. The grand jury decides most cases within 2 to 3 months of arrest. If a case is settled by plea negotiations prior to the grand jury hearing, the grand jury proceeding is waived, and the case is assigned directly to a superior court judge for a plea and sentence hearing.

Indicted cases are randomly assigned to one of the four superior court judges, who designates a court-appointed attorney if necessary. An arraignment on the indictment is held 21 days after indictment. By this time the prosecutor and defense attorney have discussed the case, and most defendants are ready to plead guilty. Defendants who plead guilty are immediately sentenced. If no guilty plea is entered the judge schedules and presides over all hearings and the trial.

Plea negotiations are characterized by informal contact between the prosecuting and defense attorneys; the judge is not involved. The substance of plea bargains concerns the sentence, including type (prison versus probation) and length. There is no formal review of the bargains made, but the small size of the district attorney's office allows for informal control over such decisions. Judges generally do not change the type of sentence recommended in the plea agreement, but they occasionally alter the length.

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## Colorado Springs, Colorado (4th Judicial District)

### Demographic characteristics and crime rate

The 4th Judicial District comprises the counties of El Paso and Teller. The jurisdiction's population in 1980 was 317,458. The city of Colorado Springs accounted for 68% (215,150) of the population.

Colorado Springs had a crime rate in 1981 of 8,841 index crimes per 100,000 population. The violent crime rate was 687 per 100,000. Corresponding rates that year for 112 cities of comparable size were 8,771 and 826, respectively.

### Criminal justice setting

The office of the district attorney for the 4th Judicial District prosecutes all misdemeanor and felony cases arising in El Paso and Teller Counties. The office is also responsible for traffic violations, juvenile matters, family-support cases, and some civil litigation.

Approximately six law enforcement agencies bring arrests to the office. The Colorado Springs police department accounts for about 85% of the office's caseload.

The county court, the lower court of a two-tiered court system, handles traffic violations, civil matters under \$5,000, misdemeanors, and first appearances in felony cases (advisement). Six judges share the criminal and civil work load.

The district (felony) court handles juvenile (criminal), felony, and domestic relations cases, as well as civil matters involving \$5,000 or more. Ten judges hear both civil and criminal cases. Judges maintain individual calendars.

About 10,000 felonies and misdemeanors are filed with the court annually. Felonies are filed directly in district court even though advisement is held in the county court.

#### **District attorney's office: Size, organization, procedures**

The district attorney's office has 32 attorneys, most of whom are assigned to either the county or district court sections of the criminal division.

In the county court section seven deputies are responsible for prosecuting misdemeanors and representing the office at felony advisements. In the district court section deputies are organized into three trial teams of four attorneys each. In addition, three deputies work in the juvenile section, two in consumer

fraud, two in support and welfare, and one in the appellate section.

With the exception of the felony advisement in county court, all proceedings for a given felony case are handled by the same attorney.

#### **Flow of felony cases—arrest through sentencing**

Police may release arrestees on bail or bond prior to their felony advisement appearance in county court. At advisement, held within 1 day of arrest, arrestees are read their rights, notified of police charges, and asked if they wish to be represented by a public defender. The judge reviews the arrestee's bail status and sets a return date of 1 to 10 working days for first appearance in district court.

Cases are screened by a paralegal in the district attorney's office prior to the arrestee's first appearance in district court. Arresting officers from the smaller agencies bring their cases to the paralegal for review, usually within 1 day of arrest. For arrests made by the Colorado Springs police department, a paralegal goes to the department to review cases with detectives, not the arresting officers. Generally the arrests will have occurred 2 or 3 days earlier. Police do not prescreen cases. One of two deputy district attorneys reviews and signs the papers prepared by the paralegal. An estimated 90% of felony arrests are filed in the district court.

The first appearance in district court is a procedural one. The defendant is given a copy of the information, counsel is appointed if necessary, discovery takes place, the defendant's release status is reviewed, and a preliminary hearing date is set (must occur within 30 days).

Most cases are settled prior to the preliminary hearing; in that event a guilty plea is entered at the hearing and sentencing is scheduled for about 8 weeks later. If a plea agreement has not been reached the defendant either waives the preliminary hearing and a trial date is set or a preliminary hearing is held.

At the preliminary hearing probable cause is established, defendants are asked how they plead (this triggers the 6-month speedy trial rule), and a trial date is set (within 2 to 3 months).

Following a motions hearing, trial occurs. Sentencing takes place 6 to 8 weeks after trial, during which a presentence investigation report is prepared for the judge. Prosecutors do not usually present victims and witnesses at sentencing.

Plea negotiations begin a few days before the preliminary hearing and are usually initiated by the prosecutor. Plea offers, which are good until the hearing, may involve charge reductions, sentence concessions, and habitual offender charges. Most routine offers involve charge reductions. A second offer may be made after the preliminary hearing, but it is not usually as favorable as the first. Judges are not directly involved in plea negotiations.

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## **Dallas, Texas (Dallas County)**

### **Demographic characteristics and crime rate**

Dallas County had a population of 1,556,549 in 1980. Dallas, the central city in the county, made up 58% (904,078) of the jurisdiction's population.

The crime rate in the city of Dallas in 1981 was 11,905 index crimes per 100,000 population. The violent crime rate was 1,360 per 100,000. Corresponding rates in 18 cities of comparable size were 9,464 and 1,211, respectively.

### **Criminal justice setting**

The Dallas County district attorney has jurisdiction over all felonies, misdemeanors, juvenile offenses, and child-support cases occurring in the county.

Thirty law enforcement agencies present 18,000 to 20,000 felony arrests to the district attorney's office annually. The Dallas city police department accounts for about 80% of the office's annual caseload. The Dallas police department routinely screens all

felony arrests, which reduces the number of cases presented by the department by about 10%.

Dallas County has a two-tiered court structure. The district (lower) court handles misdemeanors and initial appearances in felony cases. The district court system has two types of officers: magistrates, who handle initial arraignments and bond settings for felony cases, and judges, who dispose of misdemeanor arrests in the 10 district courts.

The circuit (felony) court handles only criminal matters. Cases are sent to the circuit court after a grand jury indictment. There are 14 full-time circuit court judges, who are elected every 4 years. Felony cases are randomly assigned to the judges, who operate individual calendars.

#### **District attorney's office: Size, organization, procedures**

The district attorney's office employs 150 attorneys. Felony arrests are handled horizontally by three divisions: intake (4 attorneys), grand jury (2 attorneys), and felony trial (46 attorneys). Two special prosecution units, career criminals and specialized crimes (each with four attorneys), handle cases vertically after intake. Thirty attorneys handle misdemeanor cases in the district court.

At intake cases are assigned circuit court docket numbers and are provisionally assigned randomly to 1 of the 14 circuit court judges. Three felony trial attorneys are assigned to work with each judge and handle the cases designated for that judge after indictment.

#### **Flow of felony cases—arrest through sentencing**

Defendants arrested for a felony offense are booked at the county jail

and appear before a magistrate in district court shortly after arrest for arraignment. At arraignment the defendant is formally notified of the police charges, a warrant is issued, and bond is set. For defendants who were unable to make bond at the initial arraignment, an "examining trial" occurs the following day in district court to determine if probable cause exists to hold the defendant. Both of these appearances typically occur before cases are presented to the district attorney.

Cases usually reach the intake division of the district attorney's office 3 or 4 days after arrest. In the intake division cases are given a brief review (arrest reports are checked for completeness and accuracy). Cases are then sent to the grand jury division. All felony offenses are taken before the grand jury for indictment.

The first substantive screening of cases is done by an assistant assigned to the grand jury division. The grand jury proceeding is used to weed out nonconvictable cases prior to the filing of formal charges. The grand jury declines to indict about 25 to 30% of the cases presented and, therefore, is an effective screening tool for the district attorney. Most cases are presented to the grand jury within 2 to 3 weeks of arrest.

Indicted cases are then formally assigned to a circuit court judge and case files are sent to the three-member trial team that works with the designated judge. The first trial assistant, the most experienced member of the trial team, is responsible for case assignment within the team.

The first appearance of the defendant in circuit court is the "first setting." The first setting occurs 2 to 3 weeks after indictment and is substantively a pretrial conference, at which the prosecution presents a plea offer to the defense. The "second setting" is known as an announcement setting, at which accepted pleas are entered on the record. The "third setting" is a bench or jury trial.

Plea offers focus primarily on the prosecutor's sentence recommendation. Judges typically do not participate in plea discussions and accept the prosecutor's recommendation.

## **Davenport, Iowa (Scott County)**

#### **Demographic characteristics and crime rate**

Scott County had a population of 160,022 in 1980. The city of Davenport, the county seat, had a population of 103,264.

Davenport's crime rate in 1981 was 8,058 index crimes per 100,000 population. The violent crime rate was 834 per 100,000. Corresponding rates in 1981 for 112 cities of comparable size were 8,771 and 826, respectively.

#### **Criminal justice setting**

The county attorney for Scott County has jurisdiction over all felonies and misdemeanors occurring in the county and is also responsible

for juvenile and civil matters. Eleven police agencies present an estimated 13,000 felony and misdemeanor arrests to the county attorney annually. The vast majority of arrests are presented by the Davenport and Bettendorf police departments, the county sheriff, and the State police.

In Iowa felonies and two types of indictable misdemeanors (serious and aggravated) carry penalties of over 1 year in prison. Indictable misdemeanors can be disposed in either the associate district court (the lower court) or the district court (upper court) at the discretion of the chief district court judge.

In Scott County serious misdemeanors are disposed in the associate district court, which is also responsible for simple misdemeanors, juvenile offenses, traffic violations, small claims, and the initial hearings for aggravated misdemeanors and felonies. The associate district court is staffed by three judges, five magistrates, and one juvenile referee.

The district court is responsible for the disposition of aggravated misdemeanors and felonies after the filing of an information. The 7th Judicial District Court serves several other counties in addition to Scott County. Six of the district court's 10 judges are assigned to hear civil and criminal cases for Scott County.

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### County attorney's office: Size, organization, procedures

The county attorney's office has a staff of 2 full-time attorneys and 14 part-time attorneys (including the county attorney). All criminal cases (felonies, indictable misdemeanors, and simple misdemeanors) are handled by three teams of four attorneys each. Screening is handled by eight senior attorneys, including the county attorney, on a daily rotating basis. After screening, cases go to team leaders, who assign them to individual attorneys. Each team gets an equivalent mix and number of cases. Team leaders consider experience and specialization in assigning cases to attorneys. Prosecution of all cases is vertical after screening. Calendar duties are shared on a rotating basis.

### Case flow: Indictable misdemeanors and felonies

In the past the police typically filed all arrests directly with the associate district court, before the prosecutor had a chance to screen the arrest and make a charging decision. The office is now attempting to screen cases before they are filed in the associate district court. About half of all arrests (those requiring an arrest warrant) are now screened and the prosecutor's charge designated before court filing. For the other half (summary arrests), screening occurs after the initial police filing but before a filing of the information.

In the associate district court first appearance occurs within 24 hours of arrest if the defendant is in custody

and within 48 hours otherwise. At the first appearance the defendant is informed of the charges and bond is set; the defendant's rights also are explained, but defendants are not usually represented by counsel at this point.

The second appearance in associate district court takes place 24 hours after the first if the defendant is still in custody and within 72 hours if on release. At this point defendants are represented by counsel; bond may be reviewed and a preliminary hearing demanded. In most instances, however, the preliminary hearing is waived and an arraignment on the information is scheduled for 3 weeks later. The county attorney's office files an information within 10 days of second appearance. Automatic dismissal results if the information is not filed within 45 days.

Arraignment on the information and subsequent court events for simple and serious misdemeanors occur in the associate district court and for aggravated misdemeanors and felonies, in the district court. After the arraignment on the information the prosecution prepares a plea offer, according to written office guidelines, and communicates the offer to the defense.

Pretrial conferences (actually status hearings) occur approximately 60 days after arraignment. Cases not settled by this time are scheduled for trial, usually within 1 to 2 weeks. The speedy trial rule, which is almost always waived by defendants, requires trials to commence within 90 days of arraignment.

Sentences must be imposed within 15 days of trial if the defendant is in custody and within 30 days otherwise. Presentence investigations must be conducted for those convicted of felonies. Persons guilty of indictable misdemeanors usually waive the presentence investigation.

Plea negotiations generally involve adhering to the top charge, dismissing other charges, and making a sentence recommendation regarding incarceration. Because judges rarely, if ever, impose consecutive sentences, insisting on additional charges is not regarded as worthwhile.

Team members negotiate their own plea agreements, but team leaders must approve the agreements, called Rule 9 memo agreements. Team leaders rarely reject plea agreements.

Judges almost always accept the Rule 9 agreement at the pretrial conference. If the judge rejects the agreement, however, the defendant can withdraw his plea. Negotiations are conducted over the telephone by the attorneys in the case. Judges do not participate.

If a case is not settled at the pretrial conference the only alternative to trial is an open plea. When the defendant decides on an open plea all parties present arguments (on the record) before the judge, who decides the outcome.

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## Dedham, Massachusetts (Norfolk County)

### Demographic characteristics and crime rate

Norfolk County, located on the outskirts of Boston, comprises 28 municipalities. The county's population in 1980 was 606,587. Quincy (84,743) is the largest city, followed by Weymouth (55,651) and Brookline (55,062). Dedham is the county seat.

The combined crime rate for Quincy, Weymouth, and Brookline in 1981 was 5,309 index crimes per 100,000

population. The violent crime rate was 349 per 100,000.

### Criminal justice setting

The district attorney for Norfolk County has jurisdiction over some civil and all criminal matters occurring in the county, including traffic violations, child-support cases, city ordinance violations, and welfare fraud.

Law enforcement agencies representing each of the county's 28

municipalities bring cases to the district attorney. Cases are also presented by the Massachusetts Department of Corrections, Massachusetts Sheriff's Department, Registry of Motor Vehicles, and the Department of Natural Resources.

The district (lower) court has jurisdiction over juvenile matters, misdemeanors, and lesser felonies (punishable by 5 years or less in prison). The maximum punishment that can be imposed by the district court, however, is 2.5 years in

prison. District attorneys in Massachusetts have the discretion to determine whether lesser felonies are disposed in the lower or upper court. The district court also handles initial arraignment, bail setting, and preliminary hearings for serious felonies (punishable by more than 5 years in prison). The county has five district courts, which are staffed by 13 judges.

The superior (upper) court has jurisdiction over misdemeanor appeals and serious felonies after indictment by the grand jury. It also has concurrent jurisdiction on all matters processed in the district court. Both courts have civil responsibilities.

The superior court has three judges. One judge, the assignment judge, works on criminal cases full time, performing both calendar and trial duties. The other two judges rotate criminal trials and civil work roughly on a monthly basis.

#### **District attorney's office: Size, organization, procedures**

The district attorney's office has about 30 full-time attorneys. Fourteen handle superior court cases after grand jury indictment. Nine attorneys handle district court work, including initial appearances and probable cause (bindover) hearings for serious felonies, and pleas and bench trials for misdemeanors and lesser felonies. Five attorneys handle district court cases in which the defendant requests a jury trial either in lieu of a bench trial or after conviction at a bench trial (de novo jury trial). These trials are held before a jury of six members. Although held in the district court such trials are technically under the jurisdiction of the superior court.

The chief of the district court section screens cases after a complaint is issued in district court, determines the court of final disposition, and assigns the case to a

district court attorney for disposition in the district court or for a preliminary hearing. If a case is bound over a senior superior court assistant reviews the case, in particular the charges to be presented to the grand jury, and then assigns the case to a superior court deputy for final disposition. Most grand jury presentments are handled by one senior deputy. Special units prosecute drug cases, white collar crimes, sexual assaults, and rapes.

#### **Flow of felony cases—arrest through sentencing**

When the police make an arrest the defendant is brought before a magistrate and a complaint is filed in district court. The defendant is then immediately arraigned on the complaint in district court.

The district attorney does not screen cases until after the initial filing of the complaint in district court. The chief of the district court reviews all felony cases and determines the court of jurisdiction (few arrests are rejected). District court felonies are assigned to a district court attorney to handle to final disposition. In the busier district courts the next event is a conference, at which the prosecutor and defense attorney discuss the plea. If the defendant does not agree to plead guilty the next event is trial. In the less busy courts the plea conference is omitted and the next event after arraignment is trial.

About 90% of district court defendants plead guilty before their trial date. Defendants who do not plead may choose a bench trial or a jury trial. Defendants may also request a jury trial (de novo jury trial) after being convicted at a bench trial.

For felony cases designated for prosecution in superior court a probable cause hearing is scheduled in district court 10 days after arraignment. If probable cause is found the case is screened again and charges can be adjusted before pre-

sentment to the grand jury (2 to 3 weeks later). Indicted cases are assigned to a superior court attorney for disposition. Subsequent to indictment, discovery and motions occur, then trial.

Under the State's speedy trial rule, an indictment or complaint must be tried within 1 year. Estimates of actual time from arrest to felony disposition in superior court range from 6 to 9 months; in district court dispositions take from 2 to 4 months.

Sentencing is usually imposed without a presentence report. Judges set the minimum and maximum periods of incarceration. The Massachusetts Department of Corrections controls the actual duration of time served.

Plea offers in district court are closely supervised for the first 3 or 4 months an attorney is on the job. All plea offers must be discussed with the district court chief during this time. Even experienced district court attorneys consult the chief in serious or difficult cases. Attorneys in the superior court section are more experienced and have more flexibility regarding plea offers, but in difficult cases they consult the first assistant or another experienced attorney.

Plea negotiations generally center on the sentence rather than the charges. Typically, a sentence recommendation is worked out between the defense attorney and the prosecutor and the judge goes along with the recommendation, although the judge is not bound by the prosecutor's plea agreement. Some judges will indicate prior to the formal plea how they will sentence, but others will not. If judges do not follow the prosecutor's recommendation, they do not have to let the defendant withdraw his or her plea, but the defense attorney can appeal.

## Denver, Colorado (2nd Judicial District)

### Demographic characteristics and crime rate

The 2nd Judicial District, which is geographically identical to the city and county of Denver, had a population of 491,396 in 1980.

The crime rate for Denver in 1981 was 11,995 index crimes per 100,000 population. The violent crime rate was 1,010 per 100,000. Corresponding rates in 32 cities of comparable size were 10,044 and 1,286, respectively.

### Criminal justice setting

The district attorney for the 2nd Judicial District has jurisdiction over all State felonies, misdemeanors, and juvenile offenses in the city of Denver. There is some overlap in jurisdiction with the city attorney, and some arrests are referred to the city attorney for prosecution on city charges.

The Denver police department accounts for virtually all cases presented to the district attorney. Approximately 8,000 adult felony arrests are presented for screening annually. Another 10,000 to 20,000 misdemeanor arrests, including drunk driving cases, are filed with the court by the police.

Denver has a two-tiered court structure. The county (lower) court handles State and city misdemeanors, lower civil matters, and initial felony appearances (advisements and preliminary hearings). The county court has five full-time judges who handle State misdemeanors. Two additional judges handle advisements and preliminary hearings for felony cases.

The district court, the court of general jurisdiction, handles felonies bound over from county court and more complex civil matters. Six judges work full time on felony cases. Cases are assigned randomly to each district court division (judge) at the time of initial filing in county court, prior to the preliminary hearing and bindover. District court judges maintain individual calendars.

### District attorney's office: Size, organization, procedures

The district attorney employs 50 attorneys, most of whom work in eight divisions: felony trial (18), county court (10), felony complaints (4), juvenile (3 or 4), appeals (3 or 4), consumer fraud (2), white collar crime (3 or 4), and domestic violence (1). Felony cases are handled by the felony complaints and trial divisions. Cases are handled vertically after screening.

Case assignment to individual trial attorneys is predetermined by the court's random assignment of cases. Three felony trial attorneys are assigned to each district court judge and are responsible for cases assigned to that judge. The three attorneys rotate preliminary hearing assignments for cases assigned to their judge. The attorney who handles the preliminary hearing for a case is responsible for that case to final disposition.

### Flow of felony cases—arrest through sentencing

The day after an arrest is made, and before the district attorney screens the case, the defendant appears in county court for the first advisement hearing, at which he is informed of the charges under investigation. Bond is determined at the jail according to a schedule provided by the court.

Complaint deputies work at the police station and are available to advise detectives who prepare the follow-up investigation. Obvious rejections are identified early; for other cases detectives prepare a report to be presented at screening. Witnesses are not usually interviewed by attorneys at screening.

The district attorney has 72 hours in which to file charges if the defendant is in custody and 10 days if the defendant was released.

After charges have been filed defendants appear for the second advisement hearing, held within 72 hours of arrest for defendants in custody. At this hearing the defendant is informed of the charges filed and a public defender is appointed if necessary. In Colorado preliminary hearings are not automatic; they must be demanded by the defendant. Defendants routinely demand a preliminary hearing at this second appearance, and the hearing date is set for about 1 month later.

The court clerk then assigns the case to a district court division, informs the district attorney of the division and the preliminary hearing date, and sends the case file to the predetermined trial attorney. Typically, the assigned attorney receives the case file a few weeks before the preliminary hearing. In a serious case witnesses are likely to be brought in for an interview. In other cases witnesses are interviewed on the day of the preliminary hearing or over the phone.

The legal issue at the preliminary hearing is whether probable cause exists to bind the defendant over to the district court. The more important issue, however, is whether a plea can be worked out. Typical office practice is to try to get pleas early to facilitate maintaining a realistic trial docket in district court. The technical (but flexible) rule is to make a realistic offer at the preliminary hearing.

If a plea is worked out at the preliminary hearing the defendant waives the hearing and the case is bound over to the district court, where the first appearance will be an arraignment and plea hearing. If no disposition is worked out the preliminary hearing is held and, in most instances, the case is bound over for trial.

Defendants bound over to district court for trial first appear at an arraignment ("plea and setting"), which occurs 2 weeks after the preliminary hearing. Defendants who have not agreed to a plea

offer by this hearing plead not guilty, and a trial date is set for 90 days later. All convicted defendants appear at a sentencing hearing after a presentence investigation report has been prepared.

There is no formal office policy regarding plea bargaining, and trial attorneys have a great deal of discretion in deciding what offer to make. The substance of routine offers concerns reducing charges by one class. (There are five classes of

felonies in Colorado; in addition class 1 and 2 misdemeanors carry penalties of up to 2 and 1 years of incarceration, respectively.) An alternative offer for first-time, nonviolent offenders can be a deferred judgment. In this instance the defendant pleads guilty to the top charge but sentencing is deferred for a year or two. If the defendant is not rearrested during that period the charge is dismissed. Generally, office practice is not to sentence bargain.

Judges do not routinely become involved in the plea negotiation process. They consider plea negotiations the task of the prosecutor and also do not like to be locked into specific sentences. According to Colorado case law the defendant may withdraw his plea if the judge does not accept the prosecutor's sentence recommendation.

## Des Moines, Iowa (Polk County)

### Demographic characteristics and crime rate

Polk County had a population of 303,170 in 1980. Des Moines, the county seat, accounted for 63% of the population (191,003).

Des Moines had a crime rate in 1981 of 10,501 index crimes per 100,000 population. The violent crime rate was 546 per 100,000. Corresponding rates in 1981 for 112 cities of comparable size were 8,771 and 826, respectively.

### Criminal justice setting

All felonies and misdemeanors arising within Polk County fall within the jurisdiction of the county attorney's office, which also handles juvenile and civil matters. Thirteen police agencies present arrests to the county attorney; most are made by the Des Moines police department.

In Iowa felonies and two types of indictable misdemeanors (serious and aggravated) carry penalties of over 1 year in prison. Indictable misdemeanors can be disposed in either the associate district court (lower court) or the district court (upper court) at the discretion of the chief district court judge.

In Polk County both serious and aggravated misdemeanors are handled in the associate district (lower) court. The associate district court is also responsible for the disposition of simple misdemeanors and the initial hearings in felony cases. The six judges assigned to

Polk County's associate district court also hear juvenile, traffic, and small claims cases.

The district (upper) court is responsible for the disposition of felonies after the filing of an information or indictment. The 5th Judicial District Court serves a number of counties in addition to Polk County. Thirteen judges are assigned to Polk County cases. Three are responsible for criminal cases, two for family court, and eight are on general assignment for civil cases and as back-up for criminal matters. One of the three criminal judges does calendar work and takes pleas; the other two hear motions and trials.

### County attorney's office: Size, organization, procedures

The county attorney's office employs 25 to 30 attorneys. Most are assigned to the criminal division, which has three bureaus: pretrial (6 attorneys), trial (10 attorneys), and major offenders (4 attorneys).

The prosecution of felonies and indictable misdemeanors is horizontal. Two attorneys in the pretrial division screen and file initial charges for indictable cases. Cases are then routed to a third attorney, who reviews the charges and prepares a plea offer in accordance with office guidelines. Offers are communicated to defense attorneys soon after filing to facilitate early pleas. If a plea is not negotiated within 2 weeks the case is assigned to a trial bureau attorney, who files an information and handles the case to disposition. Major offenses (such as homicide), however, are handled

by a single attorney from arrest to trial.

### Case flow: Indictable misdemeanors and felonies

Arrests are made either immediately at the scene or on securing a warrant from the court. Police present arrests to the county attorney's pretrial bureau, which screens all cases before initial charges are filed with the court. The bureau also screens about 10 police-referred, walk-in citizen complaints per day. These complaints are the result of police actions that did not lead to an immediate arrest. Warrants are issued as appropriate.

The defendant's first appearance in court occurs before an associate district court judge within 24 hours of arrest. Bond is set, charges are read, and an attorney is appointed, if necessary. Defendants are entitled to a preliminary hearing, but they routinely waive that right.

Between the initial arraignment and the filing of the information in district court the defendant, through counsel, is informed of the office plea offer. If the offer is accepted a plea hearing is scheduled in associate district court (indictable misdemeanors) or in district court (felonies). If the offer is not accepted within 2 weeks the case is assigned to a trial attorney, who prepares an information and becomes responsible for the case to final disposition. Cases may also be charged by grand jury indictment, but the vast majority are filed by information. The information or indictment must be filed within 45 days of arrest.



Arraignment on the information or indictment usually occurs 6 to 8 weeks after arrest. The information is read to the defendant and a trial date is set. Statute mandates that the trial be scheduled no later than 90 days after the information is filed. The original plea offer made by the pretrial bureau does not change. Defendants are expected to

accept the original offer or go to trial.

Defendants convicted of indictable misdemeanors usually waive the presentence investigation, but most felony defendants do not. Sentencing occurs 4 to 6 weeks after a guilty finding or plea.

Plea offers are made according to written guidelines. Typically, defendants are required to plead to the top charge. The major focus of the plea offer is whether the prosecutor will recommend probation or incarceration. Changes in plea offers by assistant county attorneys must be approved by the bureau head. Generally, judges do not participate in plea negotiations.

## **Detroit, Michigan (Wayne County)**

### **Demographic characteristics and crime rate**

The population of Wayne County was 2,337,240 in 1980. The city of Detroit accounted for just over half (1,203,339) of the county's population.

Detroit's crime rate in 1981 was 11,987 index crimes per 100,000 population. The violent crime rate was 1,941. Corresponding rates in 1981 for five cities of comparable size were 9,064 and 1,727, respectively.

### **Criminal justice setting**

The Wayne County prosecutor's office has jurisdiction over all adult criminal cases arising within the county. The office also handles juvenile cases and some civil matters for the county.

In 1981 close to 27,000 adult felony and misdemeanor arrests were presented for prosecution. Over 70% of those arrests originated in Detroit, and most were made by the Detroit city police.

Wayne County has a two-tiered court structure: the district (lower) court and the circuit (felony trial) court. Physically separate courts process cases arising in Detroit and in areas in the county outside the city. In the city of Detroit the circuit court is called the recorder's court. The remainder of this description refers primarily to the processing of felony cases in the city of Detroit.

In Detroit the district court hears misdemeanors and some traffic offenses and holds felony arraignments and preliminary examinations. The recorder's court is responsible for the disposition of felony cases after bindover at the preliminary hearing.

There are 29 recorder's court judges. An executive judge, four or five other judges, and a docket clerk are located on each of the five floors of the courthouse on which felony courtrooms are located. Executive judges preside over the arraignment on the information, take pleas, hear some motions, assign cases to the other judges for trial, and sometimes conduct bench trials. The other judges preside over all jury trials.

### **Prosecuting attorney's office: Size, organization, procedures**

The Wayne County prosecutor's office employs 130 attorneys; most work in the Detroit office. Attorneys in the Detroit office are assigned to one of four divisions: administrative, screening and trial preparation, trials and dispositions, and appeals and special services.

The screening and trial preparation division works almost exclusively with the district court. Of 16 attorneys 5 are assigned to issuing warrants and screening cases, 5 to preparing and conducting the preliminary examination, 2 to handling traffic cases, 2 to prosecuting misdemeanor trials, and 2 to pretrial diversion.

Eight of the 47 attorneys staffing the trial and disposition division are assigned to the repeat offender bureau. The other 39 are felony trial attorneys, who work in the recorder's court. Five are designated as docket attorneys, one for each floor of the courthouse on which there are felony courtrooms. They are experienced trial attorneys and supervise four to six other trial attorneys assigned to each of the five floors.

The appeals and special services division comprises 14 trial attorneys, 18 attorneys who handle juvenile

cases, a few attorneys who conduct civil litigation for the county, and 3 attorneys who staff the organized crime task force.

Prosecution of felony cases in the district court is horizontal; after cases are bound over to recorder's court, prosecution is vertical.

### **Flow of felony cases—arrest through sentencing**

The arresting officer submits an arrest report to an investigator, who conducts additional interviews and decides whether the evidence is sufficient to present the arrest to the prosecutor. If the investigator decides to send the case to the prosecutor he submits the papers prepared by the arresting officer and investigator to a court officer, a police officer who acts as liaison between police and prosecutor. Accompanied by the complainant or victim, the court officer meets with a prosecutor in the warrant section to review the case, usually within 24 hours of arrest.

The warrant section may issue a felony or misdemeanor warrant, dismiss the case, divert the case, or adjourn the case for additional investigation.

If a warrant is issued the court officer takes it to the district court, where a judge signs it, making the arrest official. If the defendant is in custody arraignment on the warrant occurs almost immediately unless the case has been referred for diversion. At the arraignment the accused is formally charged, an attorney is appointed if necessary, and the preliminary examination is scheduled (usually within 10 days).

If probable cause is found at the preliminary examination the case is



bound over to the recorder's court for felony prosecution. Bound-over cases are randomly assigned to one of the five executive judges. The docket attorney who works with that judge reviews the case, makes a plea decision, and assigns a trial attorney to the case.

The first appearance in recorder's court, the arraignment on the information (actually a pretrial conference), occurs about 1 week after the preliminary hearing if the defendant is in custody, in 2 weeks otherwise. At this appearance the final conference and trial dates are set. Motions may be heard until the final conference, which is usually scheduled about 30 days after arraignment on the information.

Most defendants who go to trial waive their right to a jury trial in favor of a bench trial. Bench trials are presided over by executive judges, who are regarded as more lenient than trial judges. If the defendant is convicted at trial a presentence investigation report is prepared, and the defendant appears before the judge for sentencing. The judge is bound to follow sentencing guidelines mandated by the Michigan Supreme Court. When a case is settled through a plea of guilty, the same sentencing procedure applies.

Plea offers are extended to the defense attorney at the arraignment on the information and expire on the date of the final conference. Subsequent pleas must be to the count

originally charged. The five docket attorneys are the only attorneys authorized to make or change plea offers. Plea offers are made according to written office policies and involve only the reduction or dismissal of charges.

Office policy reflects the view that pleas in strong cases should be to strong charges and weak cases taken to trial rather than disposed of through lenient pleas. Under Michigan law, those convicted of committing a felony while armed are subject to a mandatory sentence. No plea offers are extended to defendants who commit such crimes. Office policy further prohibits charge reductions for certain other felonies and sets the minimum that can be offered on still others.

## Fort Collins, Colorado (8th Judicial District)

### Demographic characteristics and crime rate

The 8th Judicial District comprises Jackson and Larimer Counties. The jurisdiction's population in 1980 was 151,047.

The cities of Fort Collins, population 64,632, and Loveland, population 30,244, accounted for 63% of the district's population in 1980. The two cities had a combined crime rate in 1981 of 5,907 index crimes per 100,000 population. The violent crime rate was 271 per 100,000.

### Criminal justice setting

The district attorney for the 8th Judicial District has jurisdiction over felonies, misdemeanors, traffic violations, juvenile matters, and non-support cases. Approximately four law enforcement agencies bring cases to the office. The Fort Collins police department and the Larimer County sheriff's office initiate most of the caseload.

County court is the lower court of the district's two-tiered court system. Three county court judges handle traffic violations, civil matters under \$5,000, misdemeanors, and initial appearances in felony cases (advisement and return appearance).

The district (felony) court hears felony, juvenile, non-support, and

civil (\$5,000 or more) cases. One judge handles all the criminal calendar work and three judges handle criminal trials and civil cases.

About 4,000 misdemeanors and felonies are filed annually. In addition, the office handles 3,000 driving-under-the-influence cases and 12,000 traffic cases. Felonies are filed directly in district court even though initial felony appearances occur in county court.

### District attorney's office: Size, organization, procedures

The district attorney's office has 12 attorneys. Three attorneys handle misdemeanor and traffic offenses in county court, and five handle felonies in district court. A senior prosecutor, the complaint deputy, screens cases to determine what charges will be filed and handles felony advisements and return appearances in county court.

Except for county court appearances, all proceedings for a felony case are handled by one deputy, that is, prosecution is essentially vertical.

### Flow of felony cases—arrest through sentencing

Police may release arrestees on bail or bond prior to their first appearance in county court (advisement). At advisement, held the day following arrest for those in custody,

defendants are notified of police charges and advised of their rights, bond is set, and a return appearance is scheduled for 3 working days later. By the time of the return appearance the district attorney must file formal court charges.

The complaint (screening) deputy reviews police papers the morning of the return appearance date. In making the filing decision the deputy relies on the arresting and investigating officers' written reports, as well as interviews with investigating officers. About 90% of felony arrests are filed.

At return appearance, defendants are advised of their rights and the formal court charges. A return date of 2 or 3 days is set for first appearance in district court, and counsel is appointed or the defendant is told how to obtain representation. Once the defendant has counsel, a request for a preliminary hearing is made (such a request must be made within 10 days of the first appearance). A preliminary hearing is then scheduled to occur in 2 to 3 weeks (must be set within 30 days of request). A bond reduction hearing is also set for the same date.

Plea discussions between the prosecutor and the defense attorney typically occur before the preliminary hearing. If a plea agreement is reached the parties go to court as scheduled and the judge either sets a

sentencing date or imposes a sentence immediately.

For defendants who have not negotiated a plea the preliminary hearing is held to establish probable cause. A status review conference and return date are then set. Three weeks after the preliminary hearing a status review conference is held so that the defense attorney and prosecutor can attempt to negotiate a plea. On the return date—1 week after the status review conference—

the judge asks whether a plea agreement has been reached. If so, the sentencing date is set. If the defendant enters an open plea the case is assigned to a trial judge for sentencing. If a plea has not been negotiated the defendant is given a second return date. At the second appearance the trial judge sets a motions hearing and trial date if a plea agreement still has not been reached. Sentences are imposed 6 to 8 weeks after trial.

Plea negotiations are conducted very informally. The process begins 2 or 3 days prior to the preliminary hearing and can involve negotiations on charges, counts, and sentences. Prosecutors are permitted to dispose of their cases as they see fit. Regularly scheduled staff meetings are held to discuss possible dispositions and to ensure consistency in case handling. Once a case has been set for trial and a judge assigned, plea negotiations are supposed to terminate.

## Geneva, Illinois (Kane County)

### Demographic characteristics and crime rate

Kane County's population was 278,405 in 1980. Two cities, Aurora, population 81,293, and Elgin, population 63,798, accounted for just over 50% of the jurisdiction's population.

The combined crime rate in Aurora and Elgin in 1981 was 8,058 index crimes per 100,000 population. The violent crime rate was 593 per 100,000.

### Criminal justice setting

The state's attorney for Kane County has jurisdiction over all criminal, civil, juvenile, and traffic cases arising in the county. In addition, several municipalities contract with the office to prosecute violations of city ordinances.

Seventeen police departments present an estimated 6,500 to 7,000 felony and misdemeanor arrests to the state's attorney annually. The Aurora and Elgin police departments bring most of the arrests.

Kane County is served by the 16th Judicial Circuit Court of Illinois, which also serves part of Dekalb and Kendall Counties. Associate circuit (lower) court judges handle misdemeanors, small claims, child-support, and divorce cases. They are also responsible for initial felony

appearances—bond, status, and preliminary hearings. One associate circuit court judge has the authority to hear felony pleas. Nine associate circuit court judges are assigned to Kane County.

The circuit (felony) hears felony cases after bindover at a preliminary hearing. Nine circuit court judges are assigned to Kane County; two hear felony cases. Judges maintain individual calendars and hear all events associated with their respective cases.

### State's attorney's office: Size, organization, procedures

The state's attorney maintains offices in three cities (Aurora, Elgin, and Geneva) and a staff of 20 assistant state's attorneys. Eight attorneys prosecute felonies and six misdemeanors and traffic offenses. Others handle civil and juvenile cases. All felony attorneys and experienced misdemeanor attorneys screen cases. The office does not have special prosecution teams. Prosecution in both the lower and the felony court is conducted on a vertical basis.

### Flow of felony cases—arrest through sentencing

The state's attorney's office reviews all arrests, which may be brought by either the arresting officer or a

detective. An attorney must authorize the charges before they are filed in court. A clerk from the state's attorney's office is at the jail and prepares an information based on the authorized charges.

Within 24 hours of arrest the information is issued and a bond call is held before an associate circuit court judge in the Aurora, Elgin, or Geneva jail. During bond call, bail is set and the defendant is advised of the charges and of his or her rights.

The defendant's second appearance before a judge occurs in the associate circuit court in Geneva, about 10 to 14 days after bond call. At that event, called the first status date, charges are read again and counsel is appointed if needed. A second status date is usually held. Those who plead guilty at that time are sentenced immediately by the associate circuit court judge who took the plea. Pleas at this point may be to misdemeanors or felonies. Of those who do not plead guilty half waive the preliminary hearing (usually scheduled 1 week after the second status date) and their cases proceed to circuit court, as do cases in which probable cause is found at the preliminary hearing. Two weeks after the preliminary hearing the first of two or three pretrial conferences is scheduled in circuit court. If a plea is entered at one of these conferences the defendant is sentenced the same day. Of the relatively few defendants who do not plead guilty most request jury trials.

Defendants receive the best plea offer prior to the preliminary hearing. Thereafter, offers become more stringent. Plea bargains may involve charges (dropped or reduced), place of incarceration, or more commonly, length of sentence.

prosecutor's recommendation. In circuit court the judge may actively participate, although negotiations usually involve attorneys only. About 90% of the resulting plea bargains are accepted by circuit court judges.

Defendants who are found guilty at trial or who plead guilty without accepting a plea offer are sentenced 4 to 6 weeks later, following a presentence investigation.

Judges do not participate in plea bargaining at the associate circuit court level. They merely accept the

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## Golden, Colorado (1st Judicial District)

### Demographic characteristics and crime rate

The 1st Judicial District comprises Gilpin and Jefferson Counties. The district's population in 1980 was 374,182.

Four cities--Arvada, Golden, Lakewood, and Wheatridge--account for about 65% (239,954) of the district's population. Their combined crime rate in 1981 was 6,705 index crimes per 100,000 population. The violent crime rate was 370 per 100,000.

### Criminal justice setting

The district attorney for the 1st Judicial District (headquartered in Golden) has jurisdiction over misdemeanors, felonies, traffic violations, juvenile matters, and nonsupport cases. Approximately nine law enforcement agencies bring an estimated 6,000 felony and misdemeanor cases to the district attorney's office annually. The Lakewood police department accounts for 60% of the caseload.

The county court is the lower court of a two-tiered court system. Five county court judges handle traffic violations, civil matters under \$5,000, misdemeanors, and initial felony appearances (advisement, return appearance and preliminary hearing).

The district (felony) court is responsible for felony cases after bindover from the county court. The eight district court judges handle adult felony cases and civil matters involving claims of \$5,000 or more. About 80% of their time is devoted to criminal work. The judges maintain individual calendars.

### District attorney's office: Size, organization, procedures

Thirty attorneys are employed in the district attorney's office. Most are assigned to the county court, district court, preliminary hearing, or intake division. Five deputies are assigned to the county court division, eight to district court, three to preliminary hearing, and three to intake.

Prosecution proceeds on a horizontal basis. (At the time this report was written, the office was preparing to change to vertical prosecution.)

### Flow of felony cases--arrest through sentencing

Many arrestees are released on bond or bail by police at the station house. Advisement in county court occurs within 2 days of arrest for defendants who are released and the next day for those in custody.

Advisement is conducted through a video system; the prosecutor and public defender are at the jail and the judge is at county court. Arrestees are advised of their rights en masse and notified of police charges individually. Their bail status is also reviewed and their return appearance is set for 2 days later.

Intake (screening) occurs on the day of, or day before, the return appearance. Little prescreening by police occurs. The investigating officer delivers the papers to the district attorney's office. A former police officer screens over 70% of the cases; a prosecutor then reviews the screening decisions and signs the papers. Initial charges are then filed in county court.

At return appearance in county court the complaint is read, the defendant is asked if a public defender is required, the date for filing a preliminary hearing request (10 days from return appearance) is set, and the demand date for the preliminary hearing is scheduled. On the demand date defense counsel meets with the judge, who sets the preliminary hearing date.

At the preliminary hearing, as few witnesses as possible are called, consistent with establishing probable cause. Forty to 50% of felony filings are bound over to district court. If a felony plea has been arranged prior to the preliminary hearing the hearing is waived and the case is bound over for plea and sentence hearings. If a misdemeanor plea has been worked out the defendant may be sentenced immediately or a sentencing date is set for county court. If a plea has not been arranged a preliminary hearing is held and in most instances the case is bound over to the district court for disposition.

The first appearance in district court occurs about 2 weeks after the preliminary hearing. The judge asks whether a plea has been arranged. If it has the defendant enters a guilty plea, and the judge sets sentencing for 6 to 8 weeks later. If a plea of not guilty is entered the 6-month speedy trial rule goes into effect and the judge sets four dates: pretrial conference (10 to 20 days), motions filing date (30 to 40 days), motions hearing (60 to 70 days), and trial (4 to 5 months).

At the pretrial conference the merits of the case are discussed by the attorneys in an attempt to reach

a plea agreement. At the motions hearing the judge rules on previously filed motions. Sentencing occurs 6 to 8 weeks after trial. Judges have the benefit of presentence investigation reports, and prosecutors may make sentence recommendations.

Prosecutors have considerable discretion in negotiating pleas. Negotiations, which start about 4

days before the preliminary hearing, may involve charge reductions, dismissal of charges or cases in exchange for pleas in other matters, or occasionally, sentence concessions. The latter must be reviewed by the judge, and district court judges are reluctant to accept such arrangements.

Plea agreements reached after the preliminary hearing are supposed to be to a felony charge. Time limits on plea offers may vary by deputy and by judge.

Offers made by district court deputies at the pretrial conference are independent of any prior offers and are generally less favorable to the defendant. Judges are not directly involved in plea negotiations.

## Greeley, Colorado (19th Judicial District)

### Demographic characteristics and crime rate

The 19th Judicial District comprises Weld County. The district's population in 1980 was 123,438. The city of Greeley (population 53,006) accounted for about 43% of the district's population.

The crime rate in Greeley in 1981 was 8,582 index crimes per 100,000 population. The violent crime rate was 418 per 100,000. Corresponding rates in 1981 for 272 cities of comparable size were 6,954 and 584, respectively.

### Criminal justice setting

The district attorney for the 19th Judicial District has jurisdiction over all misdemeanors, felonies, juvenile matters, traffic violations, and nonsupport cases arising in Weld County. Eighteen law enforcement agencies bring cases to the district attorney's office. The Greeley police department accounts for over half of the arrests; a substantial number are also presented by the county sheriff's office.

The county court, the lower court of a two-tiered court system, handles civil matters under \$5,000, traffic violations, misdemeanors, and initial felony appearances (advisement and return appearance). Three county court judges spend an estimated two-thirds of their time on criminal matters.

The district (felony) court has jurisdiction over juvenile cases, felonies, and civil matters involving \$5,000 or more. Two of the four district court judges handle the criminal docket. Felonies are filed directly with the district court even though initial appearances are

handled by the county court. Judges operate individual calendars. About 2,800 felonies and misdemeanors are filed with the courts annually.

### District attorney's office: Size, organization, procedures

The district attorney's office employs 10 attorneys. Most attorneys are assigned to one of two sections: county court, staffed by three junior deputies, and district court, staffed by four experienced attorneys. A midlevel deputy is responsible for intake (screening). Another deputy is assigned to major crimes, and another to juvenile and consumer matters.

With the exception of the initial appearances in county court, once a case is filed in district court it is handled by the same deputy, who has complete discretion over its disposition.

### Flow of felony cases—arrest through sentencing

Police may release arrestees on bail or bond prior to their first county court appearance (advisement). At advisement, held within 1 or 2 days of arrest, arrestees are informed of their rights and notified of police charges. In addition their release status is reviewed, and a return appearance is scheduled (within 48 hours if the arrestee is in custody; in 10 days if on release).

Prior to the defendant's return appearance the complaint deputy screens the case and decides what (if any) charges will be filed. The deputy reviews police reports and checks records but does not interview police officers or witnesses. Police do little prescreening. About 75% of felony arrests presented by police are filed.

The return appearance in county court usually occurs 2 working days after advisement. Defendants are informed of the charges, which are filed directly in district court. The judge sets a return date of 1 to 2 weeks for the first appearance in district court.

At first appearance in district court defendants are advised of the charges and their rights, given a copy of the information, and referred to the public defender's office if necessary. If a public defender is to be appointed the case is continued for 2 weeks. If the defendant has counsel a discussion return date is scheduled for 1 to 2 weeks later.

Plea discussions between the prosecutor and the defense attorney typically take place between the first appearance in district court and the discussion return date. If a plea agreement has been negotiated the defendant enters a plea on the discussion return date and is sentenced either immediately or 4 to 6 weeks later. If a plea agreement has not been reached the judge sets a preliminary hearing date. The defendant has a right to such a hearing within 30 days of his request.

At the preliminary hearing, which is a minitrial, probable cause is established, the defendant is asked how he or she pleads (this triggers the 6-month speedy trial rule), and a motions hearing is set for 2 weeks later. At the motions hearing the judge rules on filed motions and continues the case for 2 weeks for trial setting or disposition.

At trial setting the judge inquires whether a plea agreement has been reached. If so, sentencing is scheduled. If not, trial is set for 2 to 3 months later. If the defendant is found guilty at trial sentencing takes place within 4 weeks.

To learn of everyone's position on sentencing, the judge may hold a presentence conference immediately prior to sentencing. A presentence investigation report is also available to the judge.

Plea negotiations are actively pursued during the 2 weeks between the first appearance in district court and the discussion return date, at which time about half the defendants plead guilty. Often a deputy is the one who initiates plea negotiations, in person or over the phone. Generally, the best plea offer is made at this time, with or without a time limit.

Office policy dictates that if the defense insists on a preliminary hearing, subsequent plea offers are to be somewhat more severe. Deputies usually do not bargain on sentences; they want to maintain an independent position at sentencing. Judges are not directly involved in the plea negotiation process.

## Indianapolis, Indiana (Marion County)

### Demographic characteristics and crime rate

Marion County, which is almost contiguous with the city of Indianapolis, had a population of 765,233 in 1980.

That part of Indianapolis served by the Indianapolis police department (population 461,820) had a crime rate in 1981 of 7,340 index crimes per 100,000 population. The violent crime rate was 983 per 100,000. Corresponding rates in 1981 for 32 cities comparable in size to the Indianapolis police department's service area were 10,044 and 1,286, respectively.

### Criminal justice setting

The Marion County prosecuting attorney has jurisdiction over all felony and misdemeanor arrests, traffic offenses, and juvenile and family-support cases. Several police departments—including those serving areas that were formerly independent townships—present felony and misdemeanor arrests to the prosecuting attorney. The Indianapolis police department and the county sheriff's department account for the vast majority of arrests.

Marion County is served by two courts, both of which have civil and criminal jurisdiction. In the municipal (lower) court 9 of 17 judges staff a criminal division and dispose of Class D felonies (least serious), misdemeanors, and traffic cases. Two judges handle all D-felony cases.

In the superior (felony) court 6 of 15 judges are assigned to the criminal division (locally referred to as the criminal court). The criminal divi-

sion handles Class A, B, and C felonies, which are filed directly with superior court (bypassing the lower court). Cases are assigned to individual judges on a rotating schedule immediately after screening by the district attorney's office.

Judges in both courts operate individual calendars and hear all matters from first appearance to trial.

### Prosecuting attorney's office: Size, organization, procedures

The prosecuting attorney's office employs 58 attorneys (some part time). Most felony and misdemeanor cases are handled in one of two divisions: criminal (superior) court and municipal court. Each division has about 23 attorneys. In addition two attorneys are assigned to the grand jury section, two to felony screening (misdemeanors are not screened), seven to child-support cases, six to juvenile matters, and eight to sex and narcotics cases. Most attorneys hold more than one assignment.

The criminal division is organized into six sections, one for each of the six criminal division judges of the superior court. Immediately after screening, cases are assigned to attorneys, who maintain responsibility for them until final disposition.

The office's municipal court division has two sections—the D-felony section, comprising about 10 attorneys, who work with the two D-felony judges, and the 14-attorney misdemeanor section, which works with the seven misdemeanor judges. Case processing in both sections is horizontal, and attorneys are assigned to judges by session, not by case. Each

judge holds seven sessions weekly, during which attorneys are responsible for whatever cases and matters arise (for example, initial appearances, pleas, trials).

### Flow of felony cases—arrest through sentencing

Felonies are presented to the prosecuting attorney's office for screening shortly after arrest. By law, the prosecutor's charge must be filed "promptly," interpreted locally as meaning 24 hours, although statutes permit a filing delay of up to 72 hours under some circumstances.

Usually, cases are brought to screening attorneys by detectives, who submit an arrest form stating the charge, the location and time of the crime, and information about the defendant(s), victim(s), and witnesses. Screening attorneys encourage detectives to determine how cooperative witnesses will be prior to presenting a case and to interview defendants to obtain their side of the story.

Screening attorneys reject very few felony arrests. Many are filed as misdemeanors. The remainder are filed (through an information) as Class A, B, or C felonies in the superior court or as Class D felonies in the municipal court.

For A, B, and C felonies first appearance in superior court occurs the day after filing. At first appearance, defendants are informed of the charge and the finding of probable cause (a matter of paper work, completed prior to first appearance), advised of their rights, and assigned public defenders if necessary. Also at this point,

preliminary pleas of not guilty are entered for defendants (most have not yet had an opportunity to talk with a lawyer), and a date is set for a pretrial conference. Some judges also set the trial date, which must not be more than 140 days from first appearance. Defendants may also request a review of their bond status (initial bond is set by a commissioner at the jail), which must be held within 3 days.

In the superior court division attorneys are usually assigned to cases prior to first appearance. Initial proceedings (first appearance, bond review, and voluntary discovery) are completed within 7 to 14 days.

If the defendant indicates that he or she is willing to plead guilty at the pretrial conference the plea hearing is held a few days later and sentencing occurs after the preparation of a presentence investigation report.

Sentences are determinate for a given crime but variations are allowed for specific aggravating or mitigating circumstances.

The attorney handling the case decides on a plea offer and communicates it to the defense attorney well before the pretrial conference. The office's plea policy is to pursue the most serious charge but to permit dismissal of lesser charges included in the information. Judges in Marion County rarely sentence consecutively, so this form of plea negotiation does not constrain the judge's sentencing discretion and gives defendants very little. The agreement does not usually involve a sentence recommendation. By statute, a formal plea agreement must eventually be drafted by the prosecutor and signed by the prosecutor and defense attorney.

Judges rarely enter into substantive discussions relating to plea negoti-

ations. Nor do they routinely indicate the sentence they will impose. Thus the plea agreement is between the prosecutor and the defense counsel. By law, the judge must accept or reject the agreement and, if accepted, execute it as written, even if it contains a sentence agreement (subject to the outcome of a presentence investigation report).

In municipal court screening, filing, and first appearance for D-felony cases are handled essentially the same as for cases processed in superior court. About 2 weeks after first appearance a pretrial conference is held, at which time a prosecutor quickly reviews the case file and decides whether to make a plea offer. Office plea policy, the role of the judge, statutory requirements regarding pleas, and sentencing procedures are the same as those relating to superior court A, B, and C felony cases.

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## Kalamazoo, Michigan (Kalamazoo County)

### Demographic characteristics and crime rate

Kalamazoo County had a population of 212,378 in 1980. The city of Kalamazoo (population 79,722) accounted for 38% of the county's population in 1980.

The crime rate in the city of Kalamazoo in 1981 was 11,077 index crimes per 100,000 population. The violent crime rate was 1,411 per 100,000. Corresponding rates in 1981 for 272 cities of comparable size were 6,954 and 584, respectively.

### Criminal justice setting

The Kalamazoo County prosecuting attorney has jurisdiction over all State and county felonies and misdemeanors arising within the county.

In 1980 Kalamazoo County's 14 law enforcement agencies presented 6,148 felony and misdemeanor cases for prosecution. Of these, Kalamazoo police accounted for the majority.

The district (lower) court is responsible for the disposition of misdemeanors, traffic offenses, and

certain civil matters and for initial felony proceedings (arraignment through preliminary examination).

The circuit (felony) court is responsible for felony cases after a finding of probable cause at the district court preliminary examination.

Seven judges staff the district court and five the circuit court. In both courts each judge operates an individual calendar and handles all types of criminal cases and civil matters. Circuit court judges devote 50 to 60% of their time to criminal cases.

### Prosecuting attorney's office: Size, organization, procedures

The Kalamazoo prosecutor's office employs 22 attorneys, organized into five units—criminal trial, career criminal, juvenile prosecution, family support, and consumer and commercial fraud—and an appellate division. The criminal trial unit has the greatest number of attorneys (14).

Felony cases are prosecuted horizontally; different attorneys handle screening, preliminary hearings, motions, pretrial conferences, and trials. An average of five attorneys

will work on a case by the time it reaches the trial stage. The prosecuting attorney's chief assistant is responsible for assigning cases to one of the assistant prosecuting attorneys for trial. Other than trial all assignments are made on a rotating basis.

### Flow of felony cases—arrest through sentencing

Felony cases are presented to the screening prosecutor by either the arresting officer or the detective who was responsible for the felony investigation. The prosecutor reviews the arrest report and the defendant's criminal history and determines the charge. If the case merits prosecution and the defendant is not eligible for diversion the case is filed before a district court judge, who authorizes an arrest warrant. If the defendant is already in custody arraignment occurs the same day. The preliminary examination, unless waived, is scheduled within 12 days of arrest, as mandated by law.

After the preliminary examination in district court cases bound over on felony charges proceed to the circuit court for prosecution. Cases are assigned to one of the circuit court judges in a blind draw.

Arraignment in circuit court is a perfunctory appearance (involving mostly paper work) and most defendants waive their right to appear. The trial judge sets dates for motions and for a pretrial conference to discuss the motions and evidentiary matters.

After every trial conviction a pre-sentence investigation is conducted; sentencing usually occurs 4 to 6 weeks after the trial. The prosecutor always appears at the sentencing hearing and usually makes a recommendation.

Office policy on plea bargaining is to negotiate the sentence recommendation. Charges are rarely reduced. As the trial date approaches plea offers become more stringent. Judges do not typically participate in plea discussions.

## Kansas City, Missouri (Jackson County)

### Demographic characteristics and crime rate

Jackson County had a population of 629,180 in 1980. Kansas City accounted for just over 70% (448,159) of the county's population.

Kansas City had a crime rate in 1981 of 11,329 index crimes per 100,000 population. The violent crime rate was 1,713 per 100,000. Corresponding rates in 1981 for 32 cities of comparable size were 10,044 and 1,286, respectively.

### Criminal justice setting

The prosecuting attorney for Jackson County has jurisdiction over all adult felony and serious misdemeanor arrests occurring in the county. The majority of misdemeanors, all petty offenses, and all ordinance and traffic violations are handled by city prosecutors.

Most of the felony and misdemeanor arrests presented to the prosecuting attorney are brought by the Kansas City police department. The remainder are presented by numerous other police and sheriffs' departments.

The county has a two-tiered court system. The associate circuit (lower) court is responsible for disposing of misdemeanors, petty offenses, and traffic and ordinance violations, and for conducting the initial arraignment and the preliminary hearing in felony cases. Seven judges handle felony appearances. Some are empowered to accept felony guilty pleas.

The 18-judge circuit (felony) court adjudicates criminal, civil, domestic, juvenile, and other matters. Five judges hear criminal cases. The judges maintain individual calendars.

### Prosecuting attorney's office: Size, organization, procedures

The prosecuting attorney's staff includes 34 attorneys, 3 of whom work part time; the staff operates offices in Kansas City and Independence. The office has a special trial team, which prosecutes sex crimes, one prosecutor who handles arson cases, and four general trial teams, which prosecute all other felonies. Three attorneys staff the special trial team, and 14 staff the four general trial teams.

Another major unit of the prosecuting attorney's office is the warrant desk—the intake and screening unit, which is staffed by four full-time attorneys and one part-time attorney in the Kansas City office, and by three full-time attorneys and one part-time attorney in Independence. Warrant desk attorneys screen cases for the general trial teams and handle the cases until bindover to the circuit court. The special trial team and the arson prosecutor screen their own cases and handle them through final disposition.

### Flow of felony cases—arrest through sentencing

The case review unit of the Kansas City police department reviews each felony arrest before presenting it to the prosecuting attorney. When the review unit receives the arrest papers one of the unit's seven experienced detectives examines the various reports and interviews the investigating officer. If the detective determines that the arrest merits prosecution as a felony, a unit detective presents the case for screening to the prosecutor's warrant desk, the special trial team, or the arson prosecutor, depending on the nature of the crime. When a warrant is issued by the prosecutor and signed by a judge the arrest becomes official.

Missouri law states that if a suspect is being held in custody a charge must be filed within 20 hours of arrest. This is interpreted as meaning that the case must be presented to the prosecutor for screening within that period.

Once the case is filed by a screening attorney, arraignment in the associate circuit court follows quickly. At this hearing charges are read, a bond decision is made, the preliminary hearing is scheduled, and counsel is appointed if necessary. About 10 days after arraignment the preliminary hearing (waivable by the defendant) is conducted to establish probable cause.

About a third of the felony arrests presented for prosecution are bound over to the circuit court from the lower court. The remaining felony arrests are disposed by misdemeanor plea, rejected, or dismissed. In a few instances the grand jury is used to bind over cases (when this occurs the preliminary hearing in the associate circuit court is bypassed). Bound-over cases are assigned to individual attorneys for prosecution in the circuit court.

Circuit court arraignment is perfunctory; defense counsel generally attempts to have bail reduced for the accused at this point. Pretrial conferences may be held, but generally are not.

The prosecutor's initial plea offer is made either before or at the preliminary hearing in associate circuit court, and it usually involves a guilty plea in exchange for reduction of the felony to a misdemeanor if the offense is nonviolent and the accused is a first offender. Some attorneys extend open-ended offers; others do not. After bindover, another plea offer is made.



One attorney reviews all cases that are bound over and determines a plea offer. This offer is extended for a period of 60 days following bind-over. If the offer is not accepted further plea negotiations are left to the discretion of the individual trial attorney with the restriction that subsequent offers must be harsher than the first offer. The substance of plea offers may involve charges and counts, the term of incarceration, probation, sentence suspension,

and imposition of special conditions (restitution, attendance at drug abuse programs). State law prohibits judges from becoming involved in the plea-bargaining process.

When a jury trial occurs for a first offender and a guilty verdict is reached the jury must recommend a sentence. The prosecutor's recommendation never exceeds the jury's in this instance because the judge cannot impose a sentence more

severe than the jury recommendation for first offenders. For repeat offenders neither the prosecutor nor judge is constrained by the jury's sentence recommendation. The judge usually imposes a sentence that is close to what the prosecutor advocates.

## Lansing, Michigan (Ingham County)

### Demographic characteristics and crime rate

Ingham County had a population of 272,437 in 1980. Almost 50% (130,414) of the residents were located in the city of Lansing.

Lansing had a crime rate of 7,980 index crimes per 100,000 population in 1981. The violent crime rate was 712 per 100,000. Corresponding rates in 1981 for 112 cities of comparable size were 8,771 and 826, respectively.

### Criminal justice setting

The Ingham County prosecuting attorney has jurisdiction over all State and county felonies, misdemeanors, juvenile delinquency petitions, family-support cases, and ordinance violations (including traffic) arising within the county. City ordinance violations in the two largest cities of the county (Lansing and East Lansing) are prosecuted by city attorneys.

In 1981 Ingham County's 10 law enforcement agencies presented 5,290 felony and misdemeanor arrests for prosecution. Of these, Lansing police accounted for 60%.

The district court, the lower court in Michigan, is responsible for the disposition of misdemeanors, traffic offenses, and certain civil matters. For felony cases the district court conducts initial arraignments, determines bail, assigns counsel for indigent defendants, and holds preliminary examinations.

The circuit (felony) court is responsible for felony cases after a finding of probable cause at the district court preliminary examination.

Nine judges staff the district court and seven the circuit court. Both courts use an individual calendaring system, and each judge handles all types of criminal cases and civil matters. Circuit court judges devote about 50 to 60% of their time to criminal matters.

### Prosecuting attorney's office: Size, organization, procedures

The prosecuting attorney's office employs 26 attorneys, including the prosecuting attorney, his chief assistant, and one investigator. The 23 other attorneys are assigned to four divisions: criminal (16), appellate (2), probate (juvenile); 3), and family support (2). The criminal division consists of a division chief; a priority prosecution unit, whose two attorneys handle career criminal cases only (circuit court); and 13 attorneys assigned to the district and circuit court units.

Felony cases are prosecuted horizontally from screening through preliminary examination in district court. After bindover to circuit court they are prosecuted vertically by one of seven circuit court attorneys, each of whom is assigned to a judge for about 3 months. These attorneys, called docket attorneys, handle all criminal matters in that court, including setting the docket. Screening and lower court arraignments and preliminary examinations are handled on a rotating basis.

### Flow of felony cases—arrest through sentencing

Screening must occur before the initial court arraignment, which typically takes place within 24 hours of arrest. The police officer who presents the case to the prosecutor

for screening is often a detective who did follow-up work on the street arrest made by a patrol officer.

Each week two assistants from the criminal division are assigned to screen all felonies and misdemeanors. They review information presented by the police (witnesses are rarely present or contacted at this point) to determine whether the evidence justifies filing the case and, if so, whether to file felony or misdemeanor charges. A substantial number of felony arrests are rejected, some are filed as misdemeanors or diverted, and the remainder are filed as felonies.

At district court arraignment the judge advises defendants of their right to counsel, makes a bail decision, and sets a date for the preliminary examination (unless waived), which by law must be held within 12 days. In the interim the judge appoints counsel for qualified defendants.

At a weekly case review session the criminal division staff, prosecuting attorney, and chief assistant determine the plea offer to be made for each case scheduled for preliminary examination during the following week. At the district court preliminary examination a substantial fraction of filed felony cases are either disposed by a plea to a misdemeanor (22%) or dismissed (15%). Usually the preliminary examination is the first opportunity for anyone from the prosecutor's office to question witnesses directly, the results of which can significantly alter the office's assessment of the crime and related evidence. Cases not dismissed or resolved by guilty plea at the preliminary examination are bound over to the circuit court.



Many of the cases bound over to the circuit court involve defendants who have accepted the prosecutor's felony plea offer, which must be taken in the circuit court. In such cases the district court preliminary hearing is usually waived, and the initial circuit court appearance is a plea hearing. For other bindovers, the first circuit court event is arraignment; most defendants waive their right to appear.

Unless the defense counsel decides to file motions the next scheduled circuit court date is the trial, set 4

to 6 weeks after arraignment. Part of the office's strategy for encouraging settlements before trial is to maintain a credible threat that a large proportion of cases set for trial will be called as scheduled.

The office's plea policy varies by type of case. For murder, armed robbery, sex crimes, the most serious assaults, and residential burglary, reductions from the "provable" charge are not authorized. For other crimes, charge reductions may be authorized. Bottom-line plea offers

are determined at the office's weekly case review sessions. Individual attorneys may take a tougher stance if they so choose, but those who make a more lenient plea offer must provide a written explanation. Plea discussions do not usually concern the sentence, which is considered the domain of the judge. Only two of the six judges sitting when this report was prepared were described as being willing to engage in sentence discussions.

## Los Angeles, California (Los Angeles County)

### Demographic characteristics and crime rate

In 1980 Los Angeles County had a population of 7,477,657. The city of Los Angeles accounted for 40% (2,966,763) of the total.

The crime rate for the city of Los Angeles in 1981 was 10,033 index crimes per 100,000 population. The violent crime rate was 1,743 per 100,000. This compares with an average crime rate in 1981 of 9,065 and 1,727, respectively, for five cities with 1 million or more residents.

### Criminal justice setting

The district attorney for Los Angeles County has jurisdiction over all felonies arising within the county. Most misdemeanors in the county are prosecuted by city attorneys. The district attorney handles only those misdemeanors arising in unincorporated areas of the county and in cities that do not have city attorneys.

More than 57 law enforcement agencies make about 243,000 felony and misdemeanor arrests annually; about 100,000 are felonies. Not all felony arrests are presented to the district attorney. Police release some arrestees and refer others directly to city prosecutors for misdemeanor prosecution. The district attorney's office screens approximately 50,000 felony arrests a year. The Los Angeles police department and the Los Angeles County sheriff's department account for about 70% of the office's felony caseload.

Los Angeles County has two separate court systems. The municipal (lower) court handles civil cases under \$15,000, traffic offenses, misdemeanors, and initial felony proceedings (initial appearance/arraignment and the preliminary hearing). The municipal court (166 judges) is divided into 24 judicial districts, which are independent of each other and of the superior (felony) court of Los Angeles County.

Superior court handles civil cases involving \$15,000 or more, juvenile cases, family matters, and felony bindovers. Superior court has 11 judicial districts, 206 judges, 54 commissioners, and 18 referees.

In downtown Los Angeles there are 10 municipal court judges who handle felony cases. One judge does arraignments and nine hold preliminary hearings. In the downtown superior court 25 judges handle felony cases after bindover.

### District attorney's office: Size, organization, procedures

The Los Angeles County district attorney's office is the largest prosecutor's office in the nation. About 630 attorneys work in 23 offices around the county. By far the largest of the offices is the bureau of central operations, which has over 100 attorneys, most of whom are assigned to the complaints and trials divisions.

The complaints unit of central operations is staffed by approximately 14 deputies. The trials unit has about 70 prosecutors, organized into trial teams of 3 attorneys each.

The bureau of branch and area operations is responsible for criminal prosecutions in the outlying parts of the county. Eight branch offices, staffed by about 21 deputies each, handle all phases of felony prosecution, up to the appellate stage. In 14 area offices deputies conduct initial felony proceedings in municipal court; after bindover, cases are forwarded to either a branch office or the main office for disposition in the superior court.

More than 100 attorneys are assigned to the bureau of special operations, which is responsible for appeals and cases involving consumer fraud, juveniles, major fraud, hardcore gangs, and other special cases. In addition 18 deputies are assigned to the career criminal unit.

Most felony cases are prosecuted horizontally. In some of the special units prosecution is vertical.

The remainder of this description refers to the handling of felony arrests in the bureau of central operations, which accounts for about 35% of the total office caseload.

### Flow of felony cases—arrest through sentencing

After making an arrest, police review the case and decide whether to drop the arrest, present the arrest to the district attorney, or refer the

case to a city prosecutor for misdemeanor prosecution. Slightly more than half of all felony arrests are presented to the district attorney. Some arrestees are released on bail at the station house. Those remaining in custody must have an appearance in municipal court within 2 working days.

Prior to the initial appearance in municipal court the detective responsible for reviewing the case presents it to one of the complaint unit prosecutors, who reviews the case with the police officer and decides whether to file charges in court. The office has clearly defined screening policies, which are patterned after the uniform crime charging guidelines developed by the California District Attorneys' Association.

Within 24 hours of filing, the initial appearance/arraignment is held in municipal court. The defendant is arraigned on the prosecutor's charges, counsel is appointed if needed, bail is set, and a preliminary

hearing is scheduled. After arraignment in municipal court cases are assigned to 1 of the 9 preliminary hearing judges and to 1 of the 25 superior court judges. Each preliminary hearing court is linked to three superior court judges, who handle that court's cases after bindover.

Each superior court judge is also associated with a three-attorney trial team. The calendar deputy, the supervisor for each team, receives felony cases shortly after the municipal court arraignment. The calendar deputy assigns a member of his or her team to handle the preliminary hearing, handles all plea discussions, and assigns cases for trial if the defendant does not plead guilty.

At the preliminary hearing—held within 10 court days of initial appearance—probable cause is established and a superior court arraignment date is set. At the superior court arraignment the defendant is given a copy of the

information and a transcript of the preliminary hearing. Four to six weeks later the pretrial conference is held, at which the judge inquires whether the case can be settled. If so, a guilty plea is entered and sentencing occurs 4 weeks later. The superior court arraignment and all substantial plea discussions are handled by the calendar deputy.

If a trial is required it is held within 60 days of the superior court arraignment. Four weeks after a guilty verdict, sentence is imposed by the judge. Presentence investigation reports are prepared by the probation department.

The district attorney's office has a written case settlement policy, which serves as a guide for deputies during plea negotiations. As a general rule a felony defendant must plead to the crime charged unless the evidence, as required by law, is insufficient for conviction. Calendar deputies are allowed limited discretion to make sentence commitments.

## Louisville, Kentucky (Jefferson County)

### Demographic characteristics and crime rate

Jefferson County had a population of 684,793 in 1980. The city of Louisville's population (298,451) accounted for almost 45% of the county total.

Louisville had a crime rate in 1981 of 7,043 index crimes per 100,000 population. The violent crime rate was 911 per 100,000. Corresponding rates in 1981 for 32 cities of comparable size were 10,044 and 1,286, respectively.

### Criminal justice setting

The commonwealth's attorney for Jefferson County is responsible for the prosecution of all adult felony arrests that occur in the county and that have been bound over to the grand jury. All other criminal offenses—felony arrests up to bindover, felonies reduced to misdemeanors, misdemeanor arrests, and traffic and juvenile cases—are handled by the county attorney.

About 2,000 felony cases a year are carried forward to the commonwealth's attorney's office for presentment to the grand jury. Over

90% of all felony arrests are made by the Jefferson County and Louisville police departments.

Jefferson County has a two-tiered court system. The district (lower) court has jurisdiction over traffic, ordinance, petty, and misdemeanor offenses and conducts felony arraignments and probable cause hearings to bind over to the grand jury. Four of the district court's 23 judges are assigned to handle felony appearances.

The circuit (felony) court adjudicates both civil and criminal matters. It is staffed by 16 judges, each permanently assigned to a specific courtroom. Judges maintain individual calendars. Up to a third of the judges' time is devoted to felony cases.

### Commonwealth's attorney's office: Size, organization, procedures

The commonwealth's attorney's office employs 28 prosecuting attorneys. The office maintains two trial divisions, each staffed by seven prosecutors. Other attorneys are assigned to the career criminal bureau, economic crime unit, or the

screening unit. The screening unit receives felony cases bound over from the district court and is responsible for grand jury presentment. After indictment cases are prosecuted on a vertical basis.

### Flow of felony cases—arrest through sentencing

A police officer or complaining civilian witness may bypass the district court by taking a case directly to the commonwealth's attorney's screening unit and requesting a grand jury presentment. The vast majority of the felony cases presented for indictment, however, are bound over from the district court.

Felony cases are filed in district court by the police or on the basis of a citizen's warrant. Arraignment in district court occurs on the next working day following arrest. At arraignment, defendants are informed of the charges and their rights, bail is set, an automatic plea of not guilty is entered, and the probable cause hearing is scheduled.

For defendants remaining in custody, the probable cause hearing must be held within 10 days and within 20

days otherwise. Prior to the hearing, an attorney from the county attorney's office reviews the arrest report and witness information and asks either the arresting officer or the most important witness to testify at the hearing, which also serves as discovery for the defense.

Of the felony arrests presented to the county attorney about 20% are bound over to the grand jury, at which point the commonwealth's attorney assumes responsibility. Each case that is bound over is assigned to an attorney in the office's screening unit. That attorney prepares a presentment memo and may recommend any of the following to the grand jury: dismiss the case, remand it to district court for misdemeanor prosecution, or indict on a felony charge, which may be different from the bind-over charge. Indictments result in 85% of the cases presented.

An indicted case is randomly assigned by the circuit court clerk to 1 of the 16 judges and is turned over to a trial division chief, who appoints an attorney to handle the case from pretrial conference through trial and sentencing.

The first plea offer is usually made by the county attorney prior to the probable cause hearing in district court (a substantial fraction of the defendants negotiate a plea of guilty to a misdemeanor charge). For cases carried forward to the circuit court, the next plea offer is usually made at the circuit court pretrial conference or, if one is not held, whenever an opportunity arises.

Offers do not change in severity as the trial date approaches. Attorneys are not permitted to bargain the charge, except in rare instances and then only with the approval of a

supervisor. However, attorneys may make plea offers involving the sentence. Offers may pertain to sentence duration or to sentence suspension.

In cases involving a jury conviction the judge may suspend the sentence recommended by the jury or impose a shorter (but not a longer) one. The jury's recommendation is taken into account by the prosecutor, however, whose recommendation the judge usually accepts.

Judicial participation in plea negotiation varies. Some judges ask at the pretrial conference what the offer will be. Others want the offer to be made prior to the pretrial conference. Still others do not want to be involved at all. Judges rarely explicitly agree to the offer, yet some express disapproval if they believe an inappropriate offer has been made.

## Manhattan, New York (New York County)

### Demographic characteristics and crime rate

New York County, which is geographically identical to the borough of Manhattan, had a population of 1,427,533 in 1980.

The county's crime rate in 1981 was 16,293 per 100,000 population. The violent crime rate was 3,433 per 100,000. Corresponding rates for five cities of comparable size were 9,065 and 1,727, respectively.

### Criminal justice setting

The New York County district attorney's office prosecutes felonies, misdemeanors, and violations committed by persons over age 16. Arrests are presented by a number of law enforcement agencies, but the overwhelming majority are generated by the New York City police department. In 1980, 75,000 criminal matters were brought to the district attorney's office.

New York City's criminal (lower) court is responsible for the disposition of violations, misdemeanors, and those felony arrests the district attorney determines should be charged as misdemeanors. The criminal court also conducts initial arraignments and determines bail for felony cases. When necessary, the

court holds preliminary hearings for felony cases before they are sent to the grand jury.

The criminal court consists of 21 court parts (courtrooms): 4 arraignment parts, 6 calendar parts, 1 jury calendar part, and 10 jury trial parts. The number of sitting judges tends to approximate the number of available court parts.

The supreme court—the felony court in New York State—disposes of felony cases after a grand jury has returned an indictment on felony charges. Staffed by 39 sitting judges, the supreme court consists of 32 parts organized into six units. Each unit consists of a calendar judge and four or five trial judges. The calendar judges dispose of the bulk of the felony court cases; they conduct felony arraignments, take pleas, and determine sentences in cases disposed by plea. Only those cases for which trials are necessary are sent to the trial judges for resolution.

### District attorney's office: Size, organization, procedures

The district attorney's office employed 265 attorneys in 1980. Most attorneys are assigned to one of three divisions: trial (most misdemeanor and felony arrests),

investigation (major fraud and racketeering cases), and appeals. About two-thirds of the attorneys are assigned to the trial division, which includes six trial bureaus and three special units (career criminals, sex offenses, and certain juvenile crimes). The majority of the office's caseload is handled by the six trial bureaus. Each trial bureau handles both criminal court and supreme court cases. Within each bureau less experienced attorneys are assigned to criminal court, more experienced attorneys to supreme court.

The office prosecutes supreme court (felony) cases vertically, from complaint room screening to final disposition. Such cases remain the responsibility of the bureau and individual attorney who screened it and determined the filing charge. To facilitate this system of vertical prosecution, each of the six trial bureaus is associated with one of the six supreme court units.

The most serious criminal court cases are also prosecuted vertically from the complaint room screening stage. The remainder are assigned to assistant attorneys for trial if they are not disposed by the first calendar appearance after arraignment.

## Flow of felony cases—arrest through sentencing

After arrest, felony defendants are held at central booking while the arresting officer prepares the necessary papers and presents the case to the district attorney's complaint room for screening. The goal of the office is to screen defendants and have them arraigned within 24 hours of arrest. Prescreening by police is minimal.

The police officers' felony complaints are quickly reviewed by the complaint room supervisor, who separates cases obviously not indictable from those requiring more careful screening by a senior supreme court assistant district attorney. This attorney decides whether cases should be presented to the grand jury and prosecuted in supreme court, prosecuted in criminal court as misdemeanors,

or investigated further before an indictment decision is made. Very few cases are rejected for prosecution at screening.

The first court appearance is criminal court arraignment, at which bail is determined and counsel is appointed for indigent defendants. Cases designated for supreme court prosecution go directly to the grand jury after arraignment in criminal court. Under New York State law, a defendant who is detained prior to trial must have a preliminary hearing or a true bill vote within 5 days of arraignment or be released on personal recognizance. The vast majority of cases presented to the grand jury are indicted. In 1980 about 20% of all felony arrests screened by the office led to an indictment.

Approximately 2 weeks after indictment defendants are arraigned on the indictment in supreme court

before a calendar judge, who keeps each case on the docket until the defendant pleads guilty, the case is dismissed, or the case goes to trial.

Plea discussions are often initiated at supreme court arraignment, and the judge is an active participant. Individual attorneys exercise considerable discretion in determining plea offers. Implicit office policy is to insist on pleas to the top count if certain aggravating circumstances exist, for example, a defendant is a repeat offender or the crime is serious. Otherwise the plea offer is to one count lower than the top count.

Judges routinely indicate the sentence they will impose if the defendant pleads guilty. Hence the focus of the plea discussion tends to be the sentence.

## Miami, Florida (11th Judicial Circuit)

### Demographic characteristics and crime rate

The 11th Judicial Circuit, which encompasses the same geographic area as Dade County, had a population of 1,625,979 in 1980. Miami, with 346,931 residents, accounted for 21% of the jurisdiction's population.

The crime rate in Miami in 1981 was 14,832 index crimes per 100,000 population. The violent crime rate was 3,143 per 100,000. Corresponding rates in 32 cities of comparable size were 10,044 and 1,286, respectively.

### Criminal justice setting

The state's attorney for the 11th Judicial Circuit prosecutes all criminal matters (felonies, misdemeanors, city and county ordinance violations, and criminal traffic offenses), juvenile offenses, and child-support cases occurring in Dade County.

Twenty-seven police departments and the Dade County sheriff's office bring approximately 30,000 adult felony and 55,000 misdemeanor arrests to the state's attorney annually. The Miami city police department and the Dade County

sheriff's office account for the majority of the cases.

The county court, the lower court of a two-tiered court system, handles misdemeanors, ordinance violations, traffic offenses, initial appearances for felonies, and civil matters under \$2,500. Judges working in branch offices of the county court handle misdemeanors, violations, and traffic offenses. In downtown Miami five judges handle misdemeanor cases and hear initial felony appearances on a rotating basis. The five judges maintain individual calendars.

Misdemeanors are filed in the county court by the police. The state's attorney's office does not screen misdemeanors prior to court filing.

The circuit (upper) court, located in Miami, is responsible for felonies after bindover and civil matters involving claims of \$2,500 or more. Seventeen judges are assigned full time to hear criminal cases.

Felony arrests are randomly assigned to circuit court judges prior to screening and charging by the state's attorney. Felony cases that are rejected or reduced to misdemeanors are later removed from the circuit court calendar. Circuit court judges operate individual calendars.

### State's attorney's office: Size, organization, procedures

The state's attorney's staff includes 177 attorneys. About 72 attorneys are assigned to the felony trial division, which handles the bulk of the felony cases. The felony trial division is organized into 17 units of three or four attorneys and a unit chief. Each unit works with one of the 17 circuit court judges.

Thirteen attorneys are assigned to the major crimes division, which prosecutes capital cases, homicides, and sexual assaults. Another 30 attorneys are assigned to five special units, which prosecute the more serious crimes, for example, narcotics trafficking, organized crime, consumer fraud, robbery, and arson. Eight attorneys are assigned to handle misdemeanor cases in county court.

The work of felony trial attorneys in each unit is organized on a rotating schedule (1 week for screening, 1 for trial preparation, and 1 for trials) so that a third of the group is working on each task at any one time. Prosecution of felony cases is vertical. Felony trial attorneys screen their own cases before filing and are responsible for the final disposition of the cases they file as felonies.

### **Flow of felony cases—arrest through sentencing**

Once an arrest is made the defendant is booked at the Dade County jail and the arresting officer prepares an arrest report. Within 24 hours the defendant appears before a county court judge. At this point the case has not been screened by the state's attorney's office and the only major issue is the release decision.

Copies of the arrest report are sent to the state's attorney's office and to the court clerk. The court clerk randomly assigns the case to 1 of the 17 circuit court judges and sets an arraignment date in 21 days.

The state's attorney is supposed to file charges within 21 days of arrest. If charges are not filed within that time the defendant may request a preliminary hearing to determine if the case should be bound over to the felony court. The decision is almost always made within 21 days, and preliminary hearings are rare.

Felony cases are screened by a trial attorney at a pre-filing conference, which is attended by victims and

witnesses. By law in Florida, attorneys must take the deposition of witnesses before filing an information. At the pre-filing conference the case may be "no actioned," referred for diversion, filed as a misdemeanor, or filed in the felony court.

If the decision is to file felony charges an information is filed with the circuit court and the defendant is arraigned on the date originally set by the court clerk. At the arraignment the defendant is informed of the charges, counsel is appointed if needed, discovery documents are provided to the defense attorney, and dates are set for motions and trial. Capital cases, however, must be presented to the grand jury.

Florida has a speedy trial rule requiring that cases go to trial within 180 calendar days of arrest. Trials are typically set 6 to 8 weeks from arraignment.

Plea negotiations usually occur on an informal basis prior to the scheduled trial date. Typically, at the time of the trial the defense and the assistant state's attorney indicate if a plea has been worked out and inform the

judge of the offer. Some judges routinely accept the State's offer, but others routinely make their own offers.

Prior to October 1983, when sentencing guidelines were established by the State legislature, the office followed written policies on sentence recommendations—the substance of plea offers—for the more serious crimes and career criminals. Attorneys at that time could only exercise discretion on lower level thefts. Office plea policies are now in flux because of the institution of sentencing guidelines. All plea offers, however, must still be discussed with the victims, usually at the time of the pre-filing conference. If a victim objects to a proposed plea offer the case cannot be negotiated without the approval of a supervisor.

To ensure that office policies are followed, a disposition sheet must be filled out for every case and signed by two supervisors. All disposition sheets must contain a typed, narrative explanation of the case disposition. "No actions," nollees, and plea offers that deviate from office policy must be approved by a supervisor.

## **Minneapolis, Minnesota (Hennepin County)**

### **Demographic characteristics and crime rate**

Hennepin County had a population of 941,411 in 1980. Minneapolis (370,951 residents) accounted for 39% of the jurisdiction's population.

In 1981 the crime rate in Minneapolis was 10,251 index crimes per 100,000 population. The violent crime rate was 1,042 per 100,000. Corresponding rates in 32 cities of comparable size were 10,044 and 1,286, respectively.

### **Criminal justice setting**

The county attorney for Hennepin County has jurisdiction over all felony, juvenile, domestic, and civil cases occurring within the county. Misdemeanor offenses and violations are handled by a city attorney.

Thirty-six police departments and the Hennepin County sheriff's department bring cases to the county

attorney; the Minneapolis police department accounts for more than 50% of all arrests presented. Approximately 4,000 adult felony arrests are presented annually.

Hennepin County has a two-tiered court structure. Misdemeanors and ordinance and traffic violations are handled by the city attorney in the municipal (lower) court. Felonies are processed exclusively in the district (felony) court, except for the initial release decision.

The district court has 22 judges. Five judges are assigned to the criminal docket for a period of 4 months. Trials are assigned to judges on the basis of availability on the day set for trial. Judges rotate calendar work weekly.

### **County attorney's office: Size, organization, procedures**

The county attorney's office employs close to 100 attorneys; approximate-

ly a third work in the criminal division. The criminal division consists of the division chief, a calendar assistant, and five trial teams of four or five attorneys each and a team leader. Two of the trial teams specialize in sexual assault and economic crime cases. The three other teams handle all other types of cases. The regular trial teams rotate screening duty daily. Sexual assaults and economic crime cases, however, are screened by members of the specialized teams. Prosecution of all cases is vertical from screening through trial.

### **Flow of felony cases—arrest through sentencing**

When an arrest is made the defendant is first processed in the local jail of the municipality where the arrest occurred. Defendants are later transferred to the Hennepin County jail, when the police report is completed. If the defendant remains in custody the case must be filed in

district court within 36 hours. If the defendant is released the case must be filed within 10 days of arrest. The initial release decision is made in municipal court before screening by the county attorney.

Arrest reports are brought to the county attorney's office by the detective who did the follow-up investigation. The case is recorded, issued a docket number, and assigned to one of the assistants responsible for screening that day's cases. The assistant reviews the written report, interviews the detective, and accepts or rejects the case. About a third of the arrests presented are rejected, some of which are referred to the city attorney for misdemeanor prosecution. If a case is accepted the assistant prepares a complaint that is then delivered to the clerk of the district court, where it is formally filed.

The initial appearance in district court occurs on the day following filing of the formal complaint. At

this appearance the defendant is advised of the charges, bail is set, and a defense attorney is appointed if needed. The second appearance is typically a continuance of the first to allow the defense attorney time to review the case. The third routine hearing is the preliminary hearing, held 2 weeks after arraignment. At the preliminary hearing the complaint is formally reviewed by the judge and probable cause is determined. At the request of the defense attorney, the preliminary hearing can be an adversarial proceeding involving the questioning and cross-examination of witnesses. If probable cause is found a trial date is set in approximately 60 days.

Plea offers are not normally made until after the preliminary hearing. Defendants may enter a plea before the calendar judge any time prior to trial. Once the case is assigned for trial the trial judge hears any plea.

On the day of trial a trial judge is assigned on the basis of availability. Cases not assigned are rescheduled for trial within 30 to 60 days. Trials normally last 3 to 4 days, inclusive of time for motions, hearings, and jury selection. Almost all trials are jury trials.

Routine plea offers involve the sentence and are based on the Minnesota sentencing guidelines, which allow trial assistants only a few options. For less serious felonies assistants can bargain on the amount of time to be spent in county jail or recommend diversion for first offenders. In some instances charges may be dismissed or reduced. Plea offers that fall outside the recommended guidelines must be approved by the trial team leader. Judges do not routinely deny plea agreements once reached, nor do they become involved in plea negotiations.

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## Montgomery County, Maryland

### Demographic characteristics and crime rate

Montgomery County had a population of 579,053 in 1980. The cities of Rockville, Silver Spring, and Wheaton, the largest cities in the county, accounted for about 30% of the 1980 population.

In 1981 Montgomery County had a crime rate of 5,103 index crimes per 100,000 population. The violent crime rate was 296 per 100,000.

### Criminal justice setting

The state's attorney for Montgomery County prosecutes all criminal offenses occurring within the county, including felonies, misdemeanors, juvenile offenses, and criminal traffic offenses. The office disposes of 15,000 to 16,000 adult felony and misdemeanor cases annually.

The Montgomery County police department accounts for 90% of the arrests brought to the state's attorney's office. The remaining arrests are generated by Rockville city police and the Maryland State police. All arrests are filed directly in court by the police.

The district (lower) court in Montgomery County is responsible for the disposition of misdemeanors, criminal traffic offenses, and less serious felonies, as well as the initial filing, bond review, and preliminary hearings for serious felonies. The district court also handles civil cases. There are four district courts in the county, each staffed by two judges. Judges rotate criminal and civil assignments monthly. At any one time five judges are assigned to criminal cases, including traffic.

The circuit (upper) court is responsible for the disposition of serious felonies after grand jury indictment and has concurrent jurisdiction with the district court over less serious felonies. The state's attorney decides on the court of disposition for less serious felonies. Office policy is to take to the circuit court only those felony cases that are likely to result in incarceration terms of at least 2.5 years.

Of the 12 circuit court judges 2 are assigned each month to hear felony trials. Pleas may be entered before any of the 12 judges. The circuit court also handles civil cases.

In Maryland the lower courts have jurisdiction over a number of crimes that in other States are considered felonies. A number of misdemeanor crimes are punishable by 1 year or more in prison, and many less serious felonies disposed in lower court may result in sentences to prison. The penalties for less serious felonies are the same regardless of the court of final disposition. Thus the felony crimes disposed in circuit court are a relatively small subset of the crimes typically considered felonies in other jurisdictions.

### State's attorney's office: Size, organization, procedures

The state's attorney's office employs 29 attorneys. The district court division (10 assistant state's attorneys) and the circuit court division (15 assistant state's attorneys) handle all adult criminal cases.

Attorneys in the district court division are assigned to particular courtrooms rather than cases. On a monthly basis, attorneys rotate through specific criminal and traffic courts. Attorneys handle all cases

that come before their assigned court that month.

The circuit court division comprises three teams of five attorneys each. One of the teams handles violent repeat offenders; the other two, all other indicted felonies. The repeat offender unit handles cases vertically. The unit is notified by the police when a violent repeat offender is arrested, and an attorney is assigned to the case beginning with the police investigation. Other circuit court felonies are handled horizontally. Cases are not assigned to individual attorneys until they are approaching trial.

#### **Flow of felony cases—arrest through sentencing**

Once an arrest is made, the police file charges with the district court and the defendant appears before the bail commissioner at the police station. The bail commissioner makes a release decision and provides the defendant with the police charging document, including an addendum that advises the defendant of his or her rights. No arraignment is held in district court. The bail commis-

sioner also sets a date for a preliminary hearing in district court, to be held within 30 days of arrest if a case has not yet been indicted. Defendants who are not released by the bail commissioner appear before a district court judge the morning after arrest for bond review.

After charges are filed in district court a police investigator files an arrest report with a legal assistant in the state's attorney's office. The legal assistant reviews the arrest report, puts together the necessary papers, and prepares a synopsis of the case for presentation at a weekly felony review meeting of all circuit court attorneys. The attorneys decide whether a case will be sent to the grand jury. Cases not sent to the grand jury are referred to the district court for dismissal or for prosecution as lesser felonies or misdemeanors.

Most cases are reviewed within 1 or 2 weeks of arrest. The felony review meeting is held every Wednesday; cases designated for circuit court handling are presented to the grand jury the following Friday. Indicted defendants are arraigned in circuit court in about 1 week.

After indictment by the grand jury the case is assigned to one of the two trial teams depending on where the offense occurred. The trial team leader reviews the case and prepares an initial plea offer.

The plea offer is conveyed to the defense attorney by letter, and the defense attorney has 3 to 4 weeks to respond. If no agreement is reached within that time the team leader assigns the case to one of the assistants on his trial team on a no-reduced-plea basis. The case then belongs to the attorney for preparation for trial. Subsequent plea negotiations must be approved by the team leader and are normally more stringent than the initial offer.

The typical plea offer involves the reduction of charges to lesser felony charges. The prosecutor also routinely offers a choice of judges to hear the plea and determine the sentence. The choice of the judge is one of the bargaining points in plea negotiations. Judges do not participate in the negotiations, and they typically accept the negotiated plea agreement.

## **New Orleans, Louisiana (Orleans Parish)**

### **Demographic characteristics and crime rate**

Orleans Parish, an area geographically identical to the city of New Orleans, had a population of 557,482 in 1980.

The crime rate in New Orleans in 1981 was 9,122 index crimes per 100,000 population. The violent crime rate was 1,420 per 100,000. Corresponding crime rates in 1981 for 18 cities of comparable size were 9,464 and 1,211, respectively.

### **Criminal justice setting**

The district attorney for New Orleans has jurisdiction over all State felonies and misdemeanors occurring in Orleans Parish. In addition the office is responsible for handling juvenile and child-support cases.

In 1980 the New Orleans police department presented approximately 12,000 felonies and misdemeanors to

the district attorney, slightly more than half of which were rejected. Police screening of adult felony arrests is minimal. However, police do exercise discretion by referring less serious misdemeanors to the city attorney, whose jurisdiction over misdemeanors overlaps that of the district attorney.

A unified court, the criminal district court, adjudicates all felony and misdemeanor cases under the district attorney's jurisdiction. Once filed with the court clerk's office, misdemeanors are randomly assigned among the court's 10 judges and 5 magistrates. Magistrates are empowered to take misdemeanor pleas and to hear misdemeanor nonjury trials. They also conduct initial felony proceedings—bond hearings, preliminary hearings (on defendant's request), and status hearings.

Felony cases are randomly assigned among the 10 judges. Each operates an individual calendar and schedules felony and misdemeanor cases according to individual preference.

### **District attorney's office: Size, organization, procedures**

The district attorney's office employs about 60 attorneys. Most are assigned to either the magistrate, screening, or trial divisions. Together, these three divisions handle misdemeanor and felony cases on a horizontal basis. The remaining attorneys handle juvenile, child-support, appeals, and economic-crime cases.

The magistrate division, staffed by a chief and five of the most recently hired attorneys, works with the magistrate's section of the court to dispose of misdemeanors and conduct initial proceedings in felony cases.

The screening division comprises a chief and nine of the most senior assistants. These assistants not only determine which cases to accept but also play a key role in implementing the office's rigorous charging and no-plea-bargaining policies.



The trial division, made up of 2 co-chiefs and 20 to 22 other attorneys, is responsible for the felony and misdemeanor cases assigned to the 10 criminal court judges. Two attorneys—one junior, the other more experienced—are assigned to each judge.

#### **Flow of felony cases—arrest through sentencing**

After arrest the accused are transported to a central lock-up and booked. Within hours they appear before a magistrate, who informs them of the arrest charges, advises them of their right to a lawyer and a preliminary hearing (to determine probable cause to bind over for a felony trial), schedules preliminary and status hearings, and sets bond. An assistant district attorney from the magistrate division reviews the accused's arrest report and local rap sheet and makes a bond recommendation to the magistrate.

Preliminary hearings are held within a few days of the first appearance; status hearings, in about 10 days (sooner for jailed defendants). Status hearings determine whether the district attorney has formally filed charges and are continuously rescheduled until filing occurs.

Shortly after an arrest the screening division receives a copy of the arrest report and rap sheet, at which point the case is assigned to an assistant. Five of the nine screening assistants review cases on a rotating basis. All arrests occurring on a given day are

assigned to one of the five assistants—except for homicides, robberies, rapes, and narcotics cases, which are screened by four special assistants (one screens homicides, another screens robberies, and so on).

For each assigned case the screening assistant gathers and evaluates evidence—including locating and interviewing witnesses—and determines what charge the office can prove at trial. The screening division rejects somewhat more than 50% of the felony cases presented by police. Few felony arrests are filed as misdemeanors; they are either rejected or filed as felonies.

The average time from arrest to completion of screening and filing of charges is estimated at 15 days, although the office strives to file formal charges within 10 days. The Louisiana Criminal Code permits 60 days for filing felony cases if the accused is jailed, longer if the accused is on release. The office files each felony case by submitting a "bill of information" to the court clerk's office. The defendant is then arraigned in district court about 2 weeks later.

The office has an exceptionally rigorous no-plea-bargaining policy. If defendants do not plead to the charges as filed, assistants are required to take the case to trial. Thus the official communication of the district attorney's plea position is the formal reading of charges at arraignment.

Trial assistants are permitted to discuss pleas only if such conversations are initiated by defense attorneys. Typically, a substantial percentage of defendants, but not a majority plead guilty at arraignment. If a defendant does not plead guilty the case either goes directly to trial or proceeds through the intermediate steps of motions and pretrial conference.

Charge reductions are permitted only if warranted by new evidence—and only after an assistant prepares a memorandum stating the reasons for the proposed reduction and submits it to, and secures approval from, a trial division co-chief. A similar procedure governs assistants' discretion to nolle cases. Adherence to the office's plea and nolle policies is closely monitored.

Trial assistants do not make sentence recommendations, but they orally inform the judge about facts pertinent to the sentencing decision and invoke legislative provisions calling for enhanced sentences for career criminals.

Most judges participate in the plea process by at least indicating the sentence they will impose. But major differences exist among judges regarding sentence severity and the extent to which they will actively negotiate. As a result, judicial policies largely determine how soon defendants plead, how many go to trial, and what path cases follow after arraignment.

## **Philadelphia, Pennsylvania (Philadelphia County)**

### **Demographic characteristics and crime rate**

The city and county of Philadelphia, geographically identical areas, had a population of 1,688,210 in 1980.

The 1981 crime rate in Philadelphia was 5,963 index crimes per 100,000 population. The violent crime rate was 1,044 per 100,000. Corresponding rates in five cities of comparable size were 9,065 and 1,727, respectively.

### **Criminal justice setting**

The Philadelphia district attorney prosecutes all felony and misde-

memeanor crimes (adult and juvenile) committed in the city of Philadelphia. City ordinance violations are handled by a city solicitor.

The Philadelphia police department accounts for virtually all arrests processed by the district attorney. Between 40,000 and 45,000 adult felony and misdemeanor arrests are brought to the district attorney's office annually.

The municipal (lower) court of Philadelphia has jurisdiction over civil matters under \$1,000 and misdemeanors, which in the State of Pennsylvania include all criminal offenses with a maximum sentence

of 5 years or less of incarceration. The municipal court also handles initial arraignments and preliminary hearings for felony crimes. The municipal court has 22 judges, 13 of whom are assigned to criminal work. Criminal judges are rotated weekly among 10 courtrooms (2 for bench warrants and 8 for misdemeanor dispositions) and 5 preliminary hearing rooms (located in police districts). Cases in municipal court are assigned to courtrooms rather than judges.

The Philadelphia court of common pleas (the felony court) has jurisdiction over civil cases of any amount and criminal offenses that



carry a penalty of more than 5 years of incarceration (felonies in Pennsylvania). There are 81 common pleas judges; approximately 45 are assigned to criminal cases. Within the criminal system of the common pleas court, there are three programs for disposing of felony cases: homicide, major (jury) trial, and waiver trial. Thirteen judges are assigned to the homicide program, 22 to major trials, and 9 to waiver trials.

The major trial program handles cases in which the defendant may demand a jury trial, and the waiver trial program handles cases in which the right to a jury trial is waived, although many cases are disposed at a bench trial before a judge. In the homicide and major trial programs cases are assigned randomly to judges after bindover from municipal court. Waiver trial cases are assigned randomly to courtrooms, although judges are assigned to courtrooms for considerable periods of time and are rotated only on an ad hoc basis.

#### **District attorney's office: Size, organization, procedures**

The district attorney's office employs approximately 215 attorneys. Adult felonies and misdemeanors are handled by eight units in the pretrial and trial divisions. The charging unit (10 attorneys) screens both felonies and misdemeanors prior to court filing. The municipal court unit (25 attorneys) is responsible for the disposition of misdemeanors and the initial arraignment and preliminary hearing for most felony cases. The disposition of felony cases in the court of common pleas is handled by the waiver unit (17 attorneys), the jury trial unit (35 attorneys), and four special prosecution units: homicide (24 attorneys), rape (8 attorneys), career criminal (6 attorneys), and child abuse (4 attorneys).

Municipal court attorneys are rotated on a weekly basis among the preliminary hearing and municipal courtrooms. The waiver unit attorneys are also assigned to courtrooms

on a weekly basis, although the office attempts to keep the same attorneys in the same courtroom for longer periods. In the jury trial unit cases are assigned to attorneys after bindover from municipal court. Prosecution in the homicide, career criminal, and other special units is essentially vertical after screening.

#### **Flow of felony cases—arrest through sentencing**

When an arrest is made the defendant is taken to police central booking in downtown Philadelphia. The police prepare a complaint fact sheet for the district attorney's charging unit, which determines the charges to be filed in municipal court. Very few felony arrests are rejected for prosecution. Typically, by the day after arrest the defendant appears before a municipal court judge for arraignment. The defendant is informed of the charges, bail is set, counsel is appointed if needed, and a preliminary hearing is scheduled for 8 to 10 days later.

All defendants arrested on felony charges appear at a preliminary hearing. Many cases are dismissed (17%) or remanded to municipal court for misdemeanor prosecution (7%) by the preliminary hearing judge. Cases bound over are filed in the court of common pleas and defendants are scheduled for an arraignment on the information in 2 to 3 weeks (typically handled by a trial coordinator rather than a judge).

After the filing of the information a paralegal in the district attorney's office assigns cases, according to office guidelines, to the appropriate trial program (homicide, major trial, and waiver). Defendants assigned to the waiver program may object and demand assignment to the major trial program. Judges in the waiver program are viewed as the most lenient sentencers, so defendants rarely exercise that right. Within each program cases are assigned randomly to judges or courtrooms. The court schedules a "first listing" (the next appearance in common pleas court) on the first available date: the time period depends on the court backlog.

In the waiver program the first listing is the first trial date. Attorneys receive cases the day before trial and contact witnesses the afternoon before the trial date. About half of the waiver program cases are disposed at the first listing. If witnesses fail to appear twice the case is dismissed.

Waiver unit attorneys have relatively little discretion in negotiating pleas. Attorneys can agree to dismiss lesser charges if the defendant agrees to an open plea (no sentence agreement) before the court. Other negotiations require the approval of a supervisor. Most defendants convicted in the waiver program either go to trial before a judge (50%) or agree to an open plea (40%). Pennsylvania's rules of criminal procedure prohibit judges from participating in plea discussions.

In the major trial program cases are assigned to attorneys after arraignment in the court of common pleas. The first listing is a pretrial conference involving an informal exchange of information and discovery. The second listing (trial) can take from 2 to 3 months to a year depending on court congestion (a legitimate reason for delay in Pennsylvania if the State files notification). Typically, defense attorneys will contact the prosecutor to discuss the terms of a plea. The focus of discussions is the sentence recommendation. Prosecutors rarely agree to pleas to lesser charges. All negotiated pleas require the approval of a supervisor. Similar to the waiver program most pleas are open pleas. Over half of all dispositions in the major trial unit are by waiver trial (34%) or open plea (24%).

After conviction sentencing is usually deferred to allow time for the probation department to prepare a presentence investigation report for the judge. Sentences of less than 2 years are usually served in a county institution; sentences of 2 or more years are served in a State prison.

## Portland, Oregon (Multnomah County)

### Demographic characteristics and crime rate

The population of Multnomah County in 1980 was 562,640. The city of Portland had 366,383 residents, 65% of the county's population.

Portland's crime rate in 1981 was 13,648 per 100,000 population. The violent crime rate was 1,746 per 100,000. Corresponding rates in 1981 for 32 cities of comparable size were 10,044 and 1,286, respectively.

### Criminal justice setting

The district attorney of Multnomah County has jurisdiction over all traffic, misdemeanor, and felony offenses occurring within the county. Juvenile matters and child-support enforcement are also handled by the district attorney.

About eight law enforcement agencies brought over 22,000 felony and misdemeanor arrests to the district attorney in 1981. The Portland police department accounted for over 70% of the total caseload.

The district court is the lower court of the county's two-tiered court system. It handles civil cases involving claims under \$3,000 and criminal cases (misdemeanors) carrying maximum penalties of less than a year in jail and/or a \$1,000 fine. The district court also conducts the initial appearance and preliminary hearing in felony cases. About 9 of the 14 district court judges handle criminal matters, one of whom is empowered to act as a circuit court judge in order to hold arraignments and to accept pleas in felony cases.

The circuit (felony) court is a trial court of general jurisdiction. This court handles felonies and civil matters involving claims of \$3,000 or more. Of the 19 circuit court judges, one is the presiding judge and 13 are general trial judges, who hear both civil and criminal cases. The other five judges handle family and probate cases. One general trial judge handles criminal calendar work on a 2-month rotating basis. If a case goes to trial the presiding judge assigns a trial judge.

When a backlog of felony cases exists (500 or more pending cases) a "fast track" system is triggered whereby two judges' calendars are reserved for criminal matters only. Average time from arrest to trial for all cases is reported as 60 days.

### District attorney's office: Size, organization, procedures

The district attorney's office employs 53 attorneys. Most are assigned to either the district court (17 attorneys) or circuit court (about 35 attorneys) section.

The district court deputies, the most junior attorneys, are responsible for misdemeanor and traffic dockets and for initial appearances and preliminary hearings for felony cases.

The circuit court attorneys are organized into eight teams: five trial teams, a pretrial unit, a juvenile unit, and a child-support unit. Felony trial teams consist of a team leader and 2 to 5 deputies. Each team is responsible for the prosecution of particular crimes. The pretrial unit handles arraignments and motions.

Felonies are prosecuted vertically. Felony screening duties are shared by trial deputies and once a deputy issues a complaint, he or she is responsible for that case. Deputies either handle the case directly in court or issue written directives to attorneys who represent the office at court proceedings, such as lower court events.

### Flow of felony cases—arrest through sentencing

Arrestees may be released at the station house by meeting bond requirements, which have been established by the local judiciary.

Screening occurs about a day after arrest. If the police believe the case is a misdemeanor the arresting officer presents it for screening to the intake unit of the office's district court section. When the arresting officer books an individual on felony charges, the arrest papers are given to a detective, who presents the case to a deputy in the circuit court section of the district attorney's office for screening on the morning of the initial court appear-

ance. In addition to determining the charge the screening deputy makes the following decisions about accepted cases: bail amount, plea offer, and presentment to the grand jury or determination of probable cause at a preliminary hearing.

Initial appearance in district court is scheduled within 36 hours of arrest. At the initial appearance the judge verifies the defendant's true name, advises the defendant of charges, appoints counsel if needed, determines the defendant's release status (bail, recognizance, and so on), oversees discovery, and schedules the preliminary hearing.

If the defendant remains in custody the district court preliminary hearing occurs within 5 working days of the initial appearance, otherwise within 7 or 8 days. The preliminary hearing is a minitrial. Cases in which probable cause is found are bound over to the circuit court on an information. Many cases originally scheduled for a preliminary hearing are presented to the grand jury prior to the hearing date. If a true bill is returned by the grand jury the case is dismissed in lower court and bound over to circuit court for arraignment.

At arraignment the indictment or information is read to the defendant, who enters a plea. A pretrial conference, scheduled about 1 month after the arraignment, is held to discuss plea offers. Judges do not participate in plea negotiations. Most cases are disposed by pleas before the calendar judge. If a defendant does not plead guilty the presiding judge assigns a judge for trial. Generally, the deputy issuing the felony complaint makes a plea offer, which is given to defense counsel at first appearance in district court and remains in effect through the preliminary hearing. Subsequent offers are not as favorable. Most pleas are to felony charges and are disposed in the circuit court.

Plea negotiations may involve sentence recommendations and charge and count reductions. With the exception of certain cases for which charges cannot be reduced or for which charges may be reduced only with written permission, deputies settle cases as they see fit.

## Pueblo, Colorado (10th Judicial District)

### Demographic characteristics and crime rate

The 10th Judicial District, which comprises Pueblo County, had a population of 125,972 in 1980. The city of Pueblo, population 101,686, accounted for 80% of the jurisdiction's residents.

Pueblo's crime rate in 1981 was 7,503 index crimes per 100,000 population. The violent crime rate was 788 per 100,000. Corresponding rates in 1981 for 112 cities of comparable size were 8,771 and 826, respectively.

### Criminal justice setting

The district attorney for the 10th Judicial District exercises jurisdiction over misdemeanor, felony, juvenile, family-support, and traffic cases arising in Pueblo County.

About six law enforcement agencies present close to 5,000 felony and misdemeanor arrests to the district attorney annually. Approximately 90% of the cases are brought by the Pueblo police department.

The county court, the lower court of the two-tiered court system, handles traffic violations, civil matters under \$5,000, misdemeanors, and all initial felony proceedings (advisement, return appearance, preliminary hearing). The court's three judges spend about 75% of their time on criminal cases.

The district (felony) court hears felony, juvenile, and civil cases (\$5,000 and over). Four of the six district court judges allocate about 60% of their time to felonies. The judges operate individual calendars.

### District attorney's office: Size, organization, procedures

The district attorney's office employs 14 attorneys and 5 investigators. Most attorneys are assigned to one of three sections: district court, county court, or juvenile. Four attorneys are assigned to each court section and three to the juvenile section. The more experienced deputies work in the district court section.

All district court deputies screen felonies. Except for the first two felony appearances in county court, all proceedings for a felony are handled by the district court deputy who screened the case.

### Flow of felony cases—arrest through sentencing

Police may release arrestees prior to their initial court appearance, which is advisement in county court. At advisement, which is held within a day of arrest, arrestees are advised of their rights and the nature of the police charges, and their release status is reviewed. The judge sets two dates: return appearance (filing of charges) in 72 hours and status call in 10 days.

Between advisement and the return appearance police present cases to deputy district attorneys. Felony deputies screen cases by reviewing written material submitted by police. Police are interviewed only occasionally.

At return appearance charges are filed and a preliminary hearing is set if one is requested by the defendant. The defendant is entitled to a preliminary hearing within 30 days of the request. If the defendant has not yet retained counsel the judge advises him to do so and schedules a status call.

By the preliminary hearing over half the cases will have been settled. If a plea to a misdemeanor has been negotiated a plea and sentence hearing is scheduled in county court. In those cases in which felony pleas have been worked out defendants waive their right to the hearing and the judge binds the case over to district court for the plea. If a plea has not been worked out the preliminary hearing is held.

Preliminary hearings are minitrials at which probable cause is established. If the judge finds probable cause the case is bound over to district court and the first appearance in that court is scheduled within 1 to 2 weeks. At the first appearance the information and defendant's rights are read (unless waived), and further proceedings are set.

About four weeks after first appearance in district court a motions hearing is conducted. At this time the judge rules on previously filed motions, takes the defendant's plea, and sets the case for trial within 3 to 6 months.

Unless a plea agreement has been reached subsequent to the motions hearing, the trial occurs. Most trials take approximately 3 days. At sentencing the judge has the benefit of a presentence investigation report. Deputies may make a sentence recommendation; they do not usually bring victims to the hearing.

The first plea offer is usually made by the prosecutor before the preliminary hearing. Offers may involve anything from charge and count reduction to sentence concessions. If the judge rules in the State's favor at the motions hearing, the prosecutor may stiffen the offer; if the ruling is against the State the prosecutor may make a more lenient offer.

Prosecutors are encouraged to avoid taking misdemeanor pleas after bind-over and to conclude negotiations at least 20 days prior to trial. Judges are not directly involved in the plea negotiation process, but they do exert influence by indicating what types of plea offers they will accept.

## Rhode Island

### Demographic characteristics and crime rate

The State of Rhode Island had a population of 947,154 in 1980. The city of Providence (156,804 residents) accounted for 16% of the State's population.

Providence had a crime rate in 1981 of 9,869 index crimes per 100,000 residents. The violent crime rate was 1,067 per 100,000. Corresponding rates in 1981 for 112 cities of comparable size were 8,771 and 826, respectively.

### Criminal justice setting

The attorney general of Rhode Island is responsible for prosecuting all adult felony offenses occurring within the State. Juveniles committing violent felony offenses are prosecuted in family court by a special unit of the attorney general's office. Misdemeanors, with the exception of those brought by a State or Federal agency and those attached to a felony offense, are prosecuted by county solicitors, as are ordinance violations.

Forty-one law enforcement agencies present between 5,000 and 6,000 felony arrests for prosecution annually. About 50 to 60% are brought by the Providence police department.

The district court is the lower court of Rhode Island's two-tiered court structure. It is responsible for the initial arraignment and screening conference in felony cases and for the adjudication of misdemeanor offenses.

The superior (felony) court conducts the second arraignment (arraignment on the information) and subsequent court events for felonies. Approximately half of the 20 superior court judges hear criminal cases, at least on a part-time basis. The remaining judges handle civil cases. A master calendaring system is used. Trials are by jury only.

### Attorney general's office: Size, organization, procedures

The attorney general's office employs 25 criminal prosecutors, most of whom are located in Providence. An intake and grand jury unit is staffed by three attorneys in Providence and a few attorneys in "out county" offices. A trial unit is staffed by 12 prosecutors (2 are primarily investigators), and a juvenile unit by 4. A major violators unit prosecutes cases involving organized crime and on-going criminal enterprises. Prosecution proceeds on a horizontal basis.

### Flow of felony cases—arrest through sentencing

Within 48 hours of arrest defendants are arraigned in district court. Bail is set, a screening conference is scheduled (usually 10 to 15 days later), and if necessary, court-appointed counsel is granted the defendant until arraignment on the information (superior court), when claims of indigency are investigated. The district court arraignment is on charges filed by the police in district court. The attorney general's office has not yet screened the case.

During the period between district court arraignment and the screening conference police prepare a screening package for the prosecutor, including witness statements, arresting officer's narrative, investigative reports, and test results. The screening conference is attended by the intake unit prosecutor (who presides), the defense attorney or public defender, and a detective from the police department presenting the arrest. Frequently, the defendant is encouraged to attend. The prosecutor may choose to accept police charges without changes, reject the charges and file new ones, remand the case to district court for misdemeanor prosecution (infrequent), or drop the case altogether. Dropped cases are sent back to the district court for dismissal. The only cases not scheduled for a screening conference are those that go to the grand jury. The grand jury must be used in capital cases.

If the prosecutor elects to charge the case as a felony a bill of information is filed in the superior court, and a date is set for the appearance of the defendant at an arraignment on the information. The arraignment usually occurs about 4 weeks after screening for defendants in custody and after 6 weeks for those on release.

More than half of all felony arrests are bound over to superior court for arraignment on the information, at which the defendant is advised of the charges, bail requirements are reviewed, and a pretrial conference is scheduled, for about 4 weeks later.

At the pretrial conference the vast majority of cases are disposed by plea. Cases in which defendants refuse plea offers are scheduled for trial. All cases are handled by a single calendar attorney from arraignment through the pretrial conference. Cases are assigned to individual trial attorneys when a trial date has been set. For defendants convicted at trial the prosecutor almost always makes a sentence recommendation based on the sentencing guidelines adopted by the State's supreme court.

Prosecutors may make a plea offer at the screening conference if the case is routine. Generally, however, plea offers are made at the pretrial conference, which may be continued several times before the case is disposed or set for trial. Defendants do not receive more advantageous offers than those advanced by the prosecutor at the pretrial conference. However, plea offers are not given with a definite expiration date.

The plea agreement is reached among the prosecutor, judge, and defense counsel in chambers. It is fully understood to be binding on all parties. The plea negotiation process, which generally focuses on the sentence, is constrained by the State supreme court's sentencing guidelines, which limit the latitude of the prosecutor and judge in most instances.

## St. Louis, Missouri

### Demographic characteristics and crime rate

The jurisdiction of the city of St. Louis had a population of 453,085 in 1980. The city's crime rate in 1981 was 13,795 index crimes per 100,000 population. The violent crime rate was 2,282 per 100,000. Corresponding rates in 1981 for 32 cities of comparable size were 10,044 and 1,286, respectively.

### Criminal justice setting

The St. Louis circuit attorney prosecutes State traffic, misdemeanor, and felony arrests of persons 17 and over occurring in the city of St. Louis. The office is also responsible for child-support cases.

Annually, the circuit attorney screens between 20,000 and 25,000 felony and misdemeanor arrests, all presented by the St. Louis city police department. Police refer city ordinance offenses, which include minor misdemeanors, to the St. Louis city counselor, who prosecutes them in the local city court.

The St. Louis circuit court, a unified court, exercises jurisdiction over civil matters and adjudicates misdemeanors and felonies brought by the circuit attorney. The associate circuit (lower) court section is responsible for misdemeanors and initial proceedings in felony cases. The circuit (felony) court section handles felony cases after bindover or indictment.

Three of the associate circuit court's seven judges handle criminal matters. They issue warrants and conduct initial bond arraignments for all cases, handle misdemeanor pleas and trials (bench and jury), and hold preliminary hearings for felony cases.

In the circuit court section 9 of 22 judges are assigned to handle felony cases after bindover by a preliminary hearing or after an indictment by a grand jury. One judge handles the less serious felonies, as designated by the circuit attorney. The more serious felony cases are handled by a circuit court assignment judge until the defense and prosecution indicate they are ready to settle the case or go to trial. Cases are then randomly assigned to other judges, who take pleas and conduct trials.

### Circuit attorney's office: Size, organization, procedures

The circuit attorney's office employs 45 attorneys (including 5 part-time attorneys). Five of the attorneys handle child-support cases; the remainder are usually responsible for misdemeanor and felony cases. Felony cases are prosecuted vertically: senior attorneys screen felony cases on a rotating basis and are usually responsible for all cases they screen after bindover or indictment. Less experienced attorneys screen misdemeanors.

In the circuit court section 2 attorneys prosecute the less serious felonies, and 20 of the most experienced attorneys prosecute the more serious ones. Felony proceedings (bond arraignments, preliminary hearings, grand jury presentments) in the associate circuit court section are conducted by three attorneys, on a horizontal basis. Two other associate circuit court attorneys handle misdemeanors.

Staff holding administrative positions include the circuit attorney, first assistant, chief trial counsel, and the chief warrant (screening) officer.

### Flow of felony cases—arrest through sentencing

Within 20 hours, arrests must be presented by police to the circuit attorney's warrant office for screening and filing of charges. If the arrest is approved by the screening attorney the associate circuit court issues a warrant. Only at this point is the arrest official. The attorneys who screen felonies for which warrants are subsequently issued are usually assigned those cases for circuit court prosecution on bindover or indictment.

At screening, attorneys read the police report and interview the arresting officer. Victims and witnesses are required to be present during screening of felony cases so that the extent of their cooperation can be determined.

Many felony cases are rejected; most of the remainder are filed as felonies. Very few felonies are filed as misdemeanors. After felony warrants have been obtained in court the

screening attorneys decide whether to schedule cases for preliminary hearing or to present them to the grand jury.

The first court appearance is a bond arraignment, held a day or two after arrest. At bond arraignment the defendant is informed of the charges, arrangements for counsel are made, and a date is set (2 to 6 weeks later) for the preliminary hearing or grand jury presentment. Prior to the preliminary hearing or grand jury presentment, civilian and police witnesses are contacted by the office, informed when and where to appear, and rated according to their availability and willingness to cooperate.

Cases bound over at the preliminary hearing or indicted by the grand jury are subsequently filed (within 1 or 2 days) with the circuit court section, which holds an initial felony arraignment. At this point discovery occurs and a trial date is set.

After bindover or indictment but prior to felony arraignment the chief trial assistant determines whether cases should be disposed in the court section handling less serious felonies or the section handling the more serious cases. The assignment judge generally approves the decision of the chief trial assistant, who proceeds to assign cases to individual attorneys.

Office plea policy is such that defendants are generally required to plead to the top charge unless new information is revealed by the defense attorney. The most important aspect of the plea offer concerns the sentence recommendation the attorney makes to the judge. Those recommendations are tightly controlled and must be approved by the first assistant, the chief trial assistant, or the chief trial counsel before they are communicated to the defense. Deviation from the original sentence recommendation also must be approved.

Attorneys always recommend incarceration; the "offer" relates to the term of incarceration. By law, judges are not to engage in sentence or charge bargaining. However, if the judge imposes a more severe sentence than that recommended by the prosecuting attorney the defendant may withdraw his plea.

## Salt Lake City, Utah (Salt Lake County)

### Demographic characteristics and crime rate

Salt Lake County had a population of 619,066 in 1980. Salt Lake City's population (163,033) accounted for about 26% of the jurisdiction total.

The crime rate for Salt Lake City in 1981 was 12,309 index crimes per 100,000 population. The violent crime rate was 749 per 100,000. Corresponding crime rates in 1981 for 112 cities of comparable size were 8,771 and 826, respectively.

### Criminal justice setting

The county attorney's office for Salt Lake County is responsible for prosecuting all State felonies and misdemeanors occurring in the county. The office is also responsible for certain civil matters. City ordinance violations are prosecuted by city prosecutors (there is some overlap with State misdemeanors).

Approximately nine law enforcement agencies bring arrests to the office. About 7,000 felonies and misdemeanors are presented annually. The Salt Lake city police department and the Salt Lake County sheriff's office bring the large majority of the office's cases.

The circuit court, the lower court of the two-tiered court system, handles misdemeanors, civil matters under \$5,000, and initial felony proceedings (first appearance and preliminary hearing). Each of the circuit court's nine judges hears both civil and criminal matters.

The district (felony) court has jurisdiction over felony bindovers, civil cases involving claims of \$5,000 or more, and domestic and juvenile matters. Fourteen judges, three of whom hear criminal cases, preside in the 3rd Judicial District, which includes Salt Lake and two other counties.

### County attorney's office: Size, organization, procedures

The county attorney's office employs 57 attorneys, who are assigned to the civil, recovery, and justice divisions.

Four teams, each with four attorneys, staff the civil division. This division provides legal counsel and litigation services to units of county government.

The recovery division is divided into three sections: family-support enforcement, fines, and civil collections.

The justice (criminal) division is organized into six units. Most attorneys are assigned to the juvenile, misdemeanor, or felony units. The felony unit is composed of four trial teams, each with three or four attorneys. These trial teams handle, respectively, cases involving child abuse, arson, and major fraud; general felony crimes and traffic violations; major offenders; and drugs. Two or three prosecutors from the trial teams are assigned to screening on a daily basis. Prosecution proceeds on a vertical basis and attorneys are responsible for the cases they screen.

### Flow of felony cases—arrest through sentencing

Arrestees may be released on bond by bail commissioners before charges are filed. An investigating officer or detective from the arresting agency presents arrests to the deputy assigned to screening for the day. The deputy may ask for more information, reject the case, or issue a complaint. Charges must be filed within 72 hours of arrest.

A day or two after charges are filed first appearance is held in circuit court. Charges are read, counsel is assigned if needed by the defendant, bail is considered for defendants in custody, and a preliminary (probable cause) hearing is scheduled (within 10 days for defendants in custody, within 30 days for defendants on release).

If both parties agree that the case will be settled by a plea the defendant waives his right to the preliminary hearing and a district court arraignment is scheduled. Of those cases for which a preliminary hearing is held most are bound over for arraignment, which occurs 1 week later.

At district court arraignment charges are read and a plea is entered. If the defendant pleads guilty the judge orders a presentence investigation and continues the case 1 month for sentencing. If the defendant enters a plea of not guilty the judge may schedule a pretrial conference (within 3 weeks) in an effort to settle the case prior to trial. If the case is not settled the judge sets three dates: motions filing, hearing deadlines, and a trial date.

Written plea offers are made shortly after the preliminary hearing or are communicated to the defense counsel at district court arraignment. Plea negotiations center on charge reductions and are open until trial. Judges may schedule a hearing to review proposed offers and to indicate their opinion of them. However, judges are unwilling to commit themselves on the issue of prison time.

Pleas to reduced charges in serious cases may be offered only under specified circumstances and with the approval of a team leader or assistant division chief. In other cases deputies may, among other options, reduce the top charge by one class, dismiss multiple counts in favor of a plea to the top charge, or dismiss pending cases in favor of a plea to the top charge in the current case. At sentencing, the prosecutor usually makes a statement or sentence recommendation. Prosecutors are told never to agree to remain silent at sentencing.

## San Diego, California (San Diego County)

### Demographic characteristics and crime rate

San Diego County had a population of 1,861,846 in 1980. The city of San Diego (875,504 residents) accounted for 47% of the jurisdiction's population.

In 1981 San Diego's crime rate was 7,362 index crimes per 100,000 population. The violent crime rate was 734 per 100,000. The corresponding rates for 18 cities of comparable size were 9,464 and 1,211, respectively.

### Criminal justice setting

The district attorney for San Diego County has jurisdiction over all felonies occurring within the county and over misdemeanors and traffic offenses presented to the office from the unincorporated areas of the county. In areas of the county served by a city attorney misdemeanors and traffic offenses are prosecuted by city attorneys.

More than 37 law enforcement agencies make close to 80,000 felony and misdemeanor arrests annually. Those agencies are authorized to drop felony and misdemeanor arrests, thereby terminating the cases. Felony arrests not terminated by the police are presented to the district attorney's office for screening. The San Diego city police department is the single largest police agency.

The county has two separate court systems. The municipal (lower) court handles civil cases (under \$15,000), traffic offenses, misdemeanors, and initial felony proceedings (initial appearance and preliminary hearing). On an experimental basis the lower court judges are also empowered to take felony pleas and impose felony sentences.

Four municipal court judicial districts serve the county. Each is independent of the other and of the superior court, which is the felony court of San Diego County.

The superior court handles felony cases bound over by municipal court preliminary hearings. In addition to bindovers the court hears civil matters involving \$15,000 or more.

Both the municipal and superior courts operate physically separate courts at several locations around the county. The largest courts are those located in downtown San Diego. The downtown municipal court has 23 judges. All hear both civil and criminal cases. The downtown superior court has 35 judges. Three judges handle family matters, two handle only civil matters, eight handle only criminal, and the remainder hear both civil and criminal cases. A master calendar system is used to process criminal cases. One judge handles felony arraignments and another readiness conferences. After the readiness conference the presiding judge assigns cases to trial judges.

### District attorney's office: Size, organization, procedures

The district attorney's office has 147 attorneys (all career prosecutors), most of whom are assigned to the various sections of the criminal division. Deputies working in the municipal court section handle the misdemeanor and traffic dockets and initial felony proceedings. These prosecutors are closely supervised and their discretion limited.

The superior court deputies, organized into five-member teams, handle cases that are bound over. Like their lower court counterparts, their discretion is circumscribed: a panel of senior attorneys reviews each bindover and suggests a disposition before the superior court division chief assigns the case to a deputy. Major deviations from the panel's decisions must be authorized. Except for homicides, sexual assaults, and career criminal cases, prosecution is conducted on a horizontal basis.

In the downtown office 13 deputies work in the municipal court division and 24 in the superior court division. About 43 attorneys are assigned to branch offices, which serve the outlying municipal and superior courts in those locations.

Other office assignments include intake (two attorneys), juvenile matters (one), appeals (seven), major violators unit (six), and the fraud unit (eight).

### Flow of felony cases—arrest through sentencing

Police prescreen arrests before they are presented to the prosecutor. About 20% of felony arrests are dropped by police. Arrestees not screened out may post bond at the station house. If so they must appear in municipal court in 5 to 10 days. Arrestees in custody are formally charged within 3 working days.

Prior to the initial appearance in municipal court, one of two experienced deputies in the intake unit reviews the case, primarily on the basis of written materials submitted by a detective. Whether the intake deputies accept or reject cases their decisions are reviewed by the chief deputy of the intake unit. (Homicide, sexual assault, and career criminal cases are immediately assigned to a superior court deputy for screening and vertical prosecution.)

At the initial appearance in municipal court the defendant is notified of the prosecutor's charges, advised of his or her rights, assigned counsel if needed, and asked for a plea (always "not guilty"). In addition the judge reviews the defendant's release status and sets two dates, one for a settlement conference (if requested by the defense) and the other for the preliminary hearing. After the initial appearance the chief deputy of the municipal court reviews all cases and assigns them to municipal court deputies. All dispositions of felony cases in municipal court are specified or approved by the chief deputy.

About half of the defendants request a settlement conference. At the conference the judge asks whether a plea agreement has been reached. If so the case is continued for sentencing. Pleas in municipal court may be to misdemeanors or felonies.

If a case is not settled by plea agreement the next event is the preliminary hearing. In each case for which probable cause is found at the preliminary hearing the preliminary hearing deputy prepares a worksheet that summarizes the facts and the evidence and provides a history of plea negotiations up to the



preliminary hearing. The worksheet is reviewed by a panel of senior deputies, who indicate acceptable dispositions in superior court. The case is then assigned to a superior court deputy for disposition.

In superior court the defendant is arraigned on the information. The judge sets a readiness conference date (2 weeks before the trial date) and a trial date (within 60 days of the filing of the information).

At the readiness conference the judge inquires whether a plea agreement has been reached. If not the case is sent to the presiding judge for assignment to a trial judge. Sentencing is scheduled approximately 1 month after trial.

Plea negotiations are initiated prior to the settlement conference in municipal court. Offers issued by the prosecutor must be approved by a supervisor. The office has a fairly

tough plea policy, which includes several review procedures. The office discourages sentence concessions, and deputies are held accountable for their plea decisions.

The judge may become involved in the negotiation process during the settlement conference by informing the attorneys of his views. Once the readiness conference has been concluded plea negotiations are supposed to cease.

## Seattle, Washington (King County)

### Demographic characteristics and crime rate

King County had a population of 1,269,749 in 1980. Seattle, the largest city in the county, had a population of 493,846 residents.

Seattle had a crime rate in 1981 of 11,071 index crimes per 100,000 population. The violent crime rate was 1,075 per 100,000. Corresponding rates for 32 cities of comparable size were 10,044 and 1,286, respectively.

### Criminal justice setting

The prosecuting attorney for King County is responsible for all criminal offenses, including juvenile offenses, occurring in the county and some civil matters. Approximately 25 law enforcement agencies bring close to 5,000 adult felony arrests annually to the office. The vast majority of these cases are brought by the King County sheriff's department and the Seattle and Bellevue police departments.

The district court, the lower court of a two-tiered court system, handles the initial release decision for felony cases and the prosecution of misdemeanor and traffic offenses.

The superior (felony) court handles the disposition of felony offenses and juvenile cases. Thirty-nine judges staff the superior court; 10 are assigned to hear criminal cases. Of the 10 judges who hear criminal cases 1 is responsible for arraignments, pretrial conferences, setting trial dates, and conducting omnibus (case status) hearings; another hears pretrial motions, sentences, and pleas; and the remaining 8 conduct trials. Judges are rotated annually

on a staggered basis to hear criminal cases.

### Prosecuting attorney's office: Size, organization, procedures

There are approximately 100 attorneys in the prosecuting attorney's office; about half are assigned to criminal work and half to civil duties. The majority of attorneys in the criminal division are assigned to the superior court filing unit (nine attorneys), one of two regular trial teams (seven or eight attorneys each), or a senior trial team (three attorneys). Other attorneys assigned to the criminal division are responsible for the prosecution of misdemeanors and traffic offenses (district court) and juvenile cases (superior court).

Felony prosecution is horizontal. Attorneys in the filing unit determine whether a case will be filed or rejected, what the filed charges will be, and the plea offer. The filing unit is responsible for cases up to the omnibus hearing (a case status hearing in superior court). Cases not settled by the time of the omnibus hearing are set for trial and assigned to a trial attorney on one of the superior court trial teams.

If a case is rejected by the felony filing unit the matter goes back to the police department. It is up to the police to decide if the case should be presented to the district court division for misdemeanor prosecution. There are no direct referrals of felony arrests for misdemeanor prosecution by the filing unit.

### Flow of felony cases—arrest through sentencing

If the defendant is in custody the prosecutor's office has 72 hours to make a decision on filing charges. If the defendant is not being held the filing deadline is 10 days after arrest. The initial release decision is made by the police or by a district court judge before the prosecuting attorney files charges.

The majority of arrests are brought to the office by the investigating detective. Some cases from outlying police departments may be mailed in if the defendant is not in custody. Victims are not typically contacted prior to filing. The screening decision is based primarily on the police arrest reports, the defendant's criminal history, and the screening attorney's interview with the investigating detective. Accepted cases are filed directly in superior court by information; there is no grand jury in the State of Washington and preliminary hearings are rare. The filing unit attorney who screens and files the case also determines the plea offer.

The defendant's first appearance in superior court is the superior court arraignment, which occurs the first court day after filing for defendants in custody, and about 1 week after filing for defendants on release. At arraignment, the defense attorney is given a written plea offer, which expires on the date of the next scheduled hearing, the omnibus hearing, in about 4 to 6 weeks. Also at arraignment a sentencing judge is assigned. This judge will hear a guilty plea if the defendant accepts the plea offer prior to the date of the omnibus hearing. The sentencing judge is assigned at random from



among the 39 superior court judges, including those not currently assigned to the criminal docket.

The omnibus hearing is actually a case status conference, not a substantive hearing. If the defendant has not agreed to plead guilty by the time of the omnibus hearing (about 80% of the pleas occur before that date) the trial date is set. The case is then assigned to a trial attorney, and the trial routinely commences in about 6 weeks. The goal of the trial teams is for each attorney to try two cases per week.

If the defendant decides to plead guilty after the omnibus hearing and

prior to trial a new sentencing judge is assigned through a second blind draw from among the 39 superior court judges. Regardless of the method of conviction, plea or trial, a presentence investigation report is prepared prior to sentencing.

The plea process in Seattle is highly structured. In virtually all cases the recommended plea offer, which concerns the prosecutor's sentence recommendation, is taken from published guidelines. The guidelines provide a range for the sentence recommendation based on the crime and the defendant's prior criminal history. The guidelines are routinely followed by the filing unit attor-

neys. The lower end of the sentence range is the offer for a plea prior to the omnibus hearing. At the omnibus hearing the offer is changed to the high end of the range and that will be the recommendation whether the case is disposed by plea or trial. All plea offers are reviewed by a senior deputy and any changes must be approved.

Judges do not participate in the plea process. Although they do not as a rule differ greatly with the prosecutor in the sentences imposed, neither are they known for blindly accepting the prosecutor's recommendation.

## Tallahassee, Florida (2nd Judicial Circuit)

### Demographic characteristics and crime rate

The 2nd Judicial Circuit encompasses six counties: Franklin, Gadsden, Jefferson, Leon, Liberty, and Wakula. The jurisdiction's population in 1980 was 223,731. Tallahassee, population 81,548, accounted for 36% of the jurisdiction's residents.

Tallahassee's crime rate in 1981 was 11,400 index crimes per 100,000 population. The violent crime rate was 1,180 per 100,000. Corresponding rates for 272 cities of comparable size were 6,954 and 584, respectively.

### Criminal justice setting

The state's attorney for the 2nd Judicial District has jurisdiction over all felonies and misdemeanors arising in the circuit. Jurisdiction also extends to child-support cases, juvenile matters, and probation violations.

In 1980 28 law enforcement agencies presented an estimated 11,000 felony and misdemeanor arrests to the state's attorney's office. About 70% of the cases were from Leon County. The Tallahassee police department and Leon County sheriff's department are the largest law enforcement agencies.

The eight-judge county court (lower court) has jurisdiction over misdemeanors, felony first appearances, and felony adversary preliminary hearings.

The circuit (felony) court has jurisdiction over felonies, among other matters. Five criminal division judges hear all felony cases in the 2nd Circuit, two on a full-time basis. The other judges handle civil cases as well.

### State's attorney's office: Size, organization, procedures

The state's attorney's office employs approximately 27 attorneys. In Leon County, 10 assistants handle felonies; 4, misdemeanors; 2, traffic violations; 1, juvenile matters; and 1, worthless check cases. Assistants in the outlying counties prosecute all cases arising in their respective counties. The office also employs six investigators.

All cases are screened by a trial division supervisor. After arraignment on the information (circuit court) a case is prosecuted by one attorney until disposition.

### Flow of felony cases—arrest through sentencing

After arrest the police officer completes a state's attorney information worksheet (SAIW), a primary document used by prosecutors, and a screening officer assigns the charges. The SAIW is then taken

to county court, where a complaint and probable cause affidavit are filed. (This is not the filing of formal court charges, which occurs later in circuit court.)

First appearance in county court occurs within 24 hours of arrest unless the defendant has already posted bond. At first appearance the judge reads the complaint to defendants, advises them of their rights, appoints attorneys if necessary, sets bail, and routinely finds probable cause.

After first appearance a trial division supervisor reviews the case, including the probable cause affidavit, the SAIW, complaint, offense report, and the defendant's rap sheet, if available. If the case is a capital offense the chief assistant may present it to a grand jury.

Following screening an information is filed in circuit court (the formal filing of court charges), where the defendant's first appearance is arraignment on the information, approximately 2 weeks after first appearance in county court. If an information is not filed within 21 days the defendant is entitled to an adversarial preliminary hearing (county court) and may call witnesses and obtain discovery. Such hearings are rare.

About 95% of felony arrests are brought to circuit court for arraignment. This is the first appearance for defendants who were

released on bond prior to the probable cause hearing in county court. At arraignment, the information is read and a trial date is set. For those defendants making their first court appearance, rights are read and a public defender is appointed if needed.

The trial date is usually set 6 to 8 weeks after arraignment. Florida's

speedy trial rule requires that felonies be disposed within 180 days of the date of arrest. Prior to trial, "docket sounding" occurs; that is, the prosecutor and public defender alert the judge to what is likely to happen in the case. At this point the judge can push the attorneys to dispose the case by not granting continuances or by encouraging them to negotiate a plea.

The office encourages prosecutors to obtain pleas to the lead charge; but the primary focus of plea negotiations is the term of the sentence or agreement by the State to remain silent at sentencing. If a plea agreement is reached sentencing usually occurs about 6 weeks after the plea is taken.

## Washington, D.C.

### Demographic characteristics and crime rate

The District of Columbia had a population of 637,651 in 1980. The crime rate in 1981 was 10,678 index crimes per 100,000 population. The violent crime rate was 2,275 per 100,000. Corresponding rates in 1981 for 18 cities of comparable size were 9,464 and 1,211, respectively.

### Criminal justice setting

The superior court division of the U.S. Attorney's Office (USAO) for the District of Columbia has jurisdiction over local (non-Federal) misdemeanors and felonies committed in Washington, D.C. Traffic and petty offenses, ordinance violations, and juvenile cases are handled by the District's corporation counsel.

Most of the local misdemeanors and felonies brought to the USAO (22,000 annually) are presented by the D.C. metropolitan police department, although other law enforcement agencies also bring cases to the U.S. Attorney.

A unified court system, the superior court of the District of Columbia (equivalent to a State court of general jurisdiction) exercises jurisdiction over local misdemeanors and felonies. (The Federal district court adjudicates Federal and concurrent jurisdiction crimes.) Twelve judges staff the superior court's felony trial division; 8 staff the misdemeanor trial division. The judges maintain individual calendars.

Three of the felony judges handle cases involving first degree murder, more than four co-defendants, or rape (Felony I cases). Other felonies are assigned to one of the eight Felony II judges, except cases being handled by a vertical prosecution pilot project, which has its own felony judge.

Felony presentment (initial arraignment) and preliminary hearings are conducted by two commissioners. Another commissioner handles misdemeanor arraignments.

### USAO, superior court division: Size, organization, procedures

The superior court division of the USAO employs 121 attorneys. Most are assigned to the grand jury (incorporates intake and screening), felony trial, and misdemeanor trial sections. The office also has a vertical prosecution pilot project and a career criminal unit. With the exception of cases assigned to the vertical prosecution unit and, to some extent, the career criminal unit, cases are prosecuted horizontally through indictment. After indictment, cases are assigned to individual attorneys.

About 21 attorneys staff the grand jury section; 40 (divided into seven teams), the misdemeanor trial section; and 36 (12 teams, including vertical prosecution), the felony trial section. Each of the misdemeanor and felony trial teams always prosecutes cases before its own judge.

### Flow of felony cases—arrest through sentencing

Arrestees taken into custody have their cases screened within a day of arrest. Police take their arrest reports to the intake unit at superior court, where any criminal history information pertaining to the accused is retrieved from various data bases. The screening unit supervisor decides whether the case should be pursued as a felony. If so, a staff attorney from the grand jury section who is assigned to intake that week reviews the arrest report and evidence to determine charges and bond recommendations, and the case is filed. At intake 15 to 20% of felony arrests are rejected for prosecution, and a number of others are filed as misdemeanors.

For defendants in custody, felony presentment occurs on the same day as filing; otherwise, presentment is usually scheduled 3 days after arrest. Charges may be read (usually waived by the defense), bond is established, and dates are set for the preliminary hearing (usually in 10 to 20 days) and grand jury hearing (within 30 days of the preliminary hearing).

Between the preliminary hearing and the grand jury date, the grand jury section thoroughly reviews all felony cases. A number of cases scheduled for a grand jury hearing are dismissed or reduced to misdemeanors before the hearing takes place. Approximately 40% of all felony arrests filed, including those filed as misdemeanors, ultimately lead to an indictment.

Indicted cases are randomly assigned to a felony trial judge by the clerk of

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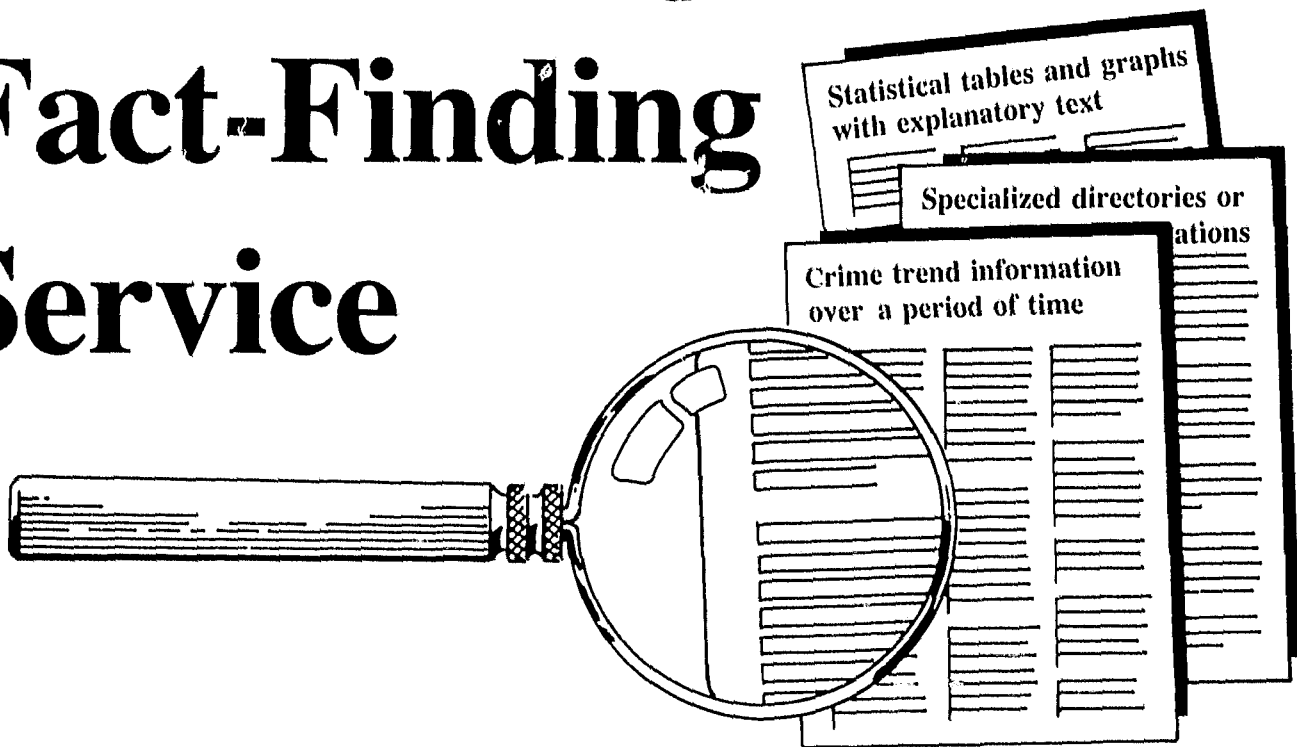
the superior court. After indictment the chief of the trial section assigns prosecution of the case to a member of the trial team assigned to that judge.

If a plea bargain is to be offered by the prosecutor, a form letter outlining the offer is prepared at screening and given to the defense attorney at presentment. The offer

expires on the date of the preliminary hearing. Routinely, another plea offer is made after indictment, but it is usually less generous than the one prepared at screening. All plea offers must be approved by a supervisor. Although counts and charges are normally included in the plea negotiation process, the substance of the offer concerns the right to speak at the sentence hear-

ing. The office does not bargain on incarceration or nonincarceration recommendations; that decision is considered the domain of the judge. The routine recommendation is for "a substantial period" of incarceration (but not actual amounts of time). The most substantial concession an attorney can make to the defense is to waive the right to speak at the sentence hearing. Judges do not participate in the plea-bargaining process.

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## Bureau of Justice Statistics reports

(revised September 1986)

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- Violent crime by strangers, NCJ-80829, 4/82
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- Profile of jail inmates, 1978, NCJ-65412, 2/81

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### Privacy and security of criminal history information:

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- A guide to research and statistical use, NCJ-69790, 5/81
- A guide to dissemination, NCJ-40000, 1/81
- Criminal justice information policy:
  - Crime control and criminal records (BJS special report), NCJ-99176, 10/85
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