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ACQUISITIONS

Pretrial Release of Felony Defendants, 1990

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An estimated 65% of the defendants who had felony charges filed against them in the Nation's 75 most populous counties during May 1990 were released prior to the disposition of their case. Approximately 1 in 4 released defendants had a bench warrant issued for their arrest because they did not appear in court as scheduled. A third of these defendants, representing 8% of all felony defendants, were still fugitives after 1 year.

These findings are drawn from a sample of felony cases filed in State courts during May 1990. The cases were followed for up to one year as part of the National Pretrial Reporting Program (NPRP) of the Bureau of Justice Statistics.

Other findings include the following:

- Among the 35% of defendants who were not released, 5 out of 6 could not post the required bail amount, and 1 in 6 were held without bail. Defendants held without bail comprised 6% of all felony defendants.
- When bail was set, the higher the amount, the less likely that the defendant secured pretrial release. Defendants with bail set at under \$2,500 were released over twice as often as those with bail set at \$20,000 or higher (69% versus 28%).
- Among defendants with a bail set, those charged with a violent offense (26%) were

This Bulletin, reporting on the second survey of the National Pretrial Reporting Program, provides valuable insights into how the criminal justice system responds to the need to preserve public safety while recognizing the rights of accused defendants. In making the decision to release or detain an alleged felon before trial, State courts are clearly taking into account the gravity of the charged offense and the extent of the defendant's criminal record. These data enable analysts to examine the outcomes of these decisions across the course of 12 months.

I extend my sincere appreciation to the 39 counties participating in this statistical program. Without their assistance, this report could not have produced the findings that have import for the whole Nation.

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twice as likely to have a bail of \$20,000 or more as other defendants. Nearly two-thirds of murder defendants with a bail set had a bail of \$20,000 or more.

- At bail amounts of \$10,000 or more, about 40% of defendants charged with a drug offense secured release, compared to about 30% of other defendants.

- Among defendants who were already on pretrial release when arrested on the current felony charges, about two-thirds were released again. About half of those who were on probation at the time of arrest and a third of those on parole were released.

- About half of the defendants with one or more prior felony convictions were granted pretrial release, compared to two-thirds of those who had only misdemeanor convictions, and four-fifths of those with no prior conviction record.

- Among defendants who were released prior to disposition of their case, 54% were released within 1 day of arrest, 80% within a week of arrest, and 93% within a month of arrest.

- Released property defendants (28%) and drug defendants (26%) failed to appear in court as scheduled about twice as often as public-order defendants (13%). The failure-to-appear rate for released defendants charged with a violent offense was 19%.

- Among released defendants who had failed to appear in court at least once on a previous charge, 39% had a bench warrant issued because they failed to appear during the current case. This was twice the failure-to-appear rate of other released defendants.

Table 1. Felony defendants released before or detained until case disposition, by type of release and the most serious arrest charge, 1990

| Most serious arrest charge | Number of defendants | Felony defendants in the 75 largest counties | | | | | | | | | | | Percent of defendants detained until case disposition | | |
|----------------------------|----------------------|--------------------------------------------------------|-------|-------------|----------------|----------------------|-------|-------|--------------------------------------------------------|-------------|----------------|-------------------|-------------------------------------------------------|--------------|-------------------|
| | | Percent of defendants released before case disposition | | | | | | | Percent of defendants released before case disposition | | | | | | |
| | | Financial release | | | | Nonfinancial release | | | Percent of defendants released before case disposition | | | | Total detained | Held on ball | Held without ball |
| | | Total released | Total | Surety bond | Full cash bond | Deposit bond | Other | Total | Recognizance* | Conditional | Unsecured bond | Emergency release | | | |
| All offenses | 53,664 | 65% | 25% | 15% | 7% | 3% | 1% | 39% | 26% | 8% | 5% | 1% | 35% | 28% | 6% |
| Violent offenses | 13,777 | 63% | 25% | 13% | 8% | 3% | 1% | 38% | 28% | 7% | 3% | -- | 37% | 29% | 8% |
| Murder | 652 | 37 | 27 | 16 | 8 | 1 | 1 | 10 | 7 | 3 | 0 | 0 | 63 | 29 | 34 |
| Rape | 771 | 54 | 27 | 11 | 8 | 6 | 3 | 27 | 21 | 5 | 0 | 0 | 46 | 41 | 5 |
| Robbery | 4,607 | 51 | 15 | 6 | 7 | 2 | -- | 36 | 29 | 3 | 4 | 0 | 49 | 39 | 10 |
| Assault | 6,232 | 75 | 29 | 17 | 8 | 4 | 1 | 45 | 33 | 10 | 2 | -- | 25 | 21 | 5 |
| Other violent | 1,514 | 65 | 33 | 18 | 11 | 3 | 2 | 31 | 19 | 8 | 4 | -- | 35 | 27 | 9 |
| Property offenses | 17,956 | 67% | 21% | 14% | 5% | 2% | -- | 45% | 28% | 11% | 6% | 1% | 33% | 27% | 6% |
| Burglary | 5,418 | 56 | 15 | 9 | 4 | 2 | -- | 39 | 24 | 9 | 6 | 2 | 44 | 37 | 8 |
| Theft | 7,577 | 67 | 23 | 16 | 5 | 2 | 1 | 43 | 27 | 12 | 4 | 1 | 33 | 27 | 6 |
| Other property | 4,961 | 78 | 24 | 16 | 5 | 2 | -- | 53 | 32 | 12 | 9 | 1 | 22 | 18 | 4 |
| Drug offenses | 17,848 | 65% | 28% | 18% | 7% | 3% | 1% | 35% | 23% | 6% | 6% | 1% | 35% | 30% | 5% |
| Sales/trafficking | 10,047 | 61 | 33 | 22 | 7 | 4 | 1 | 27 | 17 | 7 | 3 | 1 | 39 | 33 | 5 |
| Other drug | 7,801 | 70 | 21 | 12 | 7 | 2 | -- | 46 | 30 | 6 | 10 | 3 | 30 | 26 | 5 |
| Public-order offenses | 4,083 | 69% | 34% | 20% | 10% | 3% | -- | 34% | 23% | 8% | 3% | 1% | 31% | 24% | 6% |
| Driving-related | 1,255 | 72 | 41 | 32 | 8 | 1 | 1 | 31 | 22 | 7 | 1 | 0 | 28 | 24 | 5 |
| Other public-order | 2,829 | 68 | 31 | 15 | 11 | 4 | -- | 36 | 24 | 8 | 4 | 1 | 32 | 25 | 7 |

Note: Data on specific detention/release outcomes were available for 95% of all cases. Detail may not add to total because of rounding.
 *Released on own recognizance.
 --Less than 0.5%.

- About 18% of released defendants were rearrested while on pretrial release. Released defendants with at least 1 prior conviction (25%) were about twice as likely to be rearrested as those with no prior convictions (13%).

- The median number of days from arrest to case disposition was 125 days for released defendants, compared to 37 days for defendants detained until case disposition.

- Defendants who were detained until case disposition were nearly 3 times as likely to be eventually convicted and sentenced to State prison as those who were released (39% versus 14%).

National Pretrial Reporting Program

The Bureau of Justice Statistics (BJS) initiated the biennial National Pretrial Reporting Program (NPRP) in February 1988 to collect detailed criminal history, pretrial processing, adjudication, and sentencing information on felony defendants in State courts in large urban counties. The NPRP data do not include Federal defendants.

The 1990 NPRP collected data for approximately 14,000 felony cases filed in 39 counties during May 1990. These cases were part of a 2-stage sample that was representative of the 57,000 felony cases filed in the Nation's 75 most populous counties during that month.¹ Cases were tracked for up to 1 year.

Types of pretrial release

Nonfinancial release

Among the 65% of felony defendants in the 75 largest counties who were granted release prior to case disposition, about 3 in 5 were released on nonfinancial terms that required no posting of bail (table 1). (In this report, "pretrial release" and "released prior to case disposition" are used interchangeably. See *Methodology* on pages 13 and 14 for definitions.)

About two-thirds of all nonfinancial releases involved the release of a defendant on his or her own recognizance. Generally, the only condition placed on the defendant under this type of release is a

¹In 1990, the 75 largest counties accounted for about 37% of the Nation's population and nearly 50% of all crimes reported to law enforcement agencies.

written agreement to appear in court as scheduled. The recognizance release category used in this report refers to a decision made by the court in nearly all cases; however, about 4% of the releases included under this heading are citation releases made by law enforcement personnel.

Release on recognizance, granted to 26% of all defendants and 40% of all released defendants, was the single most common type of pretrial release; however, 5 of the 39 counties included in the NPRP survey did not use this type of release for any felony defendants, and 9 others used it for less than 10% of all pretrial releases involving felony defendants.

The second most common type of nonfinancial release, conditional release, was used in 8% of the NPRP cases. About 1 in 5 nonfinancial releases (1 in 8 releases overall) involved this type of release. Of the 39 counties included in the 1990 NPRP survey, 30 reported the use of conditional release for felony defendants, and 15 of them used it for more than 10% of all defendants who were granted pretrial release.

About 82% of all conditional releases included an agreement by the defendant to maintain regular contact with a pretrial program through telephone calls or personal visits. The remainder of conditional releases involved regular drug monitoring and/or treatment or a third party custody agreement.

Most defendants placed on conditional release were supervised by a pretrial release program. Such programs, which also interview arrestees and provide information to judicial officers, were operating in 37 of the 39 NPRP counties during 1990.

Approximately 1 in 13 releases (1 in 8 nonfinancial releases) were on unsecured bond. Although this type of release does not require financial payment, it does specify a bail amount to be forfeited if the defendant does not appear in court as scheduled. Eleven of the 39 NPRP counties reported the use of unsecured bond for felony defendants, but 5 of them accounted for nearly all of the releases on unsecured bond that occurred in the NPRP jurisdictions.

Financial release

Overall, about 2 in 5 defendants released prior to case disposition obtained release through financial terms involving the posting of a surety, full cash, or deposit bond. Deposit and full cash bonds require payment directly to the court, while surety bonds involve the services of a bail bondsman.

Release on surety bond, the most common type of financial release for felony defendants, was used in three-fifths of all financial releases, and about a fourth of all pretrial releases. Surety bond was used in 31 of the 39 NPRP counties surveyed, although it was used in less than 10% of all pretrial releases in 7 of these counties.

About 1 in 10 pretrial releases of felony defendants, including 1 in 4 financial releases, were on full cash bond. Full cash bond was used in all but four of the NPRP counties.

Deposit bond was used to secure release for about 1 in 24 released defendants, including 1 in 9 defendants placed on financial release. Deposit bond was used for the release of felony defendants in 13 of the NPRP counties. In seven of these counties, more than 10% of all pretrial releases were on deposit bond.

Emergency release

Overall, about 1% of felony defendants were released as part of an emergency release ordered because of jail crowding. Generally, these emergency releases did not involve the use of any of the financial or nonfinancial release conditions described above. Emergency releases occurred in 4 of the 39 NPRP counties, with 1 county accounting for three-fourths of all emergency releases.

Factors affecting probability of pretrial release

Overall, 35% of the felony defendants included in the NPRP sample were detained until the court disposed of their case. Most of these detainees (82%) had a bail amount set but were unable to post the money required to secure release. The remainder, representing 18% of detained defendants and 6% of all defendants, were ordered held without bail.

While denial of bail offers the court an absolute assurance that a defendant will not be released prior to case disposition, the NPRP data also show that when a bail amount is set, the higher it is, the lower the probability of release. When bail was set at \$20,000 or more, the defendant was eventually released in 28% of the cases (table 2). Among cases where the bail amount was set in the \$10,000 to \$19,999 range, 39% of the defendants secured release, and when bail was set in the \$2,500 to \$9,999 range, 55% of the defendants secured release. When bail was set under \$2,500, 69% of the defendants obtained release prior to case disposition.

The effect of bail amount on the likelihood of a defendant's being released varied according to the type of arrest charge. When the bail amount was set at \$20,000 or more, drug defendants (34%) secured release more often than defendants charged with a violent offense (26%),

Table 2. Felony defendants released before or detained until case disposition, by bail amount set and the most serious arrest charge, 1990

| Bail amount set and the most serious arrest charge | Number of defendants | Percent of felony defendants in the 75 counties with a bail amount set | | |
|----------------------------------------------------|----------------------|------------------------------------------------------------------------|----------------------------------|---------------------------------|
| | | Total | Released before case disposition | Detained until case disposition |
| \$20,000 or more | | | | |
| All offenses | 5,191 | 100% | 28% | 72% |
| Violent offenses | 2,005 | 100 | 26 | 74 |
| Property offenses | 1,045 | 100 | 21 | 79 |
| Drug offenses | 1,751 | 100 | 34 | 66 |
| Public-order offenses | 390 | 100 | 25 | 75 |
| \$10,000 to \$19,999 | | | | |
| All offenses | 5,015 | 100% | 39% | 61% |
| Violent offenses | 1,554 | 100 | 34 | 66 |
| Property offenses | 1,400 | 100 | 30 | 70 |
| Drug offenses | 1,821 | 100 | 50 | 50 |
| Public-order offenses | 240 | 100 | 39 | 61 |
| \$2,500 to \$9,999 | | | | |
| All offenses | 10,068 | 100% | 55% | 45% |
| Violent offenses | 1,979 | 100 | 60 | 40 |
| Property offenses | 3,284 | 100 | 49 | 51 |
| Drug offenses | 3,990 | 100 | 57 | 43 |
| Public-order offenses | 815 | 100 | 61 | 39 |
| Under \$2,500 | | | | |
| All offenses | 11,178 | 100% | 69% | 31% |
| Violent offenses | 2,116 | 100 | 73 | 27 |
| Property offenses | 4,106 | 100 | 69 | 31 |
| Drug offenses | 3,925 | 100 | 63 | 37 |
| Public-order offenses | 1,030 | 100 | 82 | 18 |

Note: Data on both bail amount set and detention/release outcome were available for 92% of all cases. Table includes only defendants for whom a bail amount was set.

public-order offense (25%), or property offense (21%). This pattern was also found among defendants with bail set in the \$10,000 to \$19,999 range. In such cases, half of drug defendants secured release compared to about a third of other defendants. When bail was set at \$2,500 or more, defendants charged with a property offense were less likely to secure release than other defendants.

Courts' decisions about bail are primarily based on the probability that the accused will subsequently appear in court as scheduled. In most States as well as in the Federal courts, the potential danger that a defendant may pose to the community is also considered. Many jurisdictions have established additional criteria that must be considered when setting bail. Examples of such criteria are personal character and mental condition, employment and financial resources, family and community ties, offense seriousness, criminal justice status at the time of arrest, prior court appearance record, prior criminal record, the weight of the evidence against the defendant, and the sentence which may be imposed upon conviction.

While the NPRP survey does not provide data on all of these factors, it does provide information on the seriousness of the current offense, criminal justice status at the time of arrest, prior criminal record, and prior court appearance record. The NPRP data illustrate how the bail system is used in conjunction with these factors to affect the probability of release.

Seriousness of offense

The NPRP data indicate that defendants charged with murder were the least likely of all felony defendants to be granted pretrial release (table 1). Murder defendants (37%) were released about half as often as defendants charged with driving-related offenses (72%) or aggravated assault (75%). Defendants charged with murder also had a lower release rate than those charged with robbery (51%), rape (54%), burglary (56%), or drug sales (61%).

Murder defendants had the lowest release rate mainly because they were the most likely to be denied bail or to have bail set at a high amount. About 34% of murder

defendants were denied bail, compared to 10% or less for defendants charged with another offense. Murder defendants who were not denied bail were likely to have bail set at a high amount. Nearly two-thirds of murder defendants with a bail amount set had it set at \$20,000 or higher (table 3).

Defendants charged with rape (45%) were the next most likely to have bail set at \$20,000 or more. Overall, defendants whose most serious arrest charge involved a violent offense were about twice as likely as other defendants to have a bail of \$20,000 or more.

Among defendants who were held on bail, the median bail amount that had been set was \$7,500 (table 4). This amount was considerably higher for detained defendants charged with murder (\$50,000) or rape (\$20,000). Released defendants had a median bail amount of \$3,000, with a higher median bail amount (\$10,000) for released defendants charged with murder or rape.

Table 3. Bail amount set, by the most serious arrest charge, 1990

| Most serious arrest charge | Number of defendants | Percent of felony defendants in the 75 largest counties with a bail amount of: | | | | |
|----------------------------|----------------------|--------------------------------------------------------------------------------|---------------|-----------------|-------------------|------------------|
| | | Total | Under \$2,500 | \$2,500-\$9,999 | \$10,000-\$19,999 | \$20,000 or more |
| All offenses | 31,514 | 100% | 36% | 32% | 16% | 16% |
| Violent offenses | 7,654 | 100% | 28% | 26% | 20% | 26% |
| Murder | 351 | 100 | 7 | 12 | 17 | 64 |
| Rape | 524 | 100 | 16 | 16 | 23 | 45 |
| Robbery | 2,638 | 100 | 24 | 26 | 22 | 28 |
| Assault | 3,199 | 100 | 35 | 30 | 19 | 17 |
| Other violent | 943 | 100 | 27 | 23 | 20 | 30 |
| Property offenses | 9,865 | 100% | 42% | 33% | 14% | 11% |
| Burglary | 3,137 | 100 | 31 | 34 | 20 | 16 |
| Theft | 4,168 | 100 | 44 | 34 | 13 | 8 |
| Other property | 2,559 | 100 | 51 | 30 | 10 | 8 |
| Drug offenses | 11,515 | 100% | 34% | 35% | 16% | 15% |
| Sales/trafficking | 7,028 | 100 | 32 | 32 | 19 | 18 |
| Other drug | 4,487 | 100 | 38 | 39 | 11 | 11 |
| Public-order offenses | 2,480 | 100% | 42% | 33% | 10% | 16% |
| Driving-related | 825 | 100 | 39 | 35 | 9 | 16 |
| Other public-order | 1,655 | 100 | 43 | 32 | 10 | 15 |

Note: Table includes only defendants for whom a bail amount was set. Detail may not add to total because of rounding.

Table 4. Median bail amount set for felony defendants, by detention/release outcome and the most serious arrest charge, 1990

| Most serious arrest charge | Median bail amount for felony defendants | |
|----------------------------|------------------------------------------|----------|
| | Released | Detained |
| All offenses | \$3,000 | \$7,500 |
| Violent offenses | \$5,000 | \$10,000 |
| Murder | 10,000 | 50,000 |
| Rape | 10,000 | 20,000 |
| Robbery | 5,000 | 10,000 |
| Assault | 3,000 | 10,000 |
| Other violent | 5,000 | 15,000 |
| Property offenses | \$2,500 | \$5,000 |
| Burglary | 3,000 | 7,500 |
| Theft | 2,500 | 5,000 |
| Other property | 2,500 | 5,000 |
| Drug offenses | \$5,000 | \$5,000 |
| Sales/trafficking | 3,500 | 8,500 |
| Other drug | 5,000 | 5,000 |
| Public-order offenses | \$2,500 | \$7,500 |
| Driving-related | 2,500 | 10,000 |
| Other public-order | 2,000 | 5,500 |

Note: Table includes only defendants for whom a bail amount was set.

Criminal justice status

The NPRP data indicate that a defendant's criminal justice status at the time of arrest is also related to the probability of pretrial release. Among felony defendants who had no active criminal justice status at the time of arrest, 72% were released before case disposition (table 5). In contrast, 33% of defendants on parole and about 49% of defendants on probation at the time of the current arrest were granted pretrial release. Among defendants who were already on pretrial release for a pending case when arrested, 66% were released pending disposition of the current charge.

Defendants on parole at the time of arrest were the most likely to be denied bail; this occurred in 30% of such cases. This was a much higher percentage than for defendants on probation (9%), on pretrial release for a previous case (5%), or with no criminal justice status at the time of arrest (4%).

Court appearance history

A defendant's court appearance history is also likely to be considered by the court when setting bail and the terms of release for the current felony charge. About two-thirds of the defendants included in the NPRP study had previously been arrested and required to appear in court. Among defendants who made all scheduled court appearances related to prior arrests, 64% were released prior to disposition of the current case (table 6). The probability of release was somewhat lower for defendants who had failed to appear in court once previously (57%), and lowest for defendants who had failed to appear more than once on prior criminal charges (52%).

Prior conviction record

Defendants with a prior conviction record were also less likely to be released. The lowest probability of release was found for defendants with multiple prior convictions or with a felony conviction record; about

50% of such defendants were released prior to case disposition (table 7). Defendants who had a single prior conviction or only misdemeanor convictions were able to obtain release about 66% of the time. The release rate for defendants with no prior convictions was 79%.

Defendants who had a prior felony conviction were the most likely to be denied bail. About 12% of these defendants were held without bail, compared to 3% for other defendants.

Table 5. Felony defendants released before or detained until case disposition, by criminal justice status at the time of arrest, 1990

| Criminal justice status at time of arrest | Number of defendants | Percent of felony defendants in the 75 largest counties | | | | | | |
|-------------------------------------------|----------------------|---------------------------------------------------------|-------|-----------|---------------|----------|--------------|-------------------|
| | | Released | | | | Detained | | |
| | | Total | Total | Financial | Non-financial | Total | Held on bail | Held without bail |
| On parole | 2,596 | 100% | 33% | 15% | 18% | 67% | 37% | 30% |
| On probation | 6,525 | 100% | 49% | 23 | 26 | 51 | 43 | 9 |
| On pretrial release | 4,554 | 100% | 66 | 30 | 36 | 34 | 29 | 5 |
| None | 25,563 | 100% | 72 | 32 | 40 | 28 | 24 | 4 |

Note: Data on both criminal justice status at time of arrest and specific detention/release outcome were available for 72% of all cases. Defendants who had more than 1 type of criminal justice status at the time of arrest are not included in the table. Detail may not add to total because of rounding.

Table 6. Felony defendants released before or detained until case disposition, by court appearance history, 1990

| Court appearance history | Number of defendants | Percent of felony defendants in the 75 largest counties | | | | | | |
|---------------------------------|----------------------|---------------------------------------------------------|-------|-----------|---------------|----------|--------------|-------------------|
| | | Released | | | | Detained | | |
| | | Total | Total | Financial | Non-financial | Total | Held on bail | Held without bail |
| With prior arrests | | | | | | | | |
| Failed to appear more than once | 6,799 | 100% | 52% | 18% | 34% | 48% | 38% | 10% |
| Failed to appear once | 7,223 | 100 | 57 | 21 | 36 | 43 | 37 | 6 |
| Made all court appearances | 16,012 | 100 | 64 | 27 | 37 | 36 | 29 | 7 |
| No prior arrests | 14,698 | 100 | 81 | 31 | 50 | 19 | 16 | 3 |

Note: Data on court appearance history and specific detention/release outcome were available for 79% of all cases.

Table 7. Felony defendants released before or detained until case disposition, by prior conviction record, 1990

| Prior conviction record | Number of defendants | Percent of felony defendants in the 75 largest counties | | | | | | |
|---------------------------------------|----------------------|---------------------------------------------------------|-------|-----------|---------------|----------|--------------|-------------------|
| | | Released | | | | Detained | | |
| | | Total | Total | Financial | Non-financial | Total | Held on bail | Held without bail |
| Number of prior convictions* | | | | | | | | |
| 5 or more | 9,841 | 100% | 46% | 18% | 28% | 54% | 43% | 11% |
| 2-4 | 10,354 | 100 | 54 | 24 | 29 | 46 | 37 | 9 |
| 1 | 6,531 | 100 | 66 | 31 | 35 | 34 | 29 | 5 |
| None | 22,895 | 100 | 79 | 29 | 50 | 21 | 18 | 3 |
| Most serious prior convictions | | | | | | | | |
| Violent felony | 6,416 | 100% | 48% | 18% | 30% | 52% | 38% | 14% |
| Nonviolent felony | 11,682 | 100 | 49 | 22 | 26 | 51 | 40 | 11 |
| Misdemeanor | 8,739 | 100 | 65 | 30 | 35 | 35 | 32 | 3 |
| None | 22,895 | 100 | 79 | 29 | 50 | 21 | 18 | 3 |

Note: Data on both prior convictions and specific detention/release outcome were available for 88% of all cases. Detail may not add to total because of rounding.
*Number of convictions refers to charges.

Time from arrest to pretrial release

A majority (54%) of all pretrial releases occurred either on the day of arrest or on the following day, and 93% occurred

within 1 month of arrest (table 8). The amount of time from arrest to release was related to the type of release conditions imposed, the bail amount set (if any), and to the type of arrest charge.

About three-fourths of defendants released on unsecured bond or on conditional release were discharged on the day of arrest or on the following day, compared to a third of those who were eventually released by posting a full cash bond. About half of those released on surety bond, deposit bond, or on their own recognizance were released within a day of their arrest.

When bail was involved and the defendant was required to post money to secure release (surety, cash, or deposit bond), the time from arrest to pretrial release increased as the bail amount did. When the bail amount was set at \$20,000 or more, about 1 in 3 defendants secured release within a day. About 1 in 2 did so when the bail amount was under \$10,000.

A slight variation in time from arrest to release was found when examined by most serious arrest charge, with defendants charged with violent or drug offenses somewhat less likely than other defendants to be released on the day of arrest or the following day.

Released versus detained defendants

About twice as many of the released defendants (56%) had no prior conviction record as those who were detained (29%) (table 9). Among released defendants, 31% had more than 1 prior conviction, and 5% had 10 or more. Among detained defendants, 58% had more than 1 prior conviction, and 11% had 10 or more.

Table 8. Time from arrest to release for felony defendants released before case disposition, by type of release, bail amount, and the most serious arrest charge, 1990

| Type of release, bail amount, and the most serious arrest charge | Number of defendants | Percent of felony defendants in the 75 largest counties released before case disposition within: | | |
|------------------------------------------------------------------|----------------------|--------------------------------------------------------------------------------------------------|--------|---------|
| | | 1 day | 1 week | 1 month |
| All released defendants | 34,663 | 54% | 80% | 93% |
| Type of release | | | | |
| Recognizance | 13,692 | 52% | 82% | 94% |
| Surety bond | 8,147 | 50 | 76 | 91 |
| Conditional | 4,361 | 72 | 82 | 94 |
| Full cash bond | 3,403 | 34 | 70 | 87 |
| Unsecured bond | 2,748 | 76 | 90 | 97 |
| Deposit bond | 1,487 | 49 | 75 | 94 |
| Emergency | 536 | 42 | 83 | 92 |
| Bail amount set* | | | | |
| \$20,000 or more | 995 | 32% | 59% | 85% |
| \$10,000-\$19,999 | 1,495 | 41 | 71 | 90 |
| Under \$10,000 | 10,441 | 48 | 76 | 91 |
| Most serious arrest charge | | | | |
| Violent offenses | 8,653 | 50% | 77% | 92% |
| Property offenses | 12,048 | 60 | 82 | 94 |
| Drug offenses | 11,518 | 50 | 79 | 92 |
| Public-order offenses | 2,819 | 56 | 81 | 92 |

Note: Data on time from arrest to pretrial release were available for 99% of all cases involving a defendant who was released prior to case disposition. Release data were collected for 1 year. Defendants released after the study period are excluded from the table.

*Includes defendants released on surety, full cash, or deposit bond.

Table 9. Number of prior convictions of felony defendants, by whether released or detained and the most serious current arrest charge, 1990

| Detention/release outcome and the most serious current arrest charge | Number of defendants | Percent of felony defendants in the 75 largest counties | | | | | | |
|----------------------------------------------------------------------|----------------------|---------------------------------------------------------|----------------------|-------------------|------------------------------|-----|-----|-----|
| | | Total | Total with | | Number of prior convictions* | | | |
| | | | No prior convictions | Prior convictions | 10 or more | 5-9 | 2-4 | 1 |
| Released defendants | | | | | | | | |
| All offenses | 33,085 | 100% | 56% | 44% | 5% | 9% | 17% | 13% |
| Violent offenses | 8,452 | 26 | 15 | 11 | 1 | 2 | 4 | 4 |
| Property offenses | 11,481 | 35 | 20 | 15 | 2 | 3 | 5 | 4 |
| Drug offenses | 10,474 | 32 | 17 | 15 | 1 | 3 | 6 | 5 |
| Public-order offenses | 2,678 | 8 | 4 | 4 | -- | 1 | 2 | 1 |
| Detained defendants | | | | | | | | |
| All offenses | 18,348 | 100% | 29% | 71% | 11% | 20% | 27% | 13% |
| Violent offenses | 4,933 | 27 | 9 | 18 | 2 | 5 | 7 | 4 |
| Property offenses | 6,143 | 33 | 10 | 24 | 4 | 7 | 8 | 4 |
| Drug offenses | 6,027 | 33 | 9 | 24 | 4 | 6 | 10 | 4 |
| Public-order offenses | 1,245 | 7 | 1 | 6 | 1 | 2 | 2 | 1 |

Note: Data on both number of prior convictions and detention/release outcome were available for 91% of all cases. Detail may not add to total because of rounding.

--Less than 0.5%.

*Number of convictions refers to charges.

About half of detained defendants had at least one prior felony conviction, compared with about a fourth of the defendants who received pretrial release (table 10). About 1 in 5 detained defendants had at least 1 prior conviction for a violent felony,

compared to 1 in 10 released defendants. About 7% of detained defendants were under a current charge for a violent felony and had at least one prior conviction for a violent felony. About 3% of released defendants had these two characteristics.

Table 10. Most serious prior conviction of felony defendants, by whether released or detained and the most serious current arrest charge, 1990

| Detention/release outcome and the most serious current arrest charge | Number of defendants | Percent of felony defendants in the 75 largest counties | | | | | | |
|----------------------------------------------------------------------|----------------------|---------------------------------------------------------|----------------------|-------------------|-----------------------------------|------------|-----|-------------|
| | | Total | Total with | | The most serious prior conviction | | | |
| | | | No prior convictions | Prior convictions | Total | Felony | | Misdemeanor |
| | | | | | Violent | Nonviolent | | |
| Released defendants | | | | | | | | |
| All offenses | 33,155 | 100% | 56% | 44% | 27% | 10% | 18% | 17% |
| Violent offenses | 8,472 | 26 | 15 | 11 | 6 | 3 | 3 | 5 |
| Property offenses | 11,509 | 35 | 20 | 15 | 10 | 3 | 6 | 5 |
| Drug offenses | 10,496 | 32 | 17 | 15 | 9 | 2 | 7 | 6 |
| Public-order offenses | 2,678 | 8 | 4 | 4 | 2 | 1 | 1 | 2 |
| Detained defendants | | | | | | | | |
| All offenses | 18,980 | 100% | 29% | 71% | 53% | 19% | 34% | 18% |
| Violent offenses | 4,946 | 27 | 9 | 18 | 13 | 7 | 6 | 5 |
| Property offenses | 6,151 | 33 | 10 | 24 | 18 | 5 | 13 | 6 |
| Drug offenses | 6,048 | 33 | 9 | 24 | 18 | 6 | 12 | 6 |
| Public-order offenses | 1,245 | 7 | 1 | 6 | 4 | 2 | 3 | 2 |

Note: Data on most serious prior conviction and detention/release outcome were available for 91% of all cases. Detail may not add to total because of rounding.

Defendant characteristics by type of release

A substantially smaller percentage of defendants released on surety bond were black (42%) than those released on deposit bond (64%), unsecured bond (71%), or emergency release (86%) (table 11). Defendants released on surety bond (18%) were also less likely to be under the age of 21 than were defendants released under other methods (25%).

Half of defendants released on surety bond or full cash bond had a prior conviction for either a misdemeanor or a felony, a slightly higher proportion than for other types of release. However, the percentage of defendants with one or more prior *felony* convictions was higher among those released on deposit bond (35%) than those released on surety bond (27%). Defendants on emergency release were the least likely to have a prior conviction record, with about a third of them having at least one prior conviction.

Table 11. Characteristics of defendants released before case disposition, by type of release, 1990

| Defendant characteristic | Percent of felony defendants who were released before case disposition in the 75 largest counties | | | | | | |
|--------------------------------------|---------------------------------------------------------------------------------------------------|----------------|--------------|----------------------|-------------|----------------|-------------------|
| | Financial release | | | Nonfinancial release | | | |
| | Surety bond | Full cash bond | Deposit bond | Recognizance | Conditional | Unsecured bond | Emergency release |
| Most serious arrest charge | | | | | | | |
| Violent offenses | 22% | 30% | 29% | 28% | 22% | 14% | 1% |
| Property offenses | 30 | 23 | 26 | 36 | 45 | 40 | 44 |
| Drug offenses | 38 | 35 | 36 | 29 | 26 | 42 | 48 |
| Public-order offenses | 10 | 12 | 9 | 7 | 8 | 5 | 7 |
| Sex | | | | | | | |
| Male | 82% | 89% | 87% | 83% | 79% | 86% | 88% |
| Female | 18 | 11 | 13 | 17 | 21 | 14 | 12 |
| Race | | | | | | | |
| Black | 42% | 49% | 64% | 55% | 50% | 71% | 86% |
| White | 57 | 46 | 36 | 43 | 47 | 28 | 14 |
| Other | 2 | 5 | 0 | 1 | 3 | 1 | 0 |
| Age | | | | | | | |
| Under 21 | 18% | 25% | 23% | 26% | 23% | 24% | 26% |
| 21-34 | 56 | 55 | 55 | 55 | 55 | 58 | 57 |
| 35 or older | 25 | 19 | 22 | 19 | 22 | 19 | 17 |
| Most serious prior conviction | | | | | | | |
| Felony | 27% | 32% | 35% | 25% | 25% | 29% | 22% |
| Misdemeanor | 23 | 18 | 10 | 16 | 15 | 13 | 10 |
| None | 50 | 50 | 55 | 58 | 60 | 58 | 68 |
| Court appearance history | | | | | | | |
| Failed to appear | 22% | 32% | 22% | 30% | 12% | 34% | 10% |
| Made all appearances | 36 | 37 | 38 | 32 | 41 | 22 | 31 |
| Had no prior arrests | 42 | 32 | 40 | 38 | 47 | 44 | 59 |

Note: Table is based on the following number of defendants in each release category: surety bond, 8,175; full cash bond, 3,586; deposit bond, 1,491; recognizance, 13,805; conditional, 4,373; unsecured bond, 2,774; and emergency, 544.

Defendants released on unsecured bond (34%), full cash bond (32%), or on their own recognizance (30%) were the most likely to have previously had a bench warrant issued for failure to appear in court. About 22% of defendants released on surety or deposit bond had previously failed to make a scheduled court appearance. Defendants on conditional release (12%) or emergency release (10%) were the least likely to have missed a previous court appearance.

Failure to appear in court

One of the primary goals of any pretrial release decision is to ensure the defendant's subsequent appearance in court as scheduled. Among those felony defendants who were released prior to trial, 76% made all scheduled court appearances. A fugitive bench warrant was issued for the arrest of the remaining 24% because they had missed one or more court dates (table 12). Two-thirds of these defendants had been returned to the court by the end of the one-year study period, while a third of them remained fugitives.

The percentage of defendants who failed to appear varied according to the type of arrest charge and the type of release. Bench warrants for failure-to-appear were issued twice as often for released property defendants (26%) and drug defendants (28%) as for defendants charged with public-order offenses (13%). The failure-to-appear rate for defendants charged with a violent offense was 19%.

Male and female defendants had about the same failure-to-appear rate, while defendants age 35 or older had a slightly better court appearance record than younger defendants. About 3 in 10 black defendants had a bench warrant issued for missing a court date, compared with 2 in 10 white defendants.

A defendant's court appearance history was related to the probability of failing to appear on the current charges. For those who had missed 1 or more court dates in the past, the failure-to-appear rate on the current charges was 39%, about twice that of other defendants.

By type of release, defendants on emergency release (49%) were the most likely to have a bench warrant issued because they failed to appear for a court date within the 1-year study period (in 9 out of 10 such cases they were returned to the court). The next highest failure-to-appear rates were for defendants released on unsecured bond (36%) or their own recognizance (29%). Bench warrants for failure-to-appear were less likely to be issued for defendants released on deposit bond (19%), surety bond (14%), or conditional release (14%).

In cases where a defendant missed a court date and it resulted in the issuance of a bench warrant, the failure-to-appear occurred within 1 week of release in 12%

of the cases, within 1 month of release in 38% of the cases, and within 3 months in 71% of the cases. For all defendants who had a bench warrant issued for their arrest because they failed to appear in court, the median time between pretrial release and the initial missed court date was 44 days.

| Time from release to failure to appear | Percent of released defendants |
|----------------------------------------|--------------------------------|
| 1 week | 12% |
| 1 month | 38 |
| 3 months | 71 |
| 6 months | 90 |
| 1 year | 100 |
| Median | 44 days |

Return of fugitive defendants to the court

Overall, about 8% of released felony defendants had failed to appear and were still fugitives at the end of the year-long study. The percentage of defendants who were fugitives at the end of the study was higher when the method of release was recognizance (11%) or unsecured bond (10%) than when it was conditional release (4%) or surety bond (3%).

About a third of the defendants for whom a bench warrant was issued were returned to the court within 1 month of their failure to appear, and about half had been returned

Table 12. Released felony defendants who failed to make a scheduled court appearance, by selected defendant characteristics, 1990

| Defendant characteristic | Number of defendants | Percent of released felony defendants who failed to appear in court in the 75 largest counties* | | |
|----------------------------------------------------|----------------------|-------------------------------------------------------------------------------------------------|----------|----------|
| | | Total | Returned | Fugitive |
| All released defendants | 34,831 | 24% | 16% | 8% |
| Most serious arrest charge | | | | |
| Violent offenses | 8,606 | 19 | 12 | 6 |
| Property offenses | 11,990 | 28 | 19 | 9 |
| Drug offenses | 11,466 | 26 | 17 | 8 |
| Public-order offenses | 2,769 | 13 | 9 | 4 |
| Sex | | | | |
| Male | 28,672 | 24% | 16% | 8% |
| Female | 5,624 | 23 | 15 | 7 |
| Race | | | | |
| Black | 16,399 | 29% | 19% | 10% |
| White | 14,119 | 19 | 13 | 6 |
| Other | 599 | 11 | 6 | 5 |
| Age | | | | |
| Under 21 | 8,136 | 23% | 15% | 7% |
| 21-24 | 6,241 | 25 | 17 | 8 |
| 25-29 | 7,239 | 26 | 18 | 8 |
| 30-34 | 5,612 | 24 | 17 | 8 |
| 35 or older | 7,017 | 20 | 12 | 8 |
| Court appearance history from prior arrests | | | | |
| Failed to appear* | 7,704 | 39% | 29% | 11% |
| Made all appearances | 10,192 | 20 | 13 | 7 |
| Had no prior arrests | 11,776 | 17 | 10 | 7 |
| Type of release | | | | |
| Recognizance | 13,543 | 29% | 18% | 11% |
| Surety bond | 7,841 | 14 | 11 | 3 |
| Conditional | 4,297 | 14 | 10 | 4 |
| Full cash bond | 3,520 | 24 | 15 | 9 |
| Unsecured bond | 2,738 | 36 | 26 | 10 |
| Deposit bond | 1,451 | 19 | 10 | 8 |
| Emergency | 520 | 49 | 44 | 5 |

Note: Data on the court appearance record for the current case were available for 99% of cases involving a defendant released prior to case disposition. Some defendants counted as fugitives may have been returned after the 1-year study period. Detail may not add to total because of rounding.

*See page 14 for the definition of "failure to appear."

after 3 months. At the end of the 1-year study period, two-thirds of all defendants who had failed to appear had been returned to the court.² The remaining third were still fugitives.

Percent of those defendants under a bench warrant returned to court within:

| | |
|--------------|-----|
| 1 week | 14% |
| 1 month | 32 |
| 3 months | 52 |
| 6 months | 62 |
| 1 year | 67 |
| Not returned | 33% |

Among those who failed to appear, the percentage of defendants who were still fugitives at the end of the study was highest for those who had been released on deposit bond (44%), recognizance (38%), or full cash bond (36%). Among defendants released on unsecured bond or conditional release, 28% of those who failed to appear were not returned to the court by the end of the study. Defendants for whom a bench warrant had been issued were least likely to remain a fugitive when they had been released on surety bond (18%) or emergency release (11%).

| Type of pretrial release | Percent of fugitive defendants not returned within 1 year |
|--------------------------|-----------------------------------------------------------|
| All types | 33% |
| Deposit bond | 44% |
| Recognizance | 38 |
| Full cash bond | 36 |
| Conditional | 28 |
| Unsecured bond | 28 |
| Surety bond | 18 |
| Emergency | 11 |

Rearrest of defendants on pretrial release

In addition to considering the likelihood that a released defendant may not return for scheduled court appearances, courts in most States may also assess the potential risk to the community if a defendant is granted pretrial release. Rearrest data collected during the 1-year study indicated that about 18% of released defendants were rearrested while on pretrial release (table 13).

Defendants in different age groups and those with different criminal backgrounds

²Some defendants returned to the court voluntarily, and the bench warrant for their arrest was withdrawn.

were rearrested at different rates. Defendants under age 21 had a significantly higher rearrest rate (22%) than defendants age 35 or older (14%). Public-order defendants, who were older on average than other types of defendants, had the lowest rearrest rate (9%). This was about half the rearrest rate for released defendants whose most serious original arrest

charge was a property offense (21%), drug offense (20%), or violent offense (16%). Released defendants with five or more prior convictions had a felony rearrest rate (32%) that was more than twice that of defendants who had no prior convictions (13%). Defendants with no prior arrests had a rearrest rate of 8%. Among those arrested for a new felony following pretrial

Table 13. Released felony defendants who were rearrested while on pretrial release, by selected defendant characteristics, 1990

| Defendant characteristic | Number of defendants | Felony defendants released before case disposition in the 75 largest counties | | | | | | |
|--------------------------------------------|----------------------|-------------------------------------------------------------------------------|--------------|-----------------|------------------|--------------|----------------------|-------------|
| | | Percent of defendants by their most serious rearrest charge | | | | | | |
| | | Total rearrested | Total felony | Violent offense | Property offense | Drug offense | Public-order offense | Misdemeanor |
| All released defendants | 33,363 | 18% | 11% | 2% | 4% | 4% | 1% | 7% |
| Most serious original arrest charge | | | | | | | | |
| Violent offenses | 8,390 | 16% | 8% | 4% | 2% | 1% | 1% | 8% |
| Property offenses | 11,525 | 21 | 13 | 3 | 8 | 2 | 1 | 8 |
| Drug offenses | 10,740 | 20 | 14 | 1 | 2 | 9 | 1 | 6 |
| Public-order offenses | 2,707 | 9 | 5 | 1 | 1 | 1 | 2 | 4 |
| Sex | | | | | | | | |
| Male | 27,726 | 20% | 12% | 3% | 4% | 4% | 1% | 8% |
| Female | 5,461 | 12 | 6 | 1 | 2 | 3 | -- | 6 |
| Race | | | | | | | | |
| Black | 15,681 | 23% | 15% | 4% | 5% | 5% | 1% | 6% |
| White | 13,868 | 14 | 8 | 1 | 3 | 3 | 1 | 6 |
| Other | 584 | 10 | 2 | 2 | 1 | 0 | 0 | 8 |
| Age | | | | | | | | |
| Under 21 | 7,899 | 22% | 14% | 4% | 4% | 4% | 1% | 8% |
| 21-24 | 5,999 | 20 | 12 | 3 | 4 | 4 | 1 | 8 |
| 25-29 | 7,036 | 18 | 12 | 2 | 4 | 4 | 1 | 7 |
| 30-34 | 5,443 | 17 | 10 | 2 | 4 | 4 | -- | 7 |
| 35 or older | 6,828 | 14 | 8 | 1 | 3 | 3 | 1 | 6 |
| Types of release | | | | | | | | |
| Recognizance | 13,341 | 22% | 12% | 3% | 4% | 5% | 1% | 10% |
| Surety bond | 7,608 | 13 | 9 | 2 | 3 | 3 | 1 | 4 |
| Conditional | 4,243 | 11 | 7 | 1 | 3 | 2 | 1 | 4 |
| Full cash bond | 3,509 | 21 | 13 | 3 | 3 | 6 | 1 | 8 |
| Unsecured bond | 2,038 | 23 | 18 | 3 | 9 | 5 | 2 | 5 |
| Deposit bond | 1,342 | 13 | 9 | 3 | 3 | 2 | 1 | 4 |
| Emergency | 408 | 3 | 3 | 0 | 3 | 0 | 0 | 0 |
| Number of prior convictions | | | | | | | | |
| 5 or more | 4,464 | 32% | 18% | 4% | 8% | 5% | 1% | 14% |
| 2-4 | 5,464 | 23 | 15 | 2 | 5 | 6 | 1 | 9 |
| 1 | 4,212 | 21 | 12 | 3 | 3 | 5 | 1 | 9 |
| None | 17,758 | 13 | 8 | 2 | 3 | 3 | 1 | 5 |
| Most serious prior conviction | | | | | | | | |
| Felony | 8,640 | 28% | 18% | 3% | 7% | 6% | 1% | 11% |
| Misdemeanor | 5,561 | 21 | 11 | 3 | 3 | 4 | 1 | 10 |
| None | 17,758 | 13 | 8 | 2 | 3 | 3 | 1 | 5 |

Note: Rearrest data were collected for 1 year. Rearrests occurring after the end of this study period are not included in the table. Information on rearrests in jurisdictions other than the one granting the pretrial release was not always available. Rearrest data were available for 94% of released defendants. Detail may not add to total because of rounding.
--Less than 0.5%.

release, about half were rearrested for the same type of offense as the original charge that preceded their release.

For rearrested defendants the median time from pretrial release to the commission of an alleged new offense was 49 days — ranging from 42 days for those released after being charged with a property offense to 58 days for those released after a

charge for a drug offense (table 14). About 13% of the new charged offenses occurred within a week of pretrial release, 39% occurred within 1 month, and 69% occurred within 3 months of the defendants' release.

About 60% of the released defendants who were rearrested were once again granted pretrial release. Re-release was more likely to occur if the rearrest offense was a

misdemeanor (70%) than if it was a felony (54%). Among defendants rearrested for a felony, re-release was less likely if the rearrest was for a violent offense (45%) rather than a property offense (60%).

| Rearrest offense | Percent of rearrested defendants who were re-released |
|------------------|-------------------------------------------------------|
| Total | 60% |
| Felony | 54% |
| Violent | 45 |
| Property | 60 |
| Drug | 53 |
| Public-order | 52 |
| Misdemeanor | 70% |

Table 14. Time from pretrial release to alleged commission of a new offense, by the most serious original arrest charge, 1990

| Most serious original arrest charge | Number of defendants | Median number of days | Percent of released and rearrested felony defendants in the 75 largest counties who committed a new offense within: | | | |
|-------------------------------------|----------------------|-----------------------|---------------------------------------------------------------------------------------------------------------------|---------|----------|----------|
| | | | 1 week | 1 month | 3 months | 6 months |
| All offenses | 4,556 | 49 | 13% | 39% | 69% | 88% |
| Violent offenses | 1,014 | 47 | 14 | 41 | 64 | 90 |
| Property offenses | 1,715 | 42 | 16 | 42 | 74 | 89 |
| Drug offenses | 1,649 | 58 | 9 | 34 | 67 | 85 |
| Public-order offenses | 179 | 46 | 7 | 37 | 68 | 98 |

Note: Data cover only those defendants rearrested within 1 year of a pretrial release. Data on time from pretrial release to commission of a new offense for which the defendant was rearrested were available for 96% of all cases involving a rearrest. Information on rearrests in jurisdictions other than the one granting the pretrial release was not always available. Detail may not add to total because of rounding.

Adjudication

The median time from the original felony arrest to adjudication of that charge was greater for released defendants (125 days) than for those who had remained in detention (37 days) (table 15). A month after arrest, detained defendants (45%) were 3 times as likely as released defendants (15%) to have been adjudicated on their felony arrest charges.

By the end of 1 year, 96% of the cases of detained defendants and 81% of the cases of released defendants had been adjudicated. Among detained defendants, those charged with a violent offense (91%) were less likely than other detained defendants (98%) to have their case adjudicated within a year of their arrest. This was especially true for detained murder defendants, about a third of whom were still awaiting adjudication of their case at the end of 1 year.

Table 15. Time from arrest to adjudication, by whether released or detained and the most serious original arrest charge, 1990

| Detention/release outcome and most serious original arrest charge | Number of defendants | Median number of days | Felony defendants in the 75 largest counties | | | | | Percent not adjudicated within 1 year |
|-------------------------------------------------------------------|----------------------|-----------------------|----------------------------------------------|---------|----------|----------|--------|---------------------------------------|
| | | | Percent of cases adjudicated within: | | | | | |
| | | | 1 week | 1 month | 3 months | 6 months | 1 year | |
| Released defendants | | | | | | | | |
| All offenses | 35,398 | 125 | 2% | 15% | 40% | 63% | 81% | 19% |
| Violent offenses | 8,764 | 131 | 2 | 15 | 39 | 61 | 81 | 19 |
| Property offenses | 12,152 | 116 | 2 | 16 | 42 | 66 | 82 | 18 |
| Drug offenses | 11,639 | 138 | 2 | 12 | 38 | 59 | 80 | 20 |
| Public-order offenses | 2,843 | 105 | 1 | 17 | 47 | 71 | 86 | 14 |
| Detained defendants | | | | | | | | |
| All offenses | 19,628 | 37 | 12% | 45% | 73% | 89% | 96% | 4% |
| Violent offenses | 5,343 | 66 | 9 | 33 | 59 | 80 | 91 | 9 |
| Property offenses | 6,463 | 30 | 14 | 50 | 79 | 93 | 98 | 2 |
| Drug offenses | 6,512 | 35 | 14 | 47 | 78 | 91 | 98 | 2 |
| Public-order offenses | 1,309 | 30 | 9 | 50 | 79 | 91 | 98 | 2 |

Note: Data on time from arrest to adjudication were available for 97% of all adjudicated cases. Because of violation of the conditions of release (such as failure to appear in court or rearrest), 12% of the defendants who had been on pretrial release were in custody at the time of adjudication. These defendants are included under "released." The median for time from arrest to adjudication includes cases still pending at the end of the study. Knowing the exact times for these cases would not change the medians reported.

Overall, a higher percentage of detained defendants (77%) than released defendants (56%) were convicted (table 16). The lowest conviction rate was for released defendants who were charged with a violent offense (42%). This was roughly half the conviction rate for detained property defendants (81%) and detained drug defendants (80%).

The felony conviction rate among detained defendants was 64%, compared to 41% of released defendants. Among released defendants, about half of those charged with a drug offense or a public-order offense were convicted of a felony, a higher percentage than for those charged with a property offense (40%) or a violent offense (28%). Across all four offense categories, more than half of the detained defendants were convicted of a felony, with detained drug defendants (69%) having the highest probability of a felony conviction.

Sentencing

Convicted defendants who had been detained until case disposition were twice as likely as released defendants to receive a State prison sentence (table 17). Upon conviction, 89% of detained defendants were sentenced to incarceration, with 50% receiving a prison sentence and 39% a jail term. About 59% of the released defendants who were convicted were sentenced to incarceration, with more receiving a jail sentence (37%) than a prison sentence (25%). In cases where they were convicted but not sentenced to incarceration, about 90% of both released and detained defendants received a probation sentence.

Among released defendants who were subsequently convicted, drug defendants had the highest probability of being sentenced to incarceration (66%), with 30% receiving a prison sentence. Among detained defendants, the probability of being sentenced to incarceration upon conviction did not vary significantly by offense type; however, detained defendants who had been charged with a violent offense and convicted were more likely to receive a prison sentence than other detained defendants (58% versus 48%).

Two-thirds of defendants who were detained until case disposition were

eventually convicted and sentenced to incarceration compared with a third of those who were released. Detained defendants were about 3 times as likely as released defendants to eventually be convicted and sentenced to State prison.

These differences can be attributed mainly to the fact that some of the factors that affect sentencing decisions, such as seriousness of offense and prior criminal record, are the same ones that affect the probability of pretrial release.

Table 16. Adjudication outcome for felony defendants, by whether released or detained and the most serious original felony arrest charge, 1990

| Detention/release outcome and most serious original felony arrest charge | Number of defendants | Percent of felony defendants in the 75 largest counties | | | | | | |
|--------------------------------------------------------------------------|----------------------|---------------------------------------------------------|-----------------|---------------------------------|-----|---------------------|----------------------|---------------------|
| | | Total | Convicted | | | Not convicted | | |
| | | | Total convicted | Most serious conviction offense | | Total not convicted | Dis-mitted/acquitted | Other nonconviction |
| | | | Felony | Misdemeanor | | | | |
| Released defendants | | | | | | | | |
| All offenses | 27,896 | 100% | 56% | 41% | 15% | 44% | 37% | 7% |
| Violent offenses | 6,927 | 100 | 42 | 28 | 14 | 58 | 54 | 4 |
| Property offenses | 9,644 | 100 | 58 | 40 | 18 | 42 | 33 | 9 |
| Drug offenses | 9,056 | 100 | 63 | 51 | 12 | 37 | 28 | 9 |
| Public-order offenses | 2,359 | 100 | 63 | 48 | 16 | 37 | 31 | 6 |
| Detained defendants | | | | | | | | |
| All offenses | 18,397 | 100% | 77% | 64% | 13% | 23% | 21% | 2% |
| Violent offenses | 4,714 | 100 | 69 | 58 | 11 | 31 | 29 | 2 |
| Property offenses | 6,198 | 100 | 81 | 64 | 16 | 19 | 18 | 2 |
| Drug offenses | 6,242 | 100 | 80 | 69 | 11 | 20 | 18 | 3 |
| Public-order offenses | 1,244 | 100 | 76 | 60 | 16 | 24 | 23 | 1 |

Note: Thirteen percent of all cases were still awaiting adjudication at the conclusion of the 1-year study period. Information on adjudication outcome was available for 67% of all cases that had reached the adjudication stage at the end of 1 year. Cases where the most serious conviction charge was a violation are included under "misdemeanor." Detail may not add to total because of rounding.

Table 17. Sentencing outcome for convicted defendants, by whether released or detained and the most serious original felony arrest charge, 1990

| Detention/release outcome and the most serious original felony arrest charge | Number of defendants | Percent of felony defendants in the 75 largest counties | | | | | | |
|------------------------------------------------------------------------------|----------------------|---------------------------------------------------------|----------------------------|--------|-------|--------------------------------|-----------|------|
| | | Total | Sentenced to incarceration | | | Not sentenced to incarceration | | |
| | | | Total | Prison | Jail* | Total | Probation | Fine |
| Released defendants | | | | | | | | |
| All offenses | 14,374 | 100% | 59% | 25% | 34% | 41% | 37% | 4% |
| Violent offenses | 2,543 | 100 | 60 | 24 | 36 | 40 | 36 | 4 |
| Property offenses | 5,199 | 100 | 54 | 21 | 33 | 46 | 43 | 3 |
| Drug offenses | 5,215 | 100 | 66 | 30 | 36 | 34 | 31 | 3 |
| Public-order offenses | 1,417 | 100 | 52 | 19 | 34 | 47 | 39 | 8 |
| Detained defendants | | | | | | | | |
| All offenses | 13,516 | 100% | 89% | 50% | 39% | 11% | 10% | 1% |
| Violent offenses | 3,077 | 100 | 90 | 58 | 32 | 10 | 9 | 1 |
| Property offenses | 4,702 | 100 | 88 | 48 | 39 | 12 | 11 | 1 |
| Drug offenses | 4,823 | 100 | 89 | 48 | 42 | 11 | 10 | 1 |
| Public-order offenses | 914 | 100 | 87 | 48 | 39 | 13 | 10 | 4 |

Note: Information on sentencing outcome was available for 93% of all cases involving a conviction that had been adjudicated at the end of 1 year. Detail may not add to total because of rounding. *Includes sentences that also involved probation.

Pretrial release of felony defendants in the 75 largest counties, 1988 and 1990

| | Percent of defendants | |
|------------------------------------------------------------|-----------------------|------|
| | 1988 | 1990 |
| All defendants | | |
| Released prior to case disposition | 66% | 65% |
| Violent | 59 | 63 |
| Property | 62 | 67 |
| Drug | 72 | 65 |
| Public-order | 70 | 69 |
| Released defendants | | |
| Released within 1 day of arrest | 68% | 54% |
| Violent | 49 | 50 |
| Property | 82 | 60 |
| Drug | 64 | 50 |
| Public-order | 75 | 56 |
| Failing to appear in court | 24% | 24% |
| Violent | 20 | 19 |
| Property | 25 | 28 |
| Drug | 28 | 26 |
| Public-order | 14 | 13 |
| Failing to appear in court and remaining a fugitive | 8% | 8% |
| Violent | 6 | 6 |
| Property | 8 | 9 |
| Drug | 10 | 8 |
| Public-order | 5 | 4 |
| Rearrested while on pretrial release | 18% | 18% |
| Violent | 16 | 16 |
| Property | 18 | 21 |
| Drug | 19 | 20 |
| Public-order | 12 | 9 |

The first NPRP data collection was based on cases filed in February 1988. The completion of the latest study, based on cases filed in May 1990, allows for comparisons to be made to assess both consistency and variation in the criminal justice system processing of felony defendants.

Although the overall rate of pretrial release for felony defendants in the 75 largest counties was consistent from 1988 to 1990, some variation within offense category did occur. The percentage of felony drug defendants who were released before case disposition declined from 1988 (72%) to 1990 (65%). This was offset by slight increases in the release rate for violent defendants (from 59% in 1988 to 63% in 1990) and property defendants (from 62% to 67%).

Comparison of the 2 years suggests that defendants who were charged with a nonviolent offense and subsequently granted pretrial release had to wait longer for release in 1990 than in 1988. The percentage of released defendants who were released within 1 day of arrest declined from 82% in 1988 to 60% in 1990 among those charged with property

offenses, from 64% to 50% for drug defendants, and from 75% to 56% for public-order defendants. Among released defendants who were facing a charge for a violent offense, the percentage released within 1 day of arrest was about 50% in both 1988 and 1990.

The percentage of defendants for whom a bench warrant was issued because they failed to appear in court remained stable at 24% from 1988 to 1990. In both years property and drug defendants were the most likely to have a bench warrant for failure to appear, and public-order defendants, the least likely.

Among defendants for whom a failure-to-appear bench warrant was issued, the proportion that were still fugitives after a year was about a third for all four offense categories in 1988 and 1990. In both surveys 8% of all released defendants were fugitives at the end of 1 year.

The rearrest rate for defendants on pretrial release was 18% in 1990, the same as in 1988. Without controlling for other factors, public-order defendants had the lowest rearrest rate in both years.

Methodology

The NPRP sample was designed and selected by the U.S. Bureau of the Census. It is a 2-stage stratified sample with 40 of the 75 most populous counties selected at the first stage (1 county having to be dropped without substitution) and a systematic sample of felony filings (defendants) within each county selected at the second stage.

The 40 counties were divided into 4 first-stage strata based on court filing information obtained through a telephone survey. Fourteen counties were included in the sample with certainty because of their large number of court filings. The remaining 26 counties were allocated to the 3 non-certainty strata based on the variance of felony court dispositions.

The second-stage sampling (filings) was designed to represent all defendants who had felony cases filed with the court during the month of May 1990. The participating jurisdictions included every defendant who had a felony case filed on selected days during that month. The days selected depended on the first-stage stratum in which the county had been placed. Each jurisdiction was provided with 5, 10, 15, or 31 days in May 1990 from which to sample all defendants who had felony charges filed. Jurisdictions that did not select a full month of filings were weighted to represent the full month.

Data on 13,597 sample felony cases were collected from the 39 sampled jurisdictions. This sample represented 56,807 weighted cases filed during the month of May 1990 in the 75 most populous counties. Cases that could not be classified into one of the four major crime categories (violent, property, drug, public-order) because of incomplete information were omitted from the analysis. This reduced the weighted total for this report to 56,613 cases. The data collection effort was supervised by the Pretrial Services Resource Center of Washington, D.C.

This report is based on data collected from the following jurisdictions: Arizona (Maricopa); California (Los Angeles, Orange, Sacramento, San Bernardino, San Diego, Santa Clara); District of Columbia; Florida (Broward, Dade, Duval, Hillsborough, Palm Beach, Pinellas);

Georgia (Fulton); Hawaii (Honolulu); Illinois (Cook); Massachusetts (Essex, Suffolk); Michigan (Wayne); Missouri (St. Louis); New Jersey (Essex); New York (Bronx, Erie, Kings, Monroe, New York, Queens); Ohio (Hamilton); Pennsylvania (Allegheny, Montgomery, Philadelphia); Tennessee (Shelby); Texas (Dallas, Harris, Tarrant); Utah (Salt Lake); Virginia (Fairfax); and Washington (King).

Because the data came from a sample, a sampling error (standard error) is associated with each reported number. In general, if the difference between two numbers is greater than twice the standard error for that difference, we can say that we are 95% confident of a real difference and that the apparent difference is not simply the result of using a sample rather than the entire population. All differences discussed in this report were statistically significant at or above the 95-percent confidence level.

Offense categories

Felony offenses were classified into 12 categories for this report. These categories were further divided into the four major crime categories of violent offenses, property offenses, drug offenses, and public-order offenses. The following listings contain a representative summary of most of the crimes contained in each category; however, these lists are not meant to be exhaustive. All offenses, except for murder, include attempts and conspiracies to commit.

Violent offenses

Murder — Includes homicide, nonnegligent manslaughter, and voluntary homicide. Does not include attempted murder (which is classified as felony assault) or negligent homicide, involuntary homicide, and vehicular manslaughter (which are classified as "other violent crime").

Rape — Includes forcible intercourse, sodomy, or penetration with a foreign object. Does not include statutory rape or nonforcible acts with a minor or someone unable to give legal consent, nonviolent sexual offenses, and commercialized sex offenses.

Robbery — Includes the unlawful taking of anything of value by force or threat of force.

Assault — Includes aggravated assault, aggravated battery, attempted murder, assault with a deadly weapon, felony assault or battery on a law enforcement officer, or other felony assaults. Does not include extortion, coercion, or intimidation.

Other violent offenses — Includes vehicular manslaughter, involuntary manslaughter, negligent or reckless homicide, nonviolent or nonforcible sexual assault, kidnaping, unlawful imprisonment, child or spouse abuse, cruelty to child, reckless endangerment, hit-and-run with bodily injury, intimidation, and extortion.

Property offenses

Burglary — Includes any type of entry into a residence, industry, or business with or without the use of force with the intent to commit a felony or theft, such as forcible entry and breaking and entering. Does not include possession of burglary tools, trespassing, and unlawful entry where the intent is not known.

Theft — Includes grand theft, grand larceny, motor vehicle theft, or any other felony theft. Does not include receiving or buying stolen property, fraud, forgery, or deceit.

Other property offenses — Includes receiving or buying stolen property, forgery, fraud, embezzlement, arson, reckless burning, damage to property, criminal mischief, vandalism, bad checks, counterfeiting, criminal trespassing, possession of burglary tools, and unlawful entry.

Drug offenses

Drug sales/trafficking — Includes trafficking, sales, distribution, possession with intent to distribute or sell, manufacturing, or smuggling of controlled substances. Does not include possession of controlled substances.

Other drug offenses — Includes possession of controlled substances, prescription violations, possession of drug paraphernalia, and other drug law violations.

Public-order offenses

Driving-related — Includes driving under the influence of drugs or alcohol, driving with a suspended or revoked license, or any other felony in the motor vehicle code.

Other public-order offenses — Includes flight/escape, parole or probation violations, prison contraband, habitual offender, obstruction of justice, rioting, libel and slander, weapons offenses, treason, perjury, prostitution/pandering, bribery, and tax law violations.

Terms relating to pretrial release

Released defendant — Includes any defendant who was released from custody prior to the disposition of his or her case by the court. Includes defendants who were detained for some period of time before being released and defendants who were returned to custody after being released because of a violation of the conditions of pretrial release.

Detained defendant — Includes any defendant who remained in custody from the time of arrest until the disposition of his or her case by the court. Includes defendants whose cases were disposed of in such a short time that they had no opportunity for pretrial release. This report also refers to detained defendants as "not released."

Failure to appear — Occurs when a court issues a bench warrant for a defendant's arrest because he or she has missed a scheduled court appearance.

Types of financial release

Full cash bond — The defendant posts the full bail amount in cash with the court. If the defendant makes all court appearances, the cash is returned. If the defendant fails to appear in court, the bond is forfeited.

Deposit bond — The defendant deposits a percentage (usually 10%) of the full bail amount with the court. If the defendant fails to appear in court, he or she is liable to the court for the full amount of the bail. The percentage bail is returned after the disposition of the case, but the court often retains a small portion for administrative costs.

Surety bond — A bail bondsman signs a promissory note to the court for the full bail amount and charges the defendant a fee for the service (usually 10% of the full bail amount). If the defendant fails to appear, the bondsman is liable to the court for the full bail amount. Frequently the bondsman requires the defendant to post collateral in addition to the fee.

Types of nonfinancial release

Unsecured bond — The defendant pays no money to the court but is liable for the full amount of bail should he or she fail to appear in court.

Release on recognizance — The court releases the defendant on the promise that he or she will appear in court as required.

Citation release — Arrestees are released pending their first court appearance on a written order issued by law enforcement personnel. Citation release is included in the recognizance release category in this report.

Conditional release — Defendants are released under conditions which are supervised by a pretrial services agency. This type of release is also known as *supervised release*.

Other type of release

Emergency release — Defendants are released solely in response to a court order placing limits on a jail's population.

Bureau of Justice Statistics Bulletins are written primarily by Bureau analysts. Brian Reaves wrote this report. Lawrence A. Greenfeld edited it, assisted by Tom Hester. Pheny Z. Smith provided statistical review. Marilyn Marbrook administered production, assisted by Jayne Pugh.

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Data used in this report are available from the National Archive of Criminal Justice Data at the University of Michigan, 1-800-999-0960. The dataset is archived as the National Pretrial Reporting Program, 1990.

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